COURT OF JUSTICE
OF THE EUROPEAN UNION

Multilingualism
at the Court of Justice of the European Union

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3. - Managing multilingualism at the Court

4. - Translating and interpreting: strategies, methods and tools

‘The love of democracy is that of equality’ –
Montesquieu, The Spirit of Law, 1748, Book V, Chapter III

Foreword by Mr Koen Lenaerts, President of the Court of Justice

At the beginning of the European construction, only four languages were used within the institution. Today, the courtrooms resonate to the sound of 24 official languages, and the vast majority of decisions handed down by the Court of Justice and the General Court are translated into these languages. Each official language in this 'linguistic chorus', which has grown with the successive enlargements of the European Union, is accorded equal status under Regulation No 1/58 which, for 65 years, has incorporated the rules governing the languages of the EU institutions.

This principle of 'equality of languages' which reflects a rich linguistic and cultural diversity, respect for which is enshrined in Article 22 of the Charter of Fundamental Rights of the European Union, is both a permanent operational challenge and a major asset for the institution's case-law.

Ensuring the availability of a Court decision in the 24 official languages of the European Union entails the deployment of a significant amount of human and technical resources, but that is the 'price to pay' in order to guarantee the transparency and accessibility of the case-law in the different national legal systems. That guarantee is essential to the proper functioning of the European Union's democratic system and contributes to bringing European justice closer to the citizens, businesses and administrations of the 27 Member States.

To meet this linguistic challenge, the institution can rely on the unwavering dedication of professionals in interpreting and translation who strive to ensure a uniform understanding of EU law in all of the official EU languages, to the benefit of the overall consistency and quality of the case-law.

While 2023 will see the inauguration of the Multilingualism Garden in the vicinity of the Court of Justice of the European Union, this publication describes, in its various facets, the institution's management of a justice service which is accessible in the 24 languages of the European Union depending on the constraints – in particular relating to time and costs – which govern the performance of its activities.

The book ends with a series of reflections on the challenges and the future of multilingualism in the context of globalisation and the digital revolution. It is also a tribute to those who work every day, most often behind the scenes, to ensure the harmonious functioning of this magnificent multicultural mosaic.

1. - Multilingualism and diversity

Le multilinguisme à la Cour de justice – la symbolique du jardin

The inauguration on 9 May 2023 of a Multilingualism Garden in the vicinity of the Court is a natural continuation of what the architecture of the Palace of Justice of the European Union already embodies: the quest for transparency and accessibility. Institutional multilingualism, which enables citizens and parties to proceedings to communicate with the Court in the language or one of the languages of their country of origin, is among the prerequisites for easy and transparent access to justice.

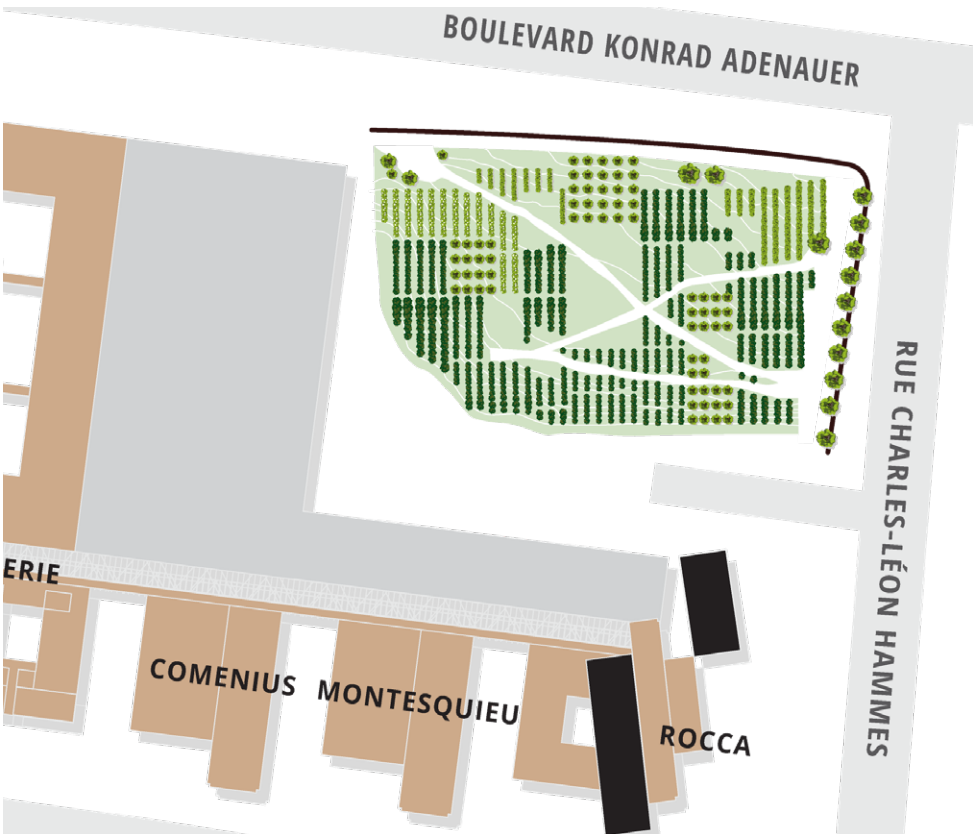
The garden is the fruit of both an ongoing commitment to give concrete expression to the institution's values on the very site it occupies and a fortuitous turn of events: the freeing up of just over one hectare of land at the base of the towers designed by the architect Dominique Perrault. That land, left empty following the demolition of the European Commission's long-outdated former premises, has thus been transformed into a green space showcasing multilingualism, a symbol of the diversity of European cultures. The link between protecting biodiversity and respecting linguistic identities is clear to see from the organisation of the garden and the choice of shrubs, which features flowering and aromatic plants. A Multilingualism Grove has also been planted, containing as many trees as there are official languages of the European Union, without forgetting Luxembourgish, the historic language of the Grand Duchy where the institution has its seat.

The Court, which speaks 24 languages, and the Luxembourg authorities worked shoulder to shoulder in the creation of that garden. Luxembourg itself is a plurilingual country and a staunch defender of cultural and linguistic diversity, which it views as providing fertile ground for growth. While the general trend towards getting things done ever faster, which goes hand in hand with globalisation in trade, is pushing us ever closer to a 'monolingualism of efficiency', the garden testifies to the inherent and inalienable value of multilingualism. It is a celebration of institutional multilingualism, enshrined in the Treaties, and of Luxembourg's plurilingualism, which makes this small cosmopolitan country a genuine 'language garden'.

Language equality, respect for linguistic identities and free access to justice: these are the values that the Court imparts with the multilingualism of its procedures and case-law. The institution and its Luxembourg partners in the field of buildings policy are therefore resolute in their intention to make the Multilingualism Garden a living

expression of the diversity of nature and cultures. As Heinz Wismann, a historian of philosophy and author of *Penser entre les langues* [1] reminds us, 'differentiation is the principle of life', which is at odds with both monoculture and monolingualism.

In the area surrounding the Palace, the garden provides a space not only for relaxation but also for culture, being an ideal location for events with a focus on languages and diversity. Committed to the defence, protection and promotion of multilingualism, the Court can only welcome the proximity of such a living space, inspired by the plurality of European cultures.



1| Heinz Wismann, *Penser entre les langues*, Éditions Albin Michel, Paris, 2012.

The Multilingualism Garden thus echoes the words of Olga Tokarczuk, a Polish novelist and 2018 Nobel Prize winner for literature. Paying tribute in 2019 to those information couriers in the form of translators and interpreters, she said: 'Translation is not just the passage from one language to another, or from one culture to another. It is also reminiscent of a horticultural technique whereby a sucker is cut from an original stump to be grafted on to another plant, from which new shoots emerge, growing ever upwards into branches.' [2]

2| Extract from the opening lecture of the IVth edition of the Gdańsk Literary Meetings (Poland), 2019.

1.1 - The meaning of multilingualism in the European Union – in varietate concordia

For centuries and even millennia, the peoples of Europe were engaged in fierce conflict, with the ambitions of some exploiting the fears and ignorance of others to the detriment of peace, prosperity and equal access of peoples and individuals to opportunities. The trauma of the Second World War made it clear to nations just how necessary organisations promoting dialogue and cooperation, even regulation, had become. In this way, the United Nations (UN) came to replace the League of Nations, the limitations of which had been thrown into sharp relief.

The need for such organisations became apparent, especially in Europe, and the founders of the European treaties looked further ahead towards economic and political integration within European nations. They expressed the wish not only that organisations promoting dialogue should function continually, but also that interests should be interwoven and trade continuous, so that any dalliance with conflict would be patently counterproductive. That meant breaking down national barriers, reducing mental protectionism in step with the eradication of economic protectionism.

After the first step in the form of the Benelux Treaty of 1948, followed by the establishment of a single market for coal and steel in 1951, and at the same time the Euratom Treaty establishing joint research in the field of atomic energy was signed, the Treaty of Rome of 25 March 1957 establishing the European Economic Community (EEC) [3] opened up further markets, together with ever greater freedoms in terms of the movement of people, goods, services and capital. Completed by the introduction of the single currency, those milestones have helped fulfil that vision of peace against a backdrop of prosperity. All this progress had to be framed legally through international agreements and, because of the need for organisation, by legitimate institutions set up by the Treaties.

The institutions have worked with the Member States to bring the peoples of Europe ever closer, one of the high points being the direct election of members of the European Parliament from 1979 onwards. That progress has become increasingly tangible in the everyday life of European citizens, to the point that a significant proportion of the laws

3| Treaty establishing the European Economic Community, which was signed in Rome on 25 March 1957 and entered into force on 1 January 1958.

applying in the Member States have their origin in European legislation. [4] The scope of the European Union's activities has gradually extended to areas at the very heart of citizenship, such as fundamental rights, social rights and political rights.

The work of the Union and its institutions is therefore central to the daily lives of some 450 million European citizens (post Brexit): To remain legitimate, they must be genuinely and visibly in touch with citizens and must constantly prove to them that – rather than standing on the outer edges of a great whole which they can only contemplate from afar – those citizens participate in that whole just like the other citizens and peoples of Europe.

European integration is above all a cultural and civilisational project defined by the sharing of common values and the diversity of cultural expressions, primarily linguistic. Language is a communication tool, an identity marker and a cultural fabric. Languages not only define an individual's identity; they are also part of a common heritage.

It is therefore essential that citizens are respected in all facets of their identity, be it their national, religious, philosophical, ethnic, gender, political or other identity. Languages that are pivotal to identity must be treated equally, otherwise citizens may feel that their

4| Actors on the political stage have cited a range of often exaggerated figures to glorify or, on the contrary, criticise just how far EU law has penetrated our systems. In fact, it is neither useful nor even possible to quantify that phenomenon, particularly given the intermingling of legal rules of different origins in the same instruments and the absence of any reference system allowing those rules to be weighted according to their actual, lasting legal impact.

identity is less respected than that of other linguistic or national communities, [5] that they are somehow 'less equal' than others. Linguistic inequality can lead only to the alienation of citizens from the institutions and from the national or European project as a whole. That is the approach of institutional multilingualism, a guarantor of citizens' inclusion and the foundation of peace between nations. More and more European citizens are proficient at differing levels in more than one language and such plurilingualism is to be welcomed. But institutional multilingualism is more than that. It is the culmination of efforts to ensure that citizens will always be able to access information, contact the institutions and obtain a response in their own language in a non-discriminatory manner. All citizens have the right to use only their own language and, even if they speak more than one language, they will rarely have an understanding of another language as comprehensive and accurate as their mother tongue. According to a 2016 Eurostat analysis, no EU language is spoken at a very high level by the majority of the population. Approximately 20% of adult residents are able to communicate at such a level in German, 16% in French, 14% in Italian and 13% in English. The level of linguistic inclusion provided by monolingual communication in English is between 13% and 45% of adult-age residents of the 27 Member States. If a trilingual system is applied (German, English and French), the figure is between 43% and 45%. By contrast, a fully multilingual system allows for linguistic inclusion of 97% to 99% of the adult population. [6]

5| That principle is moreover enshrined in the last subparagraph of Article 3(3) of the Treaty on European Union (TEU), which provides that 'the Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced', and in Article 22 of the Charter of Fundamental Rights of the European Union, according to which 'the Union shall respect cultural, religious and linguistic diversity'. In addition, the Court of Justice regularly makes clear in its case-law just how committed the Union is to multilingualism. It thus made the following statement in the judgment of the Grand Chamber of 2 October 2018, C-73/17, *France v Parliament*, EU:C:2018:787, paragraph 41: 'The Parliament is therefore required to act in this area with all the attention, rigour and commitment which such a responsibility demands (see, to that effect, judgment of 13 December 2012, *France v Parliament*, C-237/11 and C-238/11, EU:C:2012:796, paragraph 68), which presupposes that the parliamentary debate and vote be based on a text that has been made available to the Members in good time and been translated into all the official EU languages. The European Union is committed to multilingualism, the importance of which is stated in the fourth subparagraph of Article 3(3) TEU (see, to that effect, judgment of 5 May 2015, *Spain v Council*, C-147/13, EU:C:2015:299, paragraph 42, and of 6 September 2017, *Slovakia and Hungary v Council*, C-643/15 and C-647/15, EU:C:2017:631, paragraph 203).'

6| The EU's approach to multilingualism in its own communication policy, https:/www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2022)699648 (september 2022) ; Press release: https:/www.europarl.europa.eu/thinktank/en/document/IPOL_ATA(2022)733096 (october 2022).

That right of citizens is embodied in numerous acts and has its legal basis in Article 20(2)(d) of the Treaty on the Functioning of the European Union (TFEU), which reads as follows: 'Citizens of the Union ... shall have ... the right ... to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language'. That right is implemented in Regulation No 1 determining the languages to be used by the European Economic Community [7] and in Article 41(4) of the Charter of Fundamental Rights of the European Union, which states that 'every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language'.

Multilingualism engenders a form of European citizenship that is essential for intercultural dialogue because it encourages every European to treat other Europeans as fellow citizens and as equals. Translation professionals in the institutions (lawyer-linguists and translators) ensure that documents are accessible in all the official languages.

Indeed, that imperative was not lost on the pioneers of European integration, to the extent that the first regulation adopted by the EEC, namely Regulation 1/58, which is still in force today and which reproduced the language arrangements of the European Coal and Steel Community (ECSC), defines the official EU languages and governs their use. Article 1 of that regulation, as amended to reflect the accession of new Member States, provides that 'the official languages and the working languages of the institutions of the Union shall be 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'. Article 2 is worded as follows: 'Documents which a Member State or a person subject to the jurisdiction of a Member State sends to institutions of the Community may be drafted in any one of the official languages selected by the sender. The reply shall be drafted in the same language.' Article 7 provides that 'the languages to be used in the proceedings of the Court of Justice shall be laid down in its rules of procedure'. The quasi-constitutional value of the rules governing languages explains why that regulation can be amended only by unanimity of the Member States, in the same way as the provisions of the Rules of Procedure of the Court of Justice and of the General Court of the European Union on language arrangements (Articles 36 to 42 of the Rules of Procedure of the Court

7| Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ, English Special Edition 1952-1958, p. 59; 'Regulation 1/58').

of Justice and Articles 44 to 49 of the Rules of Procedure of the General Court). That fundamental value is confirmed by Articles 21 (principle of non-discrimination based on language) and 22 (principle of respect for diversity, including linguistic diversity) of the Charter of Fundamental Rights, which enshrine the principle of linguistic equality in the Union's legal order.

1.2 - The official languages of the European Union and the official languages of the Member States

The 24 official EU languages listed in Regulation 1/58 should not be confused with the official languages of the Member States. Some languages, such as Luxembourgish (one of Luxembourg's official languages alongside German and French), are not official EU languages.

The Council of the European Union, within which all Member States of the European Union are represented, decides on language matters by unanimity. Before joining the Union, each future Member State must specify the language it wishes to use as its official language within the framework of the Union. Any subsequent change, whether it be to add or to withdraw an official language, must be unanimously approved by all Member States in the Council.

The list of official languages is therefore a dynamic one. Languages are added not only as a result of new accessions, but also, on occasion, as a result of the growing importance of a language which is an official language in the Member State concerned but was not one of the official EU languages at the time of that Member State's accession, as in the case of Irish. English remains on the list despite the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, in particular because it remains an official language in two other Member States: Ireland and Malta.

It was in that same spirit of inclusion that Article 55(1) TEU was adopted: 'This Treaty, drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.' The same is true for the fourth paragraph of Article 24 TFEU: 'Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on

European Union in one of the languages mentioned in Article 55(1) of the Treaty on European Union and have an answer in the same language.'

It follows that every citizen may write to the EU institutions in the official language of his or her choice and obtain an answer in the same language. [8] All legislation of general application of the Union is published in the *Official Journal of the European Union* in all official languages. That was confirmed by the Court, for example, in Case C-108/01, when it ruled that 'the requirement of legal certainty means that Community rules must enable those concerned to know precisely the extent of the obligations which they impose on them', thereby upholding the defendants' argument that 'the scope and effect of a Community provision must be clear and foreseeable to individuals, otherwise the principle of legal certainty and the principle of transparency are breached. The rules laid down must enable the persons concerned to know the precise extent of the obligations imposed on them. Failure to publish a measure prevents the obligations laid down by that measure from being imposed on an individual. Furthermore, an obligation imposed by Community law must be easily accessible in the language of the Member State in which it is to be applied'. [9]

The case-law of the Court is also published in the European Court Reports in all official languages. [10]

Treaties are concluded in all the official languages and acts of secondary legislation are authentic in each of those languages, their very applicability being conditional upon it.

8| Isabelle Pingel, 'Le régime linguistique de l'Union européenne. Enjeux et perspectives', *Revue de l'Union européenne*, June 2014, pp. 328-330.

9| Judgment of 20 May 2003, *Consorzio del Prosciutto di Parma and Salumificio* S. Rita SpA, C-108/01, EU:C:2003:296, paragraphs 85 and 89.

10| The derogation applicable to Irish was gradually lifted and disappeared completely on 31 December 2021 (see Council Regulation (EU, Euratom) 2015/2264 of 3 December 2015 extending and phasing out the temporary derogation measures from Regulation 1/58 (OJ 2015 L 322, p. 1)).

Legal multilingualism: a balancing act and an overriding requirement

It follows that safeguarding multilingualism in order to respect both the needs and the identity of citizens and Member States requires not only appropriate resources, but also a continuous effort in intellectual development. [11]

The European Union is a Union based on the rule of law, law that must be equal for everyone and thus produce legal effects that can be understood by everyone despite the multiplicity of languages and the diversity of legal systems. [12] Regardless of the language in which directives and regulations are drawn up, they must be capable of being understood in the same way in all languages and in all national systems. [13] However, legal concepts are not identical across legal systems. [14] Some concepts exist in only one or in several legal systems and have no equivalent in others. Other concepts exist in all legal systems but do not have quite the same meaning, either because they contain significant differences or because they are wider or narrower in scope. [15] That makes them difficult to translate or even untranslatable. [16] Moreover, a single term in one language may encompass several concepts in other languages and legal orders. [17] Barbara Cassin, of the Académie française, suggests 'calling "untranslatable" not what one does not translate, but what one never ceases (not) to translate. These symptoms

11| Dorina Irimia, 'Pour une nouvelle branche de droit? La traduction juridique, du droit au langage', *Revue Études de linguistique appliquée (ELA)*, No 183, 2016, pp. 329-341.

12| Sylvie Monjean-Decaudin, 'La juritraductologie, où en est-on en 2018?', in the collective work, *La traduction juridique et économique. Aspects théoriques et pratiques*, Classiques Garnier, pp. 17-31.

13| See, for example Christoph Sobotta: 'Die Mehrsprachigkeit als Herausforderung und Chance bei der Auslegung des Unionsrechts. Praktische Anmerkungen aus der Perspektive des Kabinetts einer Generalanwältin', *Zeitschrift für Europäische Rechtslinguistik (ZERL)*, 2015.

14| Caroline Reichling, 'Terminologie juridique multilingue comparée', in *Droit pénal, langue et Union européenne*, collection Droit de l'Union européenne, edited by Cristina Mauro, Francesca Ruggieri – Colloques, Éditions Bruylant, Brussels, 2012.

15| The word 'crime' covers a much wider range of criminal offences in English law than in French or Belgian law, for instance, with the result that such a common word is in fact a legal false cognate.

16| The word 'crime' covers a much wider range of criminal offences in English law than in French or Belgian law, for instance, with the result that such a common word is in fact a legal false cognate.

17| The German word *Vertrag* can mean 'contrat' or 'traité' in French.

of difference, translator footnotes, convey intelligence. … Translation is a know-how with differences, and that's what we need, as citizens, as Europeans.' [18]

Despite those obstacles, translators, lawyer-linguists and interpreters juggle all concepts to ensure that legal documents and their effects are understood in the same way in all States. That will sometimes involve creating legal neologisms or using terms which, despite corresponding to a concept in national law, take on an autonomous meaning in EU law. [19] Language staff therefore work ceaselessly to produce not only the translation itself, but also the means of expression that will make it possible in each particular situation to convey the import of specific legal effects, where neither language nor law, in many cases, provides a perfect equivalent, while maintaining transversal and diachronic terminological consistency. [20]

18| Barbara Cassin, 'La langue de l'Europe?', vols 160 and 161, No 2-3, Éditions Belin, Po&sie, 2017, pp. 154-159, 2017.

19| For instance, the concept of '*effet utile*' is typically an EU law concept, while the terms '*direct effect*' (judgment of 5 February 1963, van Gend & Loos, 26/62, EU:C:1963:1, p. 3) or 'worker' (judgment of 19 March 1964, *Unger*, 75/63, EU:C:1964:19, p. 347) are autonomous concepts of EU law.

20| Thierry Fontenelle, 'La traduction au sein des institutions européennes', *Revue française de linguistique appliquée*, vol. xxi, No 1, 2016, pp. 53-66.

Multilingualism and plurilingualism

The concepts of 'multilingualism' and 'plurilingualism' are defined by the Council of Europe in the Common European Framework of Reference for Languages (CEFR).

Drawing loosely on those definitions for the purposes of this book, the term 'multilingualism' is understood as the coexistence of several languages within an institution, whether it be a nation, such as Belgium or Switzerland, or an international organisation, such as the European Union, or even a public or private company.

By contrast, 'plurilingualism' refers to the ability of individuals to broaden their language experience in their cultural context, from the language of home to the language of their social group and beyond, to that of other groups outside the family setting. A person who speaks several languages, even imperfectly, is plurilingual.

It is in that sense that the following statement by Alfredo Calot Escobar, the current Registrar of the Court of Justice, should be understood:

'Has Europe been able to invent a language that is not an artificial dialect? Umberto Eco, who believes that the language of Europe is translation, would reply that Europe has done so by that means. But that assertion should, in actual fact, be corrected: the language of Europe is multilingualism, namely respect for the principle of equality between all the official languages, which is not only the corollary of the Union's recognition of the principle of equality between Member States and respect for their national identities, but also the essential condition for European citizenship. We could add without a doubt that the language of Europe, more than translation, is also plurilingualism, namely a person's ability, in a multilingual environment, to express himself or herself in several of the languages represented and thus forge links between them and the cultures they convey.' [21]

21 | Alfredo Calot Escobar, 'Le multilinguisme à la Cour de justice de l'Union européenne: d'une exigence légale à une valeur commune', *Le multilinguisme dans l'Union européenne*, edited by Isabelle Pingel, Éditions Pedone, Paris, 2015, pp. 55-71.

2. - Multilingualism at the heart of proceedings before the Courts of the European Union

Legal multilingualism: a functional requirement at the Court of Justice

In its day-to-day implementation, multilingualism is not only a legal requirement: it is, first and foremost, a functional requirement. The Court, which is duty-bound to be proficient in all the official languages as part of its mission, must make multilingualism a reality in its day-to-day organisation. [22] That provides the institution with the opportunity to transform the regulatory dimension of multilingualism into a shared value, permeating the institution as a whole.

2.1 - Multilingualism as an integral part of proceedings

The language arrangements at the Court, as laid down in the respective Rules of Procedure of the Court of Justice and of the General Court, ensure multilingual access to justice. The referring courts and tribunals, in preliminary ruling proceedings before the Court of Justice, and the applicants, in direct actions before both Courts, determine the language of the case in each instance: it is the language of the document initiating the proceedings. When they bring proceedings, the institutions of the European Union, which do not have their own language since all the languages listed in Article 1 of Regulation 1/58 are languages of the institution, draw up the document initiating proceedings – in this case the application or the appeal – in the language of the defendant, whether the defendant be a natural or legal person or a Member State.

Any of the official EU languages may therefore be the language of the case. [23] In principle, the pleadings should be drawn up in that language, which will also be the language of the hearing. The decision closing the proceedings will be signed in that same language by the formation of the Court.

22| Hubert Legal, 'La traduction dans les juridictions multilingues: le cas de la Cour de justice des Communautés européennes', in *Langues et procès*, edited by Marie Cornu and Marie-Eugénie Laporte-Legeais, Droit & Sciences sociales, LGDJ-Lextenso, Poitiers, 2015, pp. 143-147.

23| Rules of Procedure of the Court of Justice, Chapter 8 'Languages', Article 36 et seq., and the Rules of Procedure of the General Court, Title II 'Languages', Article 44 et seq.

It follows that the Court must be equipped and ready at all times to ensure that incoming procedural documents can be translated as quickly as possible into a language in which the formation of the Court is fluent; that the conference interpreters present at the hearing are able to provide interpretation from the language of the case into the other languages of the interveners and into the languages in which the Members of the formation are fluent, and vice versa; and that lawyer-linguists are available to translate the decision taken by the formation of the Court into the language of the case so that it can actually be adopted. [24]

Plurilingualism is a reality within the institution, because there is no one who does not speak several languages. The multilingualism of judicial activities and the activities of the institution as a whole is a different concept (*see section 1.2*), responsibility for which evidently lies, in essence, with the Directorate-General for Multilingualism (DGM), which provides legal translation and interpretation services. However, such responsibility is also borne by many other departments which, within their sphere of activity and as far as resources allow, aspire to a multilingualism and multijuralism that is as broad as possible, such as the Communications Directorate, both Registries and the Research and Documentation Directorate (RDD). Those departments are moreover organised around legal and linguistic domains of expertise.

As can be seen, multilingualism is part and parcel of the entire procedure before the Court, and the availability of appropriate translation and interpretation resources in terms of numbers, languages covered and quality has a decisive influence on whether judicial proceedings can be conducted at all. In other words, legal multilingualism is no longer simply an asset and an added value: it is a legal and functional requirement as the Rules of Procedure render it an indispensable production tool at the core of all proceedings. [25]

24| Lawyer-linguists also translate decisions into the other official languages for publication, unless the decision concerned is not published in the *European Court Reports* as a cost-saving measure further to the institution's policy of selective publication.

25| See the Rules of Procedure of the Court of Justice, Title III headed 'References for a preliminary ruling', Article 93 et seq.

2.2 - The written part of the procedure

Each procedure involves a written stage, be it a preliminary ruling procedure, a direct action, an appeal or an opinion under Article 218(11) TFEU.

2.2.1 - Preliminary ruling procedures

The preliminary ruling procedure is the key instrument for cooperation between national courts and tribunals and the Courts of the European Union and ensures the uniform application of EU law. It takes the form of a channel of communication that is always open to national courts and tribunals where they have doubts about the validity of an act or the interpretation of EU law. That procedure – for which provision is currently made in Article 267 TFEU [26] – has played an essential role in the development of EU law and has given rise to a long line of seminal judgments establishing rights and obligations for citizens, rights which were often confirmed in subsequent revisions of the Treaties. Irrespective of whether or not the national court or tribunal is ruling at last instance, where it considers that one or more arguments for invalidity of an act of secondary EU law put forward by the parties or, as the case may be, raised by it of its own motion, are well-founded, it must stay proceedings and make a reference to the Court of Justice for a preliminary ruling on the act's validity. [27] Moreover, a national court or tribunal which has doubts as to the interpretation of EU law may refer one or more questions to the Court of Justice for a preliminary ruling, unless it is called upon to give judgment at last instance, in which case it is required to do so. The reason for this is clear. The case-law of the higher courts and tribunals of a Member State cannot conceivably conflict with EU law and acquire the force of *res judicata* without it being possible for an action to be brought.

It should be noted that, as at the date of finalisation of this publication (early 2023), the Council has before it a proposal to amend Protocol No 3 on the Statute of the Court of Justice of the European Union in order to allow a portion of disputes referred for a preliminary ruling to be transferred to the General Court of the European Union.

26| See the Rules of Procedure of the Court of Justice, Title III headed 'References for a preliminary ruling', Article 93 et seq.

27| Judgment of 10 January 2006, *IATA and ELFAA*, C-344/04, EU:C:2006:10, paragraph 30 (also see press release No 1/06).

This would concern requests that come exclusively within one or several of the following specific areas: the common system of value added tax, excise duties, the Customs Code and the tariff classification of goods under the Combined Nomenclature, compensation and assistance to passengers, and the scheme for greenhouse gas emission allowance trading.

Every request for a preliminary ruling made under Article 267 of the Treaty on the Functioning of the European Union would, however, continue to be submitted to the Court of Justice. After verifying that the request for a preliminary ruling comes exclusively within one or within several of these areas, the Court of Justice would transmit that request to the General Court.

The request for a preliminary ruling – the document initiating proceedings

Preliminary ruling proceedings begin with a decision, order or judgment, depending on the circumstances, of a national court or tribunal by which it submits to the Court of Justice a question concerning the validity or interpretation of EU law. That request for a preliminary ruling is drawn up in the language of the national court or tribunal and determines the language of the case. If the Court of Justice decides to join [28] cases in which the language of the case is different, those languages all become languages of the case.

As soon as it is registered at the Court Registry, the request for a preliminary ruling is sent to the various departments that will be involved in the proceedings, the chamber of the President, the RDD and, of course, the legal translation service. [29] The request for a preliminary ruling, or a summary thereof drawn up by the legal translation service under Article 98 of the Rules of Procedure of the Court of Justice, must be translated into the other official languages. It must then be served by the Registry not only on the parties to the national proceedings, but also on all the Member States, the European Commission and, where appropriate, the EU institution, body, office or agency that adopted the act the validity or interpretation of which is in dispute, as well as, where

28| Article 54 of the Rules of Procedure of the Court of Justice and Article 68 of the Rules of Procedure of the General Court.

29| Marjolaine Roccati, 'Translation and Interpretation in the European Reference for a Preliminary Ruling', *Études de linguistique appliquée (ELA)*, vol. 183, No 3, 2016, pp. 297-307.

one of the areas of application of the Agreement on the European Economic Area (EEA) is concerned, the States party to that Agreement and the EFTA Surveillance Authority.[30] The national authorities in particular require a version of the request in a language of which they have a perfect command in order to be able to exercise their right to submit written observations in the best possible conditions and within the prescribed time limit (two months) and thereafter to plead at the hearing. The legal translation service usually provides, within 20 working days, a translation of that request or of the summary thereof from the *source language* into all other official EU languages. Since a request for a preliminary ruling may be made in any of the 24 official EU languages, the legal translation service must be able to treat of all 552 possible language combinations (24 x 23 languages). Although, in practice, requests for a preliminary ruling are indeed translated from Maltese and Irish, [31] they are currently not translated into those languages, since the countries concerned can rely on the English language version, English being an official language in both Malta and Ireland. It should be noted that in addition to the request for a preliminary ruling itself, the legal translation service also translates into all the official languages, including Irish and Maltese, a notice reproducing the questions submitted, which is published in the *Official Journal* (OJ). The decision bringing an end to the proceedings is also translated into those languages and will moreover be the subject of a notice published in the OJ.

Observations

Parties entitled to submit written observations have a period of two months in which to do so. Those parties are the parties to the main proceedings conducted before the national court or tribunal making the reference and, except in cases dealt with under the urgent preliminary ruling procedure (*see section 2.2.4*), other parties as provided

30 | See Article 23 of the Protocol on the Statute of the Court of Justice of the European Union. It should also be noted that, in requests dealt with under the urgent preliminary ruling procedure (Article 107 of the Rules of Procedure of the Court of Justice), Member States other than the Member State of the referring court or tribunal may not lodge written observations but may put forward their arguments at the hearing, which is mandatory in such proceedings.

31 | The first request for a preliminary ruling in Irish was made in 2020 by the Ard-Chúirt (High Court, Ireland). That case, which was decided by the Court of Justice in its judgment of 17 March 2021, *An tAire Talmhaíochta Bia agus Mara and Others*, C-64/20, EU:C:2021:207 (also see press release No 42/21), concerned, in particular, the right to receive information in one's own language. The case was specifically concerned with information on the packaging of veterinary medicinal products.

for in Article 23 of the Statute of the Court of Justice of the European Union, namely the Member States, the Commission and, where appropriate, the EU institution, body, office or agency that adopted the act the validity or interpretation of which is in question. Those parties may also include, in the situations referred to in Article 267 TFEU, the States party to the EEA Agreement, other than the Member States, and the EFTA Surveillance Authority where one of the areas of application of that agreement is concerned. Non-member States may also submit written observations where an agreement relating to a specific subject matter, concluded by the Council of the European Union and one or more non-member States, provides that those States are to be entitled to submit statements of case or written observations where a court or tribunal of a Member State refers to the Court of Justice for a preliminary ruling a question falling within the scope of the agreement. [32]

Observations are served on the same parties as the request for a preliminary ruling. Drawn up in one of the official EU languages, the Court's legal translation service translates the observations not into all the official languages, but only into a language in which all the Members of the Court of Justice are fluent, known as the language of deliberation, i.e., French (*see section 3.6.1*). They are also translated into the language of the case if they were not drawn up in that language. A number of situations may arise:

The observations of the parties to the main proceedings in the Member State of the referring court or tribunal and the observations of the institutions in the language of the case

The observations of the parties to the main proceedings must always be drawn up in the language of the case. They therefore need to be translated only into French to meet the institution's internal needs. Those observations will be served on all the other parties in the language of the case and in French. The observations of the Commission and of any other institution are lodged in the language of the case, accompanied by a translation into French, in accordance with Article 57(3) of the Rules of Procedure of the Court of Justice.

32| See the fourth paragraph of Article 23 of the Protocol on the Statute of the Court of Justice of the European Union.

Observations of other parties in a language other than the language of the case

Some parties enjoy special treatment whereby they are entitled to lodge certain pleadings in a language other than the language of the case (Article 38(4) to (6) of the Rules of Procedure of the Court of Justice). That is particularly the case of the Member States, which are entitled to lodge observations in their own language in preliminary ruling proceedings. Those observations must therefore be translated not only into the language of the case, but also into French for the needs of the Court. Those translations are produced by the Court's legal translation service. It is crucial that Member States are able to share their legal analysis of preliminary ruling proceedings with the Court of Justice, because the case will lead to a decision which will have interpretative authority and will be binding on the legislative, executive and judicial authorities of those Member States.

The number of languages used in the proceedings is an indication of the importance of that case to the Member States.

Similarly, observations lodged by States party to the EEA Agreement or by non-member States, in the situations referred to in the fourth paragraph of Article 23 of the Statute of the Court of Justice of the European Union, may be lodged in an official language other than the language of the case. Those observations will also be translated by the Court's legal translation service into the language of the case and French, for the purposes of the Court's handling of the case.

The legal translation service endeavours to provide a translation of observations in preliminary ruling proceedings within two months of the date on which those observations were lodged, the objective being to ensure that all the translations needed for the examination of the case are available within two months of the end of the written part of the procedure, marked by the lodging of the last set of observations in the case.

2.2.2 - Direct actions and appeals

The Court of Justice and the General Court both hear direct actions. [33]

The Court of Justice hears the following types of direct action.

- Actions for failure to fulfil obligations, brought either by the Commission or, less frequently, by a Member State, which allow the Court of Justice to monitor Member States' compliance with their obligations under EU law. If the Court of Justice finds that an obligation has not been fulfilled, the State must bring that failure to an end without delay. If, after a further action has been brought by the Commission, the Court of Justice finds that the Member State concerned has not complied with its judgment, it may impose a fixed or periodic penalty payment on that State. However, if measures transposing a directive have not been notified to the Commission, the Court of Justice may, on a proposal from the Commission, impose a pecuniary penalty on the Member State concerned, once the initial judgment establishing a failure to fulfil obligations has been delivered. [34]

- Actions for annulment before the Court of Justice, which enable a Member State to bring proceedings against the European Parliament or the Council (except Council measures in respect of State aid, dumping and implementing powers) and also enable an EU institution to bring proceedings against another institution seeking the annulment of a measure [35] adopted by an institution, body, office or agency of the Union. The General Court has jurisdiction, at first instance, in all other actions of this kind and particularly in actions brought by individuals. [36] .

- Actions for failure to act, which enable the lawfulness of the failure to act of an institution, body, office or agency of the Union to be reviewed. Where the failure

33| See the Rules of Procedure of the Court of Justice, Title IV headed 'Direct actions', Article 119 et seq., and the Rules of Procedure of the General Court, Title III headed 'Direct actions', Article 50 et seq.

34| See Articles 258 to 260 of the Treaty on the Functioning of the European Union (TFEU).

35| Such as a regulation, directive or decision.

36| See Article 263 and Article 256(1) TFEU and Article 51 of the Protocol on the Statute of the Court of Justice of the European Union.

to act is held to be unlawful, it is for the institution concerned to put an end to the failure by appropriate measures. Jurisdiction to hear actions for failure to act is shared between the Court of Justice and the General Court according to the same criteria as for actions for annulment. [37]

- Appeals, which allow an application to be made to the Court of Justice seeking to have it set aside a judgment or order of the General Court. Pleas must be limited to points of law. Where the state of the proceedings so permits, the Court of Justice may itself decide the case. Otherwise, it will refer the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal. [38] Appeal proceedings will not be specifically examined below because they are conducted in the same way as direct actions, including as regards the production and dissemination of translations.

The General Court, for its part, hears the following direct actions:

- actions brought by natural or legal persons seeking the annulment of acts of the institutions, bodies, offices or agencies of the Union which are addressed to them or are of direct and individual concern to them and of regulatory acts which concern them directly and do not entail implementing measures, and actions by such persons seeking a declaration that those institutions, bodies, offices or agencies have failed to act; [39]

- actions brought by Member States against the Commission and actions brought by Member States against the Council relating to acts adopted in the field of State aid or trade protection measures (dumping) and acts by which the Council exercises implementing powers; [40]

- actions seeking compensation for damage caused by the institutions, bodies, offices or agencies of the Union or their staff;

37| See Article 265 and Article 256(1) TFEU and Article 51 of the Protocol on the Statute of the Court of Justice of the European Union.

38| See Articles 56 to 58 and 61 of the Protocol on the Statute of the Court of Justice of the European Union. Also see Title V of the Rules of Procedure of the Court of Justice on 'Appeals'.

39| See Articles 263 and 265 TFEU.

40| See Article 51 of the Protocol on the Statute of the Court of Justice of the European Union.

- actions based on contracts entered into by the Union which expressly confer jurisdiction on the General Court;
- actions relating to intellectual property brought against the European Union Intellectual Property Office (EUIPO) and against the Community Plant Variety Office (CPVO);
- disputes between the EU institutions and their staff concerning employment relationships and social security schemes. [41]

The decisions of the General Court may, within two months, be the subject of an appeal before the Court of Justice, limited to points of law. [42]

The application – the document initiating proceedings

The document initiating a direct action is the application (or appeal) and the language in which it is drawn up ipso facto becomes the language of the case. [43] As soon as it is lodged at the relevant Court Registry, the application is served on the defendant and forwarded to the legal translation service so that a version in the language of deliberation can be prepared. Where a direct action is brought by one Member State against another, [44] which is an infrequent occurrence, it is necessary to ensure that the

41 | See, respectively, Articles 268, 270 and 272 TFEU.

42 | See Articles 56 to 58 of the Protocol on the Statute of the Court of Justice of the European Union and Article 167 et seq. of the Rules of Procedure of the Court of Justice (Title V headed 'Appeals against decisions of the General Court').

43 | Individuals and Member States may lodge applications in the language of their choice. The institutions, bodies, offices and agencies of the Union must lodge them in the language of the defendant.

44 | As in the sensitive case of *Hungary v Slovakia*, C-364/10, EU:C:2012:630, decided by judgment of 16 October 2012 (also see press release No 131/12); in *Slovenia v Croatia*, C-457/18, EU:C:2020:65, decided by judgment of 31 January 2020 (also see press release No 9/20); and in Case C-121/21 R *Czech Republic v Poland*, which gave rise to two orders of the Vice-President of the Court in May and September 2021 (also see press releases No 89/21, No 159/21 and No 23/22).

application and, thereafter, the other pleadings exchanged are also translated into the language of that other Member State. [45]

In applications and appeals, a notice summarising the pleas in law, the main arguments and the form of order sought in the application or appeal is published in the *Official Journal*. The publication of that notice triggers the six-week period [46] (Article 130 of the Rules of Procedure of the Court of Justice and Article 143 of the Rules of Procedure of the General Court) within which any interested party may apply for leave to intervene in the proceedings.

Pleadings

The pleadings exchanged in direct actions are the application and the defence. [47] Provision is made for a second exchange of pleadings in direct actions before the Court of Justice (Article 126 of the Rules of Procedure) and the General Court (Article 83 of the Rules of Procedure), unless the Court concerned takes the view that the second exchange is unnecessary, for example where the case is being dealt with under the expedited procedure, or the parties themselves waive such a second exchange. Where a second exchange of pleadings takes place, a reply and a rejoinder may be lodged and the Court concerned may specify the matters to which those pleadings must relate.

By contrast, a second exchange of pleadings is not automatic in appeals brought before the Court of Justice or in direct actions brought before the General Court relating to intellectual property. Under Article 175 of the Rules of Procedure of the Court of Justice, the lodging of a reply is conditional on express authorisation from the President of the Court of Justice who may, if such authorisation is given, specify the number of pages and the subject matter of that document and of the rejoinder.

45| A passing reference should be made to the exception provided for in Article 45(4) of the Rules of Procedure of the General Court, which provides that the language of the case in actions brought against decisions of the Boards of Appeal of EUIPO concerning the application of the rules relating to an intellectual property regime is to be chosen by the applicant. However, if another party to the proceedings before the Board concerned objects within the prescribed period, the language of the contested decision becomes the language of the case. The legal translation service would then also translate the application into that language.

46| That period is fixed at one month for appeals (see Article 190(2) of the Rules of Procedure of the Court of Justice).

47| In direct actions relating to intellectual property and in appeals, the term used is ‘response’.

Applications to intervene, observations on applications to intervene and statements in intervention as well as cross-claims, cross-appeals and the relevant responses are, from a language perspective, dealt with in the same way as the pleadings lodged in the main action or appeal.

Since all those pleadings must be submitted in the language of the case, the Court's legal translation service is required to translate them only into the language of deliberation, except where a Member State intervenes. That Member State will intervene in a national language, [48] thus necessitating the translation of the application to intervene and the statement in intervention itself not only into the language of deliberation, but also into the language of the case. The translation service endeavours to provide those translations – at least as regards the application, the defence or response, the reply and the rejoinder – within a period which, as a general rule, should not exceed two months.

48| Article 38(4) of the Rules of Procedure of the Court of Justice and Article 46(4) of the Rules of Procedure of the General Court.

Interventions

The interveners

Multilingualism guarantees equal treatment between the parties to proceedings. It is limited to the main parties in preliminary ruling proceedings and in direct actions. It does not extend to interveners [49] which, even if they are from a Member State whose official language is not the language of the case, must nevertheless intervene in that language, even if that means having prior recourse to private translation services. [50]

There is, however, one exception to that exception. Under Article 38(4) of the Rules of Procedure of the Court of Justice and Article 46(4) of the Rules of Procedure of the General Court, Member States are entitled to use their official language when intervening in a case before the Court of Justice or the General Court. According to the same principle, states which are party to the EEA Agreement, and also the EFTA Surveillance Authority, can under Article 38(5) of the Rules of Procedure of the Court of Justice and Article 46(5) of the Rules of Procedure of the General Court, choose not to use the language of the case, but rather another official EU language. Those interventions will be translated into the language of the case by the Court's legal translation service so that the main parties can also acquaint themselves with their content and, if they so wish, submit observations on the intervention(s).

49| Provision is made for intervention in Article 40 of the Statute of the Court of Justice of the European Union:

'Member States and institutions of the Union may intervene in cases before the Court of Justice.

The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest in the result of a case submitted to the Court. Natural or legal persons shall not intervene in cases between Member States, between institutions of the Union or between Member States and institutions of the Union.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred to in that Agreement, may intervene in cases before the Court where one of the fields of application of that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.'

50| Article 38(1) of the Rules of Procedure of the Court of Justice and Article 46(1) of the Rules of Procedure of the General Court.

2.2.3 - Opinion procedures

The opinion procedure [51] laid down in Article 218(11) TFEU, which is triggered by a request from a Member State, the European Parliament, the Council or the Commission as to whether an agreement envisaged between the Union and non-member countries or international organisations is compatible with law or whether the Union or its institutions are competent to conclude such an agreement, is very unusual from the point of view of the applicable linguistic regime. All the official EU languages are automatically languages of the case. This means that the questions set out in the request for an opinion must be translated into all official languages for publication in the Official Journal. Given the importance of such proceedings and the media interest they generate, the legal translation service ensures an even quicker turnaround of translations to enable the Court of Justice to begin work immediately.

2.2.4 - Measures to expedite proceedings

Translation deadlines have been discussed above. It should be noted, however, that in all proceedings, those deadlines may be significantly shortened for reasons relating to the sound administration of justice or the protection of fundamental rights.

Such expedition, provided for in the Rules of Procedure, sometimes entails a drastic reduction in translation deadlines.

- Expedited procedures (Articles 105, 133 and 190 of the Rules of Procedure of the Court of Justice and Article 151 of the Rules of Procedure of the General Court). The Court may decide to deal with a case pursuant to an expedited procedure at the request of one of the parties or, in the case of references for a preliminary ruling, at the request of the national court or tribunal or of the Court's own motion. A decision to that effect entails a reduction in the deadlines at each stage, including for translation.

- The urgent preliminary ruling procedure (Articles 107 to 114 of the Rules of Procedure of the Court of Justice). At the request of the national court or tribunal or on its own motion, the Court of Justice may decide to deal with a case under

51 | See the Rules of Procedure of the Court of Justice, Title VII headed 'Requests for opinions', Article 196 et seq.

the urgent preliminary ruling procedure in the fields covered by Title V of Part Three of the TFEU, namely the area of freedom, security and justice. One particular feature of that procedure, besides the reduction in the deadlines at all stages is the limitation placed on the number of interested parties who may submit written observations: Member States other than the Member State of the referring court or tribunal, and occasionally the Member State whose national proceedings are referred to in the request cannot submit written observations, but may by contrast put forward arguments at the hearing. In cases of extreme urgency, the Chamber to which the case has been allocated may even decide to dispense entirely with the written part of the procedure. The decision to initiate the urgent preliminary ruling procedure exerts conflicting procedures on the legal translation service, since, on the one hand, it is required to translate the request for a preliminary ruling into French as a matter of the utmost urgency, but, on the other, it not required to translate observations from Member States other than the Member State of the referring court or tribunal.

- A decision may also be taken to accord priority treatment to certain cases in the light of their individual circumstances (Article 53 of the Rules of Procedure of the Court of Justice and Article 67 of the Rules of Procedure of the General Court). Such a decision also entails a reduction in translation deadlines.

2.2.5 - The end of the written part of the procedure

The written part of the procedure is closed:

- in references for a preliminary ruling, after the lodging of the last set of observations;

- in direct actions and appeals, after the lodging of the last pleading, usually the defence or the rejoinder if there have been two exchanges of pleadings or, as the case may be, the response to a cross-claim or an intervention lodged after the last set of observations.

2.3 - The oral part of the procedure

2.3.1 - The hearing

The hearing provides a forum for an oral exchange of submissions in the course of the proceedings. All parties to the main proceedings, the interveners and the represented Member States may present oral argument before the formation of the Court, which will be attended by the Advocate General, where appropriate. The hearing also gives the Advocate General and the Members of the Court formation an opportunity to ask questions seeking clarification in connection with the case before them.

More often than not, the hearing participants (parties, Judges, Advocate General, Member States representatives, and so forth) will have different mother tongues. Although most of them will speak and understand other languages, their level of understanding and their quality of expression will be highest in their mother tongue, especially in a legal setting. That's where the institution's conference interpreters come in. Interpretation will always be provided into French, the language of deliberation, both for the needs of the Members of the Court formation who have chosen to do without interpretation into their mother tongue and for the purposes of recording the hearing. Interpretation will also be provided from and into the language of the case and into the languages of the Member States participating in the hearing. The determination of the languages from and into which interpretation will be provided at the hearing reflects very practical considerations. Account will be taken of the needs expressed by the Members of the Court formation, the Advocate General and the representatives of the institutions and the Member States. As pointed out above, Article 38(4) of the Rules of Procedure of the Court of Justice provides that the Member States, in particular, may use a language other than the language of the case. Account will also be taken of available interpretation capacity, in terms of the number of internal or external interpreters and the languages covered, especially as several hearings are usually held concurrently in different courtrooms of the Court of Justice and the General Court. Where possible the need for cost savings is borne in mind by dispensing with the services of freelance interpreters who would have to be called upon as backup if full two-way interpretation were to be provided at all hearings. Thus, interpretation will not always be two-way (or symmetrical): for example, it is possible for interpretation to be provided from a particular language but not into that language.

There is, however, one procedure which requires simultaneous interpretation at the hearing at maximum capacity from and into all languages. That procedure is detailed above (*see section 2.2.3*), wherein all the official languages are languages of the case. During the Covid-19 crisis, each interpreter occupied a single *booth*, which called for some quite remarkable arrangements, such as technically linking up several courtrooms to ensure a sufficient number of interpretation booths.

Since April 2022, hearings of the Grand Chamber of the Court of Justice have been broadcast on *webstreaming*.

2.3.2 - Delivery of Opinions of the Advocates General

The Court of Justice has 11 Advocates General. Five permanent Advocate General posts are reserved for France, Germany, Italy, Poland and Spain. [52] The remaining six posts are rotated between the other Member States. The Advocates General produce Opinions in a large number of cases before the Court of Justice. The First Advocate General decides on the allocation of cases between the Advocates General. [53] An Advocate General may also, in principle, be designated from among the Members of the General Court in cases brought before that Court. [54] On the rare occasions where that has occurred, [55] a member of the General Court not sitting in the Chamber hearing the case was so appointed.

The Opinions of the Advocates General are formally part of the oral part of the procedure. It is the practice of the Advocates General to announce at the end of the hearing the likely date on which their Opinions will be presented in open court, i.e. when the final part of the Opinion will be read. They act as amicus curiae, that is to say, they provide the formation of the Court with their legal analysis and suggest ways of resolving the case. Accordingly, the full text of those Opinions is translated into French for the needs of the Court formation and into the language of the case so that the Opinions can be served on the parties. Opinions are also translated into the other official languages

52| Before Brexit, one of the six permanent Advocate General posts was reserved for the United Kingdom of Great Britain and Northern Ireland.

53| Article 16 of the Rules of Procedure of the Court of Justice.

54| Articles 30 and 31 of the Rules of Procedure of the General Court.

55| For instance, in *Stahlwerke Peine-Salzgitter v Commission*, T-120/89.

because they are disseminated and published in their entirety in the *European Court Reports*, as is the decision subsequently delivered by the formation of the Court.

For practical reasons, all Advocates General draft their Opinions in one of the six languages most widely covered by the legal translation service (French; English, German, Italian, Polish or Spanish. These language serve as the languages of deliberation for the Advocates General and comprise the *pivot languages* of the legal translation service respectively, *see section 3.6.2*)." . For that reason, each language unit in the legal translation service builds and maintains sufficient translation capacity to ensure direct translation into its language from each of those six languages.

The legal translation service strives to make as many language versions as possible available for the day on which the Opinion is read. Language versions which cannot be made available for that day will nevertheless be made available at the latest on the date of the judgment in the case. To ensure that the legal translation service is able to achieve those objectives, the Advocates General consult with that service's central planning section. They also, as a rule, limit the length of their Opinions to an average of 40 pages, except for Opinions in appeals which usually entail the examination of more numerous and more technical points of law.

The Advocates General draft their Opinions after the hearing in the case concerned. If they have used a language other than their own, they may request the legal translation service to undertake a language review of that original version in order to refine the quality of the text. Once the quality of the text of the Opinion has been assured, including through the involvement of proofreaders and lawyer-linguists, the chamber of the Advocate General will forward his or her Opinion to the central planning section of the legal translation service. That service will perform two tasks in parallel.

- The first task is to correct any proofreading errors in the original text (not to be confused with the preliminary language review referred to above). The corrected document will be returned by the language unit of the drafting language to the chamber of the AG, which will approve or reject the suggested changes before sending a new version back to the central planning section. That is the first 'request for amendment'.

- The second, most important, task is to translate the Opinion into each of the other official languages. Several requests for amendments may be made during the translation process. The first reflects the outcome of the proofreading

exercise mentioned above. Amendments may be made where the Advocate General feels that the draft text needs to be developed. Since modifications are highly disruptive to translation work, the Advocates General seek to avoid a multiplication of requests and of the number of specific amendments contained therein. Ideally, they attempt to limit themselves to two requests for amendments: one after proofreading and the other at the end of the process, following communication between their chambers and the lawyer-linguists of the different language units, who are represented by the lawyer-linguist designated as the 'centraliser of questions' for the case concerned. The centraliser of questions is the lawyer-linguist who, in the unit of the language of the case, compiles the questions raised by the different language units during the translation process with a view to answering them directly or, where appropriate, grouping them together and forwarding them to the chambers of the Advocate General so that it can provide the necessary clarifications.

In some cases, the Advocates General will wish to reread a particular translation of their Opinions before delivering them. That will almost always be the case with the translation into French, since that version will be sent to the formation of the Court.

Opinions are read in open court. The Advocates General do not present their Opinions in full; they present only their conclusions. The versions in the language of the case and in the language of deliberation, previously translated by lawyer-linguists, are read simultaneously by the interpreters.

Opinions of the Advocates General account for almost 27% of the overall workload of the legal translation service, or almost 306 000 pages in 2020.

The oral part of the procedure is brought to a close by the hearing or, where an Advocate General's Opinion has been read in the case. The President of the Court formation will then declare that the case should proceed to deliberation, a process that concludes with the signature of the order or with the signature and delivery of the final judgment.

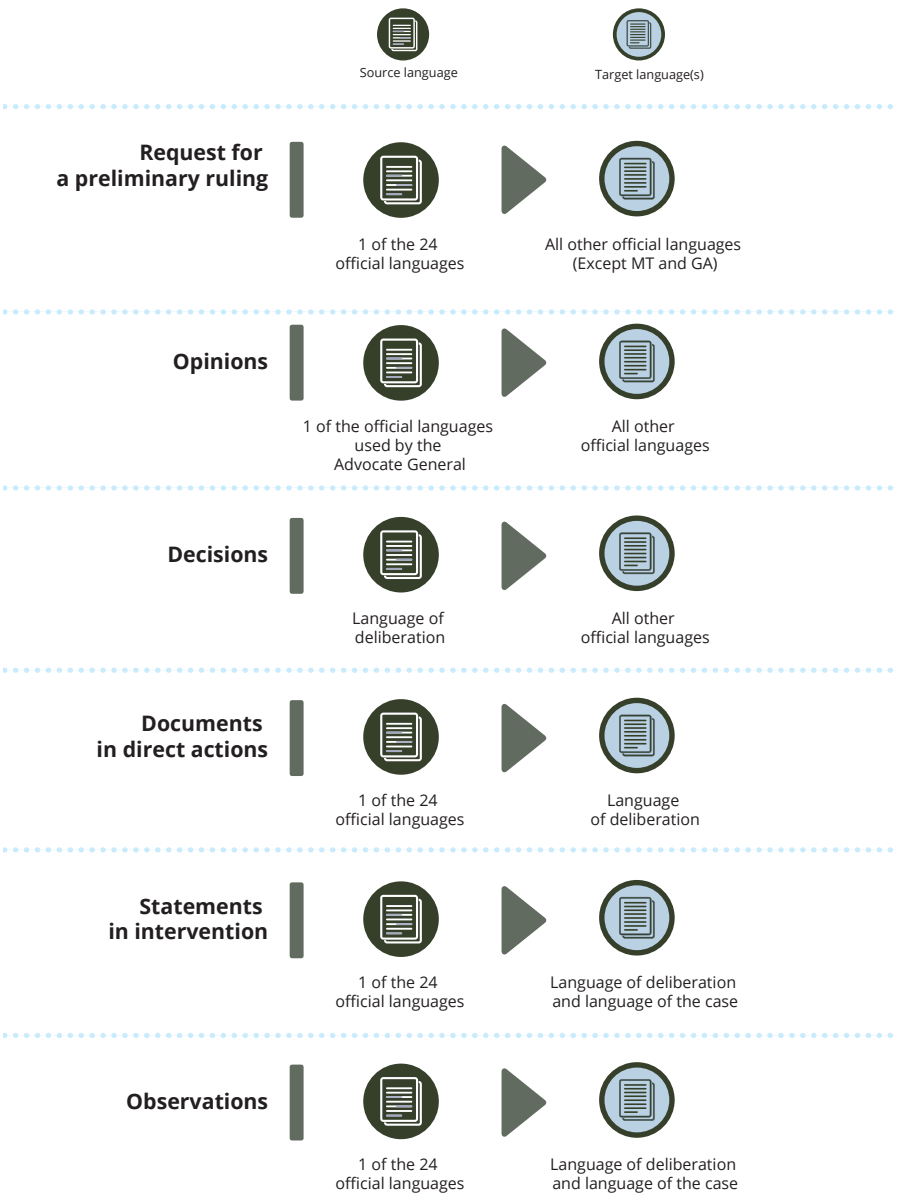
2.4 - Decisions and opinions

Once the written and oral parts of the procedure have been completed and the case has proceeded to deliberation, the Judge-Rapporteur will prepare the draft order, judgment or opinion within the meaning of Article 218(11) TFEU and submit it to the formation of the Court to deliberate on the draft. During deliberations, the formation of the Court reaches a collegiate view which will be reflected in the draft decision or opinion. That draft will then be sent to the legal translation service for translation into the language of the case and, if it is an order or a judgment to be published in the *ECR* or an opinion (which are always published) into all other official languages.

Where the decision takes the form of a judgment, it is signed by the Members of the Court formation and by the Registrar of the Court of Justice or the General Court, as appropriate, and delivered in open court. Where the decision takes the form of an order, it is signed by the President of the Court formation and by the Court Registrar, but is not delivered in open court; it is simply served on the parties. Opinions are signed by the President of the Court of Justice, the Judges who took part in the deliberations and the Registrar, and are delivered in open court.

The translation service aims to make available as many language versions of the decision as possible on the day of signature (for orders) or delivery (for judgments and opinions). The version in the language of the case is, by definition, always available, as otherwise there would simply be no decision to sign and serve on the parties in the authentic language. Despite the efforts and investments made, other language versions may not always be available on that date given the increasing mismatch between the resources of legal translation services and its workload. Efforts are focused on the most important decisions, on those that appear to spark a special interest in the Member State concerned (for instance, because it submitted observations or intervened in the proceedings), and on those which seem to be the easiest to translate quickly (for instance, if they are short). Less important or longer decisions will in most cases be placed on hold to be translated into the remaining languages as soon as possible, with a view to being disseminated on the Internet and published in the *ECR*. The service aims to avoid leaving decisions on hold for more than three months after the date of delivery but that objective is also becoming increasingly difficult to achieve.

Languages of translation of key documents



The authentic language version

In accordance with Article 41 of the Rules of Procedure of the Court of Justice and Article 49 of the Rules of Procedure of the General Court, the versions of decisions drawn up in the language of the case are the authentic versions, whether those decisions be orders or judgments. It follows that that language version is of special importance. The order recently delivered in Case C-706/20 is a prime example of this. In that case, the Court received a request for a preliminary ruling seeking, inter alia, an interpretation of the judgment in Amoena delivered in Case C-677/18, the wording of much of paragraph 53 in the English-language version, which was the language of the case, lacked sufficient clarity. The Court was asked to clarify the noun(s) in paragraph 53 to which the pronouns 'them', 'their' and 'they' attached. The Court of Justice reached a decision by conducting a grammatical analysis of the English-language version of the judgment in *Amoena*, which was the authentic version.

To pre-empt such situations as far as possible, the language units producing translations in cases in their language are especially vigilant, incorporating as many quality control levels as necessary and occasionally seeking advice from the Members of the Court who are native speakers of that language.

The Court of Justice has never received a request for a preliminary ruling concerning the lack of consistency between the different language versions of a decision. The fact that the version in the language of the case is the authentic version may well have something to do with it. Nonetheless, some cases have more than one language of the case and in opinion procedures (*see section 2.2.3*) all the official languages have that status. The other reason is the high quality of the legal translations produced at the Court because, even though all versions are not of equal value in the same way as EU regulatory acts, quality and consistency across all language versions are essential for the uniform application of EU law.

For that reason, the Court requires sufficient resources and specialists of the highest calibre for each *target language*, both for translation and interpretation (*see section 3.1*).

Notification of decisions and opinions to the Official Journal

All decisions and opinions adopted by the Court of Justice and the General Court are the subject of a multilingual notice in the OJ, which requires naturally the production of different language versions by the legal translation service. [56] The notices reproduce: the operative part of the decisions and of the opinions and; in preliminary ruling proceedings, the notices set out are answers given by the Court of Justice to the questions submitted by the referring court or tribunal and; in direct actions and appeals, whether the action was upheld or dismissed; and the decision as to costs.

Publication and dissemination of decisions and opinions

To ensure that the law deriving from the case-law of the EU Courts is applied in a uniform manner, it must be disseminated and published. Until 2012, a considerable length of time could elapse between the dissemination of a provisional version of a decision on the websites of the Court and the Publications Office of the European Union (PO) and the official publication of that decision in the *ECR*. The reason for this was the practice of publishing the *ECR* in paper format. A volume of the *ECR* could be produced only when all the texts of that volume were available, so that a delay in the translation of a single text, even a summary of a judgment, would prevent the entire monthly volume from being published in the relevant language. Even when all the texts were available, the physical production and distribution of the volume still had to be carried out. In 2012, the Court and the PO switched to the digital publication of the *ECR*. Each document is published individually, so that one missing document no longer delays the publication of others. The time between the dissemination of a provisional version on the Internet and publication of the official text in the *ECR* has been reduced to just a few weeks, a period used to finalise the proofreading of the documents.

Digital publication covers obviously all documents published in the *ECR*, not only orders and judgments. Opinions under Article 218 TFEU, Opinions of the Advocates General and information on unpublished decisions are also published in digital form.

56| Those notices relate to the decisions and opinions adopted by the EU Courts and are not to be confused with notices concerning the introduction of an action or the referral of a request for a preliminary ruling, which are drawn up when a reference for a preliminary ruling, an application or an appeal is lodged and are also translated into all languages for publication in the *Official Journal.*

Summaries, résumés and information on unpublished decisions

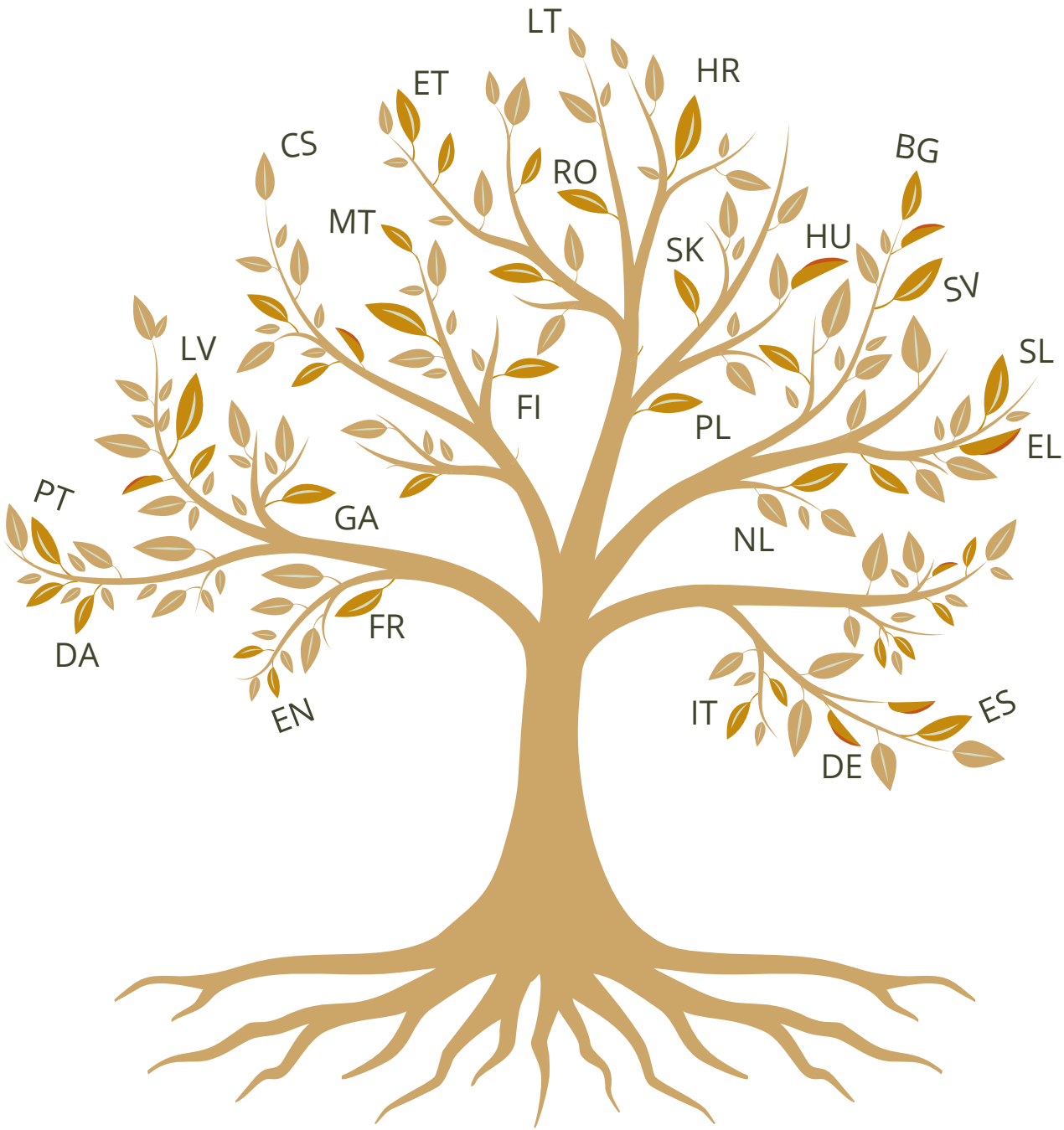
Until the end of 2018, a summary was prepared of each decision published in the ECR, containing strings of keywords and a brief overview of the decision concerned. Those summaries – designed to facilitate legal research – were published in each of the languages of the *ECR* alongside the decisions to which they related.

In 2019, summaries were replaced by résumés which also contain strings of keywords, with the following differences. First, résumés are longer and more analytical texts. Second, résumés are not produced for all decisions of the EU Courts, but only for those which those courts consider to be the most important. For the Court of Justice, this concerns decisions of the Grand Chamber as well as some decisions of Chambers of five Judges. Other decisions of the Court of Justice are the subject of analytical documents which contain strings of keywords and a link to the decision published in the *ECR*. By contrast, all published decisions of the General Court are the subject of a résumé.

Nonetheless, a brief description of decisions that are not published in the *ECR* is provided in the form of information on unpublished decisions.

In short, proceedings have the benefit of a comprehensive multilingual panoply, where needed, supported by external inputs across all official languages. In each specific instance, that panoply provides the language of the case (determined when the document initiating proceedings is lodged) and, through translation, a common language, at present French, to facilitate the internal management of the case concerned and the deliberations on it. The panoply then expands again to cover the other required languages, through translation and interpretation, at the time of the hearing, the delivery of the Opinion and the adoption of decisions.

The multilingual course of proceedings is encapsulated in by the metaphor of the Multilingualism Tree. The tree is rooted in the rich substrate of the linguistic, legal and cultural diversity of the Member States. That substrate feeds the sap, rising up through the trunk of the procedure to the narrow part of the tree where that diversity is channelled to ensure effective management. At the top, the trunk branches out into leaves nourished by the sap of diversity, leaves that will return to fertilise the shared substrate.



Regulation 1/58

2.5. - Disputes before the Court in the field of multilingualism

While multilingualism accompanies the overall judicial process, it is, occasionally, the subject of litigation before the Court of Justice and the General Court. That branch of the case-law contains crucial decisions, such as the well-known judgment in *Cilfit*. [57]

2.5.1 - Consistency between the language versions of EU acts: the theory of acte clair

In the specific case where the courts and tribunals are called upon to interpret primary or secondary law and the language versions of an act are inconsistent, the translation process takes on added value. In accordance with the case-law deriving from the judgment in *Cilfit*, the courts and tribunals may make a 'comparison of the different language versions' of the act to interpret it. In conducting that analysis, the EU judicature, for its part, takes account not only of the translations of the documents lodged in the course of the proceedings, but also on a body of other evidence, such as the preparatory documents, the nature and scope of the divergences and the contribution of the lawyer-linguist (particularly the lawyer-linguist of the language of the case), who is especially well placed to explain the import of his or her language version and the relationship between EU law and the national law that results from it. Accordingly, judicial multilingualism also constitutes an analytical tool. [58]

Unlike the case-law of the Court of Justice and the General Court, EU regulatory acts do not have a procedural language of the case and all language versions are authentic. Called upon to rule on the interpretation of those acts where there are discrepancies between the language versions, the Court of Justice has developed the theory of acte clair. In its Cilfit judgment, the Court held that a court or tribunal against whose decisions there is no judicial remedy under national law is required, where a question of Community law is raised before it, to comply with its obligation to bring the matter before the Court of Justice, unless it has established that the correct application of Community law is so obvious as to leave no scope for any reasonable doubt, and that the existence of such a possibility must be assessed in the light, in particular, of the risk of divergences in

57| Judgment of 6 October 1982, 283/81, EU:C:1982:335.

58| Jean-Marie Gardette 'Éloge et illustration du multilinguisme. En quoi le multilinguisme participe-t-il de la protection juridictionnelle en droit de l'Union?', *Revue des affaires européennes*, No 3, 2016, p. 345.

judicial decisions within the Union (paragraph 21 and operative part). The national court or tribunal may conclude that the correct application of Community law is so obvious as to leave no scope for any reasonable doubt, but only once it is convinced that the matter is equally obvious to the courts and tribunals of the other Member States and to the Court of Justice (paragraph 16). That court or tribunal must bear in mind first and foremost 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 (paragraph 18).

The Court of Justice went on to confirm in settled case-law that, where there is divergence between the various language versions of an EU legislative text, the provision in question must be interpreted by reference to the general scheme and purpose of the rules of which it forms part and that the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision, or be made to override the other language versions in that regard. Such an approach would be incompatible with the requirement for the uniform application of EU law.

The case decided by the judgment of 17 July 1997, *Ferriere Nord SpA* v *Commission*, [59] concerned an inconsistency between the Italian language version of Article 85 of the EEC Treaty and the other language versions of that article. According to the Italian version, an infringement of Article 85 of the Treaty presupposed that the agreement in question had to have both an anticompetitive object and effect ('per oggetto e per effetto'), whereas the other language versions provided that those two conditions were not cumulative, in other words it was sufficient for the agreement to have an anticompetitive object or effect. The Court of Justice held (paragraph 15) that 'it is settled case-law that Community provisions must be interpreted and applied uniformly in the light of the versions existing in the other Community languages .... This is unaffected by the fact that, as it happens, the Italian version of Article 85, considered on its own, is clear and unambiguous, since all the other language versions expressly render the condition set out in Article 85(1) of the Treaty in the form of an alternative'.

59| C-219/95 P, EU:C:1997:375.

The Cilfit II judgment

In its recent judgment in *Cilfit II*, [60] the Court of Justice had the opportunity to clarify its earlier case-law.

Cilfit recalled that where the correct interpretation of EU law is so obvious as to leave no scope for any reasonable doubt, the absence of such doubt must be assessed in the light of the characteristic features of EU law, the particular difficulties to which the interpretation of the latter gives rise and the risk of divergences in judicial decisions within the European Union. Before concluding that there is no reasonable doubt, the national court or tribunal of last instance must be convinced that the matter would be equally obvious to the other courts and tribunals of last instance of the Member States and to the Court of Justice. National courts and tribunals of last instance must take upon themselves, independently and with all the requisite attention, the responsibility for determining whether they are in that situation. They, therefore, have an increased responsibility in that area (see paragraph 50 in particular).

Specifically as regards the comparison of divergent language versions, the Court held, in paragraph 44, that while a national court or tribunal of last instance cannot be required to examine each of the language versions of the EU provision in question, it must bear in mind those divergences between the various language versions of that provision of which it is aware, in particular when those divergences are set out by the parties and are verified.

60 | Judgment of 6 October 2021, *Consorzio Italian Management and Catania Multiservizi*, C-561/19, EU:C:2021:799 (also see press release No 175/21).

2.5.2 - Disputes concerning the language arrangements for recruitment competitions and vacancy notices

The issue of multilingualism in competition notices, vacancy notices and calls for expressions of interest has been the subject of extensive case-law of the Court of Justice and the General Court, which is interesting to revisit. That case-law illustrates the importance attached to multilingualism as a quasi-constitutional principle governing the activities of the EU institutions.

The language arrangements for recruitment competitions organised by the European Personnel Selection Office (EPSO) have been challenged on several occasions before the EU Courts, in particular, by Spain and Italy, which disputed EPSO's practice of publishing competition notices in English, French and German only, thereby infringing the principles laid down in Regulation 1/58 according to which all the languages of the Member States are official languages and working languages of the institutions.

By way of example, in *Italy* v *Commission*, [61] the Court of Justice pointed out that the EU linguistic regime designated the 23 languages then listed in Regulation 1/58 as official languages and working languages of the institutions. The contested competition notices were therefore annulled. The Court of Justice called upon the institutions to lay down detailed rules for the application of language arrangements in order to justify any exception to Regulation 1/58. Accordingly, reasons must be provided for the choice of languages in competition notices. Consequently, it stated in paragraph 71 that 'without its being necessary to rule whether a competition notice is a document of general application within the meaning of Article 4(1) of Regulation No 1, suffice it to hold, in accordance with Article 1(2) of Annex III to the Staff Regulations, read in conjunction with Article 5 of Regulation No 1, which provides that the *Official Journal of the European Union* is to be published in all the official languages, that the contested competition notices ought to have been published in full in all the official languages'.

'In any event, … proceeding upon the assumption that citizens of the Union read the *Official Journal of the European Union* in their mother tongue and that that language is one of the official languages of the European Union, a potential candidate whose mother tongue was not one of the languages of full publication of the contested competition notices would have had to obtain that journal in one of those languages and read the

61 | Judgment of 27 November 2012, C-566/10 P, EU:C:2012:752 (also see press release No 153/12°

notice in that language before deciding whether to apply to take part in one of the competitions.' (Paragraph 73). Accordingly, 'such a candidate was [at] a disadvantage compared to a candidate whose mother tongue was one of the three languages of full publication of the contested competition notices, both with regard to the correct understanding of those notices and concerning the period of time to prepare and send an application to take part in those competitions' (paragraph 74). 'It follows that the practice of restricted publication [at issue in that case] does not observe the principle of proportionality and amounts, therefore, to discrimination on the ground of language, prohibited by Article 1(d) of the Staff Regulations.' (Paragraph 77).

In the aforementioned *Italy* v *Commission* (paragraphs 86 to 88), the Court of Justice has, however, accepted certain exceptions to those principles:

'It should be added that no specific language rules apply to the institutions concerned by the contested competition notices (with regard to the language rules applicable to OHIM, see judgment of 9 September 2003, *Kik* v *OHIM*, C-361/01 P, EU:C:2003:434, paragraphs 81 to 97). It must however be established whether the requirement of knowledge of one of the three languages in question could be justified in the interest of the service, as the Commission argues. In that regard, ... the interest of the service may be a legitimate objective that can be taken into consideration. In particular, as stated in paragraph 82 [of that judgment], Article 1(d) of the Staff Regulations authorises limitations on the principles of non-discrimination and proportionality. Those interests of the service must however be objectively justified and the required level of knowledge of languages must be proportionate to the genuine needs of the service (see, to that effect, judgments of 19 June 1975, *Küster* v *Parliament*, 79/74, EU:C:1975:85, paragraphs 16 and 20, and *Küster* v *Parliament*, 22/75, EU:C:1975:140, paragraphs 13 and 17).'

The General Court also ruled to that effect in its judgments in *Italy* v *Commission* of 24 September 2015, T-124/13 and T-191/13, of 17 December 2015, T-275/13, T-295/13 and T-510/13, and of 15 September 2016, T-353/14 and T-17/15.

That last judgment was the subject of an appeal decided by the Grand Chamber of the Court of Justice. In its judgment of 26 March 2019, *Commission* v *Italy*, C-621/16 P, the Grand Chamber of the Court of Justice ruled as follows: 'it should be pointed out that it is for the institution which instituted a difference in treatment based on language to establish that that difference is well suited to meet the actual needs relating to the duties which the persons recruited will be required to carry out. In addition, any requirement relating to specific language skills must be proportionate to that interest and be based

on clear, objective and predictable criteria enabling candidates to understand the reasons for that requirement and allowing the EU judicature to review the lawfulness thereof (see judgment of today's date, *Spain* v *Parliament*, C-377/16, paragraph 69)' (paragraph 93); 'differences in treatment as regards the language arrangements for competitions may be authorised, pursuant to Article 1d(6) of the Staff Regulations, if they are objectively and reasonably justified by a legitimate objective in the general interest in the framework of staff policy' (paragraph 120); 'although it is not excluded that the interests of the service may justify restricting the choice of language 2 of the competition to a limited number of official languages which are most widely known in the European Union (see, by analogy, judgment of 9 September 2003, *Kik* v *OHIM*, C-361/01 P, EU:C:2003:434, paragraph 94), even in the context of competitions of a general nature, such as that referred to in "Notice of Open Competition – EPSO/AD/276/14 – Administrators (AD 5)", such a restriction must nevertheless, having regard to the requirements set out in paragraphs 92 and 93 of the present judgment, be based on elements which are objectively verifiable, both by candidates and by the Courts of the European Union, such as to justify the knowledge of languages required, which must be proportionate to the actual needs of the service' (paragraph 124).

The language rules for vacancy notices and calls for expressions of interest have also been the subject of significant litigation.

The judgment of the General Court of 20 November 2008, *Italy* v *Commission*, T-185/05, concerned an action brought by a Member State (Italy) against, first, a Commission decision to publish vacancy notices for senior management posts in English, French and German and, second, a Commission vacancy notice published in those three languages for the post of Director-General of the European Anti-Fraud Office (OLAF). Italy relied on the principles of non-discrimination on grounds of nationality and respect for linguistic diversity in seeking to have the vacancy notices in question annulled.

In its defence, the Commission put forward reasons which it considered to be legitimate linked to the proper functioning of the service.

The General Court granted the form of order sought by Italy on the grounds that 'if the Commission decides to publish the full text of a vacancy notice for a senior management post in the *Official Journal* only in certain languages it must, in order to avoid discriminating on grounds of language between candidates potentially interested in the notice, adopt appropriate measures to inform all the candidates of the existence of the vacancy notice concerned and the editions in which it has been published in

full' (paragraph 130) and that 'in view also of the fact that the Decision itself was not published in the *Official Journal* in order to alert readers of editions in languages other than English, French and German to the major change in practice introduced by the Decision there is a significant risk that potential candidates whose mother tongue is not one of the three languages listed in the Decision would not even be informed of the existence of a vacancy notice likely to be of interest to them. Even if those candidates have a good command of at least one of the languages English, French and German it cannot be presumed that they will look at an edition of the *Official Journal* other than that published in their mother tongue.' (Paragraph 138).

In Case C-377/16 between Spain and the Parliament, decided by judgment of the Grand Chamber of the Court of Justice on 26 March 2019, Spain asked the Court of Justice to annul a call for expressions of interest in the context of a procedure for the selection of contract staff (drivers). It relied on the principles of non-discrimination on grounds of language and respect for linguistic diversity, since the contested notice restricted the choice of language 2 of the selection procedure and the language of communication to English, French and German. The Parliament argued interest of the service, which required newly recruited staff to be immediately operational, the three languages in question being the most widely used in the institution. According to the Parliament, the fact that, for technical reasons, the application form was only available in English, French and German did not mean that candidates were required to complete it in one of those three languages.

The Court of Justice held that 'in those circumstances, it cannot be ruled out that candidates may have been effectively deprived of the possibility of using the official language of the Union of their choice when submitting their applications' (paragraph 44). It also pointed out that 'it follows from Article 1d(6) of the Staff Regulations that a difference of treatment based on language cannot be permitted when applying those Staff Regulations unless it is objectively and reasonably justified and meets legitimate objectives in the general interest in the framework of staff policy' (paragraph 49). However, the Parliament, which had to demonstrate that that was the case, failed to do so. The Court of Justice therefore annulled the contested measure.

2.5.3 - The special case of the language arrangements for European patents with unitary effect

The European Patent Office (EPO) administers European patents with unitary effect (EPUE) as established by Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection. As far as translation is concerned, the EPO applies the procedure laid down by Council Regulation (EU) No 1260/2012 of 17 December 2012. The official languages of the EPO are English, French and German. Patents are, therefore, translated into those languages only, which is an exception to Regulation 1/58. Those specific language rules have been challenged by many Member States, citing the principle of non-discrimination on grounds of language.

The judgment of the Court of Justice (Grand Chamber) of 5 May 2015, *Spain* v *Council*, C-147/13, is part of that context. In that case, Spain sought the annulment of Regulation No 1260/2012. Belgium, the Czech Republic, Denmark, Germany, France, the Grand Duchy of Luxembourg, Hungary, the Netherlands, Sweden, the United Kingdom of Great Britain and Northern Ireland, together with the Parliament and the Commission, intervened in support of the form of order sought by the Council.

Finally, the Court of Justice accepted that there could be differentiation between the official EU languages where appropriate and proportionate to the legitimate objective pursued by the regulation (namely the creation of a uniform and simple translation regime for EPUEs, to ensure cost-effectiveness for inventors). That regime should moreover ensure legal certainty, stimulate innovation and benefit, in particular, small and medium-sized enterprises (SMEs) to make access to EPUEs and to the patent system as a whole easier, less costly and legally secure (paragraphs 31 to 48).

Communication between the Court and citizens in their own language

In addition to its judicial work, the Court also receives a wide range of requests from civil society, such as requests for access to administrative documents or to the historical archives of the institution. It may be contacted in connection with a variety of requests for information or other issues, sometimes even in error (for example, issues or questions concerning other international courts, such as the European Court of Human Rights). Moreover, the Court receives applications for traineeships, job applications, tenders in the context of contract notices, visit requests, applications to attend training seminars, and so forth.

Since those applications or requests may be made in any official EU language, the Court must have the requisite language skills at its disposal so that it can understand, treat and respond to them in the same language, [62] by tailoring in the register and style (legal, administrative, technical or educational) appropriate to the interlocutor.

Further, the Court must be able to communicate with the outside world, to provide information to the public, to open its doors to all European citizens who wish to come and visit and to welcome them in their own language. That is why the Curia website is multilingual. Similarly, visits, formal events and exchanges with national judges are organised in the languages of the participants, often with the support of interpreters from the DGM.

Press releases are also drawn up and translated into all official languages as dictated by the interest in the case or the subject matter at issue.

62| See, to that effect, Article 13 of the European Code of Good Administrative Behaviour (available on the website of the European Ombudsman: https://www.ombudsman.europa.eu/en/publication/en/3510).

3. - Managing multilingualism at the Court

'Translation – the corollary of multilingualism – is also the only side of multilingualism that is regularly visible …. Nonetheless, it is … what connects and weaves, it is the triumph of thought over the use of force. In order to be fully effective, it requires an unremitting effort of reflection on both research and training.' [63]

Responsibility for multilingualism in the context of judicial proceedings lies with the Registrar. To that end, he draws, in particular, on the expertise of the Directorate-General for Multilingualism (DGM), which groups together the interpretation and legal translation services under the authority of its Director-General.

3.1 - The structure of the Directorate-General for Multilingualism

The DGM was created on 1 January 2018. It combines two previously separate services, namely the legal translation service and the interpretation service. The Directorate-General comprises 30 units, 2 of which are under the direct authority of the Director-General, while the other 28 are, in general, divided into 3 directorates. However, when a new Head of Unit is appointed to a language unit, the Director-General will often be directly responsible for that unit for a specified period.

The transversal departments comprise two units that report directly to the Director-General and a third independent unit.

- The Multilingualism Support Unit – consisting of a Head of Unit, 3 administrators and 23 assistants – monitors and develops IT tools specific to the translation service, encompassing both management tools and translation support tools. In conjunction with other departments, it establishes the workflows necessary for processing documents, from when they come into the translation service until they go out (dispatch to the department requesting translation or dispatch for publication). It also works with the Interpretation Directorate to coordinate and oversee IT requests and needs particular to the interpretation service, which are sent to the Directorate for Information Technology (DIT). The cooperative relationship between the DIT and the DGM is particularly important. The

63 | Isabelle Pingel, 'Le régime linguistique des institutions de l'Union européenne', *Revue des affaires européennes*, No 3, 2016, pp. 360 and 361.

Multilingualism Support Tools Unit is also involved in interinstitutional work in the field of support tools for multilingualism and technology monitoring. The unit has three sections: the Multilingual IT Tools Development and Management Section, the Electronic Document Preprocessing and Publication Monitoring Section and the Tools Management and Support Section. It also has a cell responsible for producing overview tables and various statistics. In addition, it performs a range of transversal tasks at institutional and interinstitutional level, such as technology monitoring.

- The Planning and External Translation Unit – comprises of a Head of Unit, 3 administrators and 20 assistants – manages the flow of translation requests as well as the administrative, contractual and financial procedures associated with outsourcing of translation and financing interinstitutional tools. It has two sections: the central planning section and the freelance section. The central planning section acts as a liaison between translation clients (chambers, Registries, Court departments) and the translation units. It proposes deadlines to those clients and schedules the workflows until the point at which the translated documents are ultimately dispatched. It ensures that requests are accompanied by information relevant to the translation and manages the associated workflows, including requests for amendment of the source text to be translated. In cooperation with the language units, the freelance section plans, implements and oversees the accounting of freelance activities and also ensures compliance with good administrative and financial practices. Translation and proofreading may be outsourced.

  UPT is not directly responsible for the planning and outsourcing activities of the Interpretation Directorate, which is equipped with another transversal unit for that purpose, but it does provide centralised management for budgetary and financial matters for the DGM as a whole and participates in various interinstitutional working groups.

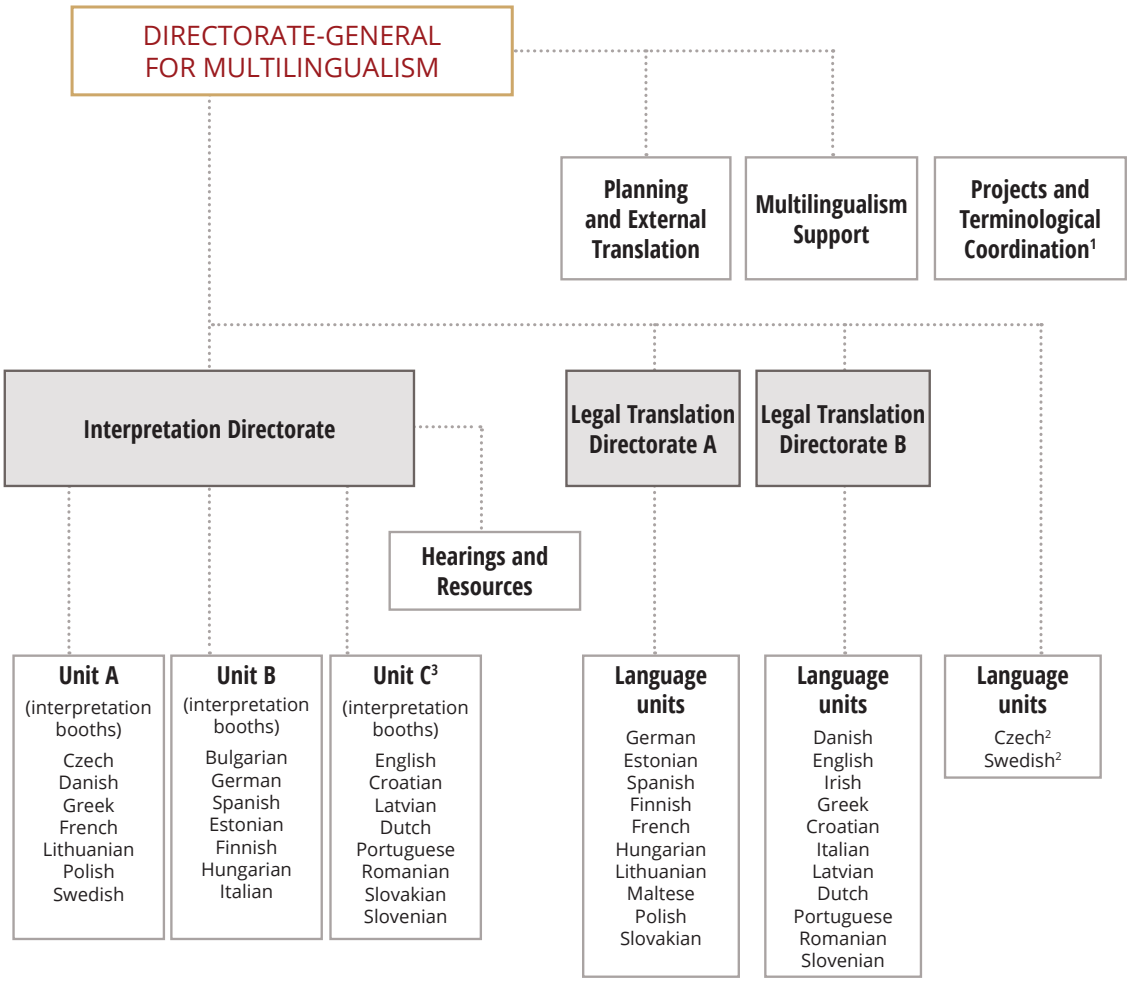
- Mention should also be made at this juncture of another unit whose work cuts across the DGM as a whole, even though it does not formally come under the DGM's authority: the Projects and Terminological Coordination Unit which oversees terminology work (terminological pre-processing and the development of terminology collections, such as the Multilingual Legal Vocabulary, the terminology used in the Rules of Procedure and the names of national courts). That unit also oversees documentary work (research, guides and the corpora

of documents used to populate specific *translation memories*), supports and provides guidance to language units in implementing the quality strategy, and manages the DGM's in-house communication tools and materials such as its Intranet site, newsletter and presentation materials. .

The other units are spread across the three Directorates.

As to the remaining units, the legal translation service comprises two directorates incorporating only language units, one for each official language. The language units, which are under the authority of a Head of Unit, have between 20 and 57 lawyer-linguists depending on the translation workload into each language, and which staff are supported by proofreaders/language editors and the secretariat of each unit.

The Interpretation Directorate comprises four units. Three of which comprise seven or eight permanent interpretation booths, totalling 22 booths (there is currently no permanent *booth* for Maltese or Irish). Each booth has between 2 and 10 staff interpreters, again depending on the interpretation workload into the language concerned. The fourth unit, the Hearings and Resources Unit, has an overarching role in interpretation planning and in the management of freelance interpreters. The Hearings and Resources Unit is responsible not only for programming the allocation of all staff and freelance interpreters to hearings, but also for the weekly recruitment of interpreters selected from an interinstitutional list of more than 3 000 freelance translators. It is in regular contact with the institution's Registries and other departments. Specific responsibility for horizontal programming at the Interpretation Directorate and for recruiting freelance interpreters lies with the Head of Unit, who is assisted by a full-time administrator, and five part-time interpreters, known as rotators, to strengthen the programming team. The unit operates with the administrative support of five multiskilled assistants, who are responsible in particular for hiring and welcoming interpreters and preparing hearing files for freelance interpreters.



1 The Projects and Terminological Coordination Unit report directly to the Registrar of the Court.

2 A translation unit whose head of unit has recently been appointed is provisionally placed under the direct responsibility of the Director General, before joining one of the two Legal Translation Directorates.

3 Unit C is also responsible for the coverage of Maltese and Irish as there are currently no booths for these two languages.

3.2 - Professions in the Directorate-General for Multilingualism

In accordance with Article 42 of the Rules of Procedure of the Court of Justice, 'the Court shall set up a language service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the European Union'. It therefore recruits – mainly through competitions – officials equipped with the requisite skills to perform the duties required for the processes of interpretation and legal translation.

3.2.1 - Lawyer-linguists

For its legal translation needs, the Court has traditionally relied on lawyer-linguists, namely lawyers who have completed a full course of study in national law and who have a good knowledge of at least two other languages and of those legal systems at the time of recruitment. A perfect command of the *target language* (general and legal), which as a rule will be their mother tongue, is essential. Lawyer-linguists may also be asked to draft a document that will subsequently be translated (for example, a summary of a request for a preliminary ruling) or, at the request of one of the Registries, a notice for the *Official Journal* or, at the request of the Research and Documentation Directorate (RDD), a document which will be used for the management of the case (pre-examination sheet).

Whereas a literary translation is an exercise in 'recreation', technical translation, while remaining essentially linguistic, is bound by the constraints of a technical terminology that is relatively static and universal; legal translation is a 'hybrid' of the two: it requires transposition at two levels, both linguistic and technical/legal. The degree of linguistic standardisation varies depending on the type of document involved (requests for a preliminary ruling, judgments or Opinions). A comparative approach is required: the natural equivalent or, failing which, the functional equivalent of the legal concept referred to in the source text must be located in the legal system of the target language. That often entails extensive legal research, analysis and an evaluation of the reliability of sources. No reader is as attentive to a text as its translator.

One of the key features of legal translation at the Court is that its translations generate rights and obligations for all citizens and must, therefore, be substantively irreproachable.

The text does not belong to any of the individuals involved: whatever the Court decrees, it must be rendered in the same way in all languages. Lawyer-linguists do not therefore

enjoy the freedom of an author in isolation, but instead bear responsibility for ensuring the reliability of a collective work.

For lawyer-linguists, translation consists in identifying linguistic and legal equivalents (comparative law) and in conveying EU law (often with its own concepts) in different EU languages, while ensuring the right balance between formulations taken from EU law and those derived from national law. Legal translation at the Court involves 'reconstructing' the original text on the basis of binding formal and substantive components (primary law, secondary law, references, citations, established terminology and sources from different national legal systems). [64]

That comparative exercise potentially brings three different legal systems into play: the 'source' national law, the 'target' national law and EU law. One system may be expressed in several languages just as one language may be used by several systems.

Lawyer-linguists are mainly called upon to translate:

- legislative texts (Statute of the Court of Justice of the European Union, Rules of Procedure of the Court of Justice and of the General Court);
- decisions (judgments, orders and opinions);
- résumés of decisions (formerly summaries) and information on unpublished decisions;
- requests for a preliminary ruling from different sources and reflecting different legal systems;
- various procedural documents in cases that are external to the Court and drafted in a wide range of languages, formats and styles;
- Opinions of the Advocates General;

64| In that connection, according to Gwénaël Glâtre, 'the current Court of Justice (CJEU) is thus a formidable translator between national legal systems. Its translation capabilities are the foundation for the interpretation of European law', *L'anti-Babel: la forme « Europe » au défi de ses frontières linguistiques*, Blog du Club de Mediapart, 16 November 2017: https://blogs.mediapart.fr/gwenael-glatre/blog/161117/l-anti-babel-la-forme-europe-au-defi-de-ses-frontieres-linguistiques.

- notices in the OJ;
- press releases, namely informative texts drafted in more straightforward language, while respecting the legal rigour of the original;
- miscellaneous documents, such as letters and web pages.

Lawyer-linguists also perform other tasks besides legal translation. The first of those tasks is revision. This involves checking that the original text and the translation produced by a third party, who is also a lawyer-linguist or a freelance translator, correspond (that the translation is complete, does not contain legal errors and observes the rules and proper use of the target language), having regard to three principles: loyalty (respect for the work done), subsidiarity (refraining from intervening without objective justification), and solidarity (following from the unit's best practice). Lawyer-linguists responsible for revision suggest improvements and add comments, where appropriate, so that corrections of substantive errors can be clearly distinguished from changes made in the interests of accuracy and stylistic improvements. It is important for revision to follow a harmonised approach in each unit, which requires not only the formalisation of practices and regular meetings, but also the exchange of good practices between units. It is also important not to burden the process unnecessarily and sometimes counterproductively: quality control, including revision, must concentrate on sensitive or important documents, and on the translations of less independent lawyer-linguists, such as lawyer-linguists still in training. Revising lawyer-linguists may also be asked to report on the performance of colleagues (or freelance translators) to senior management for the purposes of evaluating them and, above all, maintaining a uniform level of quality.

Lawyer-linguists' other tasks are mainly as follows.

- To contribute to the overall quality of documents by liaising with the drafters and with colleagues from other language units (e.g., providing mutual assistance, carrying out peer reviews and responding to questions on national law).

- To prepare summaries of particularly long requests for a preliminary ruling, [65] in line with unified drafting principles that provide generally a better structure. Those summaries are translated and served in all languages in place of the original application, with the exception of French. For the needs of the Court and the parties entitled to submit written observations, the French text must reflect the original request for a preliminary ruling in full;

- To contribute to the legal analysis of cases by providing support to other departments of the Court (the Registries and the RDD) in the form of notes to facilitate understanding and translation.

- To act as *reference person* for colleagues in other language units by providing targeted explanations for cases originating in their Member State.

- To act as 'centraliser of questions', centralising the questions from other language units in connection with the translation of Opinions or judgments, responding to those questions where possible and managing contact with the member's chamber that drafted the document if clarifications are required (*see section 2.3.2*).

- To contribute to research and other legal or documentary projects, to the development of terminology, notably legal terminology, and to the harmonisation of such concepts.

- To assist in the training of colleagues and freelance translators.

- To contribute to the directorate's outreach initiatives by giving presentations on the language arrangements and on the organisation and nature of the work of lawyer-linguists in the institution, both at interinstitutional level and targeted at national audiences, including by means of promotional activities outside the Court;

65| Article 98 of the Rules of Procedure of the Court of Justice.

- To act as a liaison between their language unit and transversal units, for instance in the field of IT, terminology, training and outsourcing management;
- To take part in recruitment procedures (competition boards, selection boards for agents and freelance translators, grading of tests).

The profession of lawyer-linguist is undergoing rapid change as a result of the growing and increasingly demanding IT tools, especially neural translation tools (*see section 4.3.3*).

3.2.2 - Interpreters

The Court's interpreters are all qualified conference interpreters capable of interpreting from a number of official EU languages, with a minimum of two but, more often than not, between three and six languages. In the course of their careers, interpreters learn new languages with the aim of adding to their linguistic portfolio following a test known as an 'addition test'. Most interpreters are not lawyers. It would be unrealistic to require each interpreter to have legal training, but the specific nature of the working environment has a strong influence on the interpretation service as a whole and on each individual interpreter: everyone ends up specialising in and developing a particular affinity and aptitude for legal affairs. Although interpreters are required to read the operative part of judgments and the conclusions of Opinions of the Advocates General at the hearing at which they are delivered, their craft full is most in demand at the hearings at which oral argument is presented. Interpreters providing booth interpretation must transpose, in real time, the oral submissions of the parties' representatives and the questions put by the Members of the Court formation into their mother tongue. Those statements, which are characterised by a high legal content, differ in tempo and are the product of equally varied oratorical skills and clarity of speech. Very often, the parties' representatives whose statements are to be interpreted are lawyers, members of national bar associations, who express themselves according to the legal and language traditions of their Member State and draw on legal concepts from that State in the reasoning they put forward to interpret EU law. The challenges for simultaneous interpretation are numerous: how to concentrate all at once on the speaker's voice, the written submissions handed to the booth at the last minute, the intricacies of argument, together with the presentation before the court if, in addition, the speaker is speaking one language (Italian, for example) while their slides are in another (English)?

Interpreters provide interpretation at the hearings of both Courts covering the 24 official languages of the institution and at other events within the institution, such as formal visits, meetings of agents for the Member States, conferences for national judges and formal sittings. In addition to active interpretation in the booth, the preparatory investment required is demanding: at hearings, interpreters rely on their meticulous preparation, which often begins several days earlier and accounts for a significant proportion of their working time. To perform well, interpreters must have the same file as the hearing participants, a file that is often voluminous, accompanied by annexes of several hundred pages' long and crammed full of legal concepts, expressions and arguments that need to be assimilated. Ongoing training and keeping language skills to the requisite standard are other key aspects of the work of interpreters. They are bound by the strictest professional secrecy. Since the Court's establishment in 1952, the interpretation service has changed greatly in response to the institution's increasing needs. The Interpretation Directorate has approximately 70 staff interpreters at present.

The role of interpreters in a multilingual setting like that of the Court is to help each speaker convey his or her message to the other hearing participants clearly, naturally and fluently.

The Hearing and Resources Unit assembles tailor-made teams for each hearing. The composition of the teams varies according to the language of the case, the languages of the Member States that will participate in the hearing and the language needs of the Members of the Court formation. Language arrangements are specific to each hearing and usually involve a limited number of active booths depending on the number of languages used by the participants. Only on exceptional occasions is the full 24-language multilingual regime enshrined in the Rules of Procedure of the Court of Justice and of the General Court put into practice.

The interpretation service regularly calls on freelance interpreters. They are recruited from a joint list of interpreters accredited by the EU institutions. Their recruitment is governed by the agreement concluded between the EU institutions and the International Association of Conference Interpreters (AIIC). At the Court, the contract includes one day of preparation which must be spent on its premises. Freelance interpreters are supervised by the permanent colleagues assigned to the same hearing, are integrated into the team and comply with the same rules of professional conduct: confidentiality, discretion and collegiality.

The profession of interpreter is also undergoing rapid technological change, the latest developments being, first, the remote participation of counsel at hearings, a measure necessitated by the travel restrictions put in place during the Covid-19 crisis but which is likely to continue to some extent [66] and, second, the broadcasting of certain hearings on *webstreaming*.

3.2.3 - Proofreaders/language editors

To protect multilingualism is also to protect language quality. Numerous professions within the institution, such as proofreaders, also known as language editors, are central to that task. Their duties include ensuring compliance with language and proofreading conventions, monitoring language trends, overseeing correct usage and, more generally, safeguarding their mother tongue.

Before being disseminated or published, the texts concerned, mainly judgments, orders, Opinions of the Advocates General and résumés of decisions, must be edited so that they are consistent in all respects with the long-standing proofreading and formatting rules: that is the role of the proofreader.

Their profession has, however, evolved over time. At first, the full computerisation of workflows entailed increasingly complex formatting tasks but, following work on the structuring of documents produced by the institution and the introduction of a digital

66| Marc-André Gaudissart, 'La Cour de justice de l'Union européenne face à la crise sanitaire', *Revue des affaires européennes*, No 1, 2020, pp. 97-107. That article was updated in 2021 and published in the book by Edouard Dubout and Fabrice Picod, *Le Coronavirus et le droit de l'Union européenne*, Éditions Bruylant, 2021, pp. 573-593. It was also updated and published in Romanian: 'Funcționarea Curții de Justiție a Uniunii Europene în timpul pandemiei Covid-19', *EuRoQuod Revista Rețelei naționale de judecători-coordonatori în materia dreptului Uniunii Europene*, 2020.

translation environment (currently based on Trados Studio) which restores that structure on completion of the translation those tasks have been reduced and are now limited to certain free-structured documents.

In addition, the work of proofreaders has expanded over time. When they review a document to iron out typographic errors or correct the format, they identify other points for improvement. This involves, for example, identifying text that may have been omitted in error during the translation process, suggesting a more elegant rendering or clearer wording, and correcting spelling or grammatical mistakes in a context in which languages evolve and proofreaders are responsible for monitoring those developments. It is because of these new tasks that we now refer more commonly to language editors than to proofreaders.

Lastly, language editors advise and train colleagues, contribute to overall strategic thinking and suggest ways to improve the linguistic quality of translated documents. They also contribute to the development of internal and interinstitutional drafting rules in the language of their unit.

3.2.4 - Management assistants and secretariats

Management assistants implement the management decisions of the head of the language unit. They can be responsible for coordinating the work of the secretariat, making outsourcing arrangements in cooperation with the Planning and External Translation Unit (requests for purchase orders and invoice tracking), producing overview and management tables and, in some cases, assigning translation and revision tasks to lawyer-linguists in accordance with the criteria established by the Head of Unit.

With the gradual phasing out of type-writing, which was traditionally the secretariat's main task, its staff now deal primarily with inputting documents, pre-processing them before assignment to the lawyer-linguists and dispatching them to downstream users in the computerised workflow.

Secretarial staff receive translation requests and other information via the digitised workflow management tool. They preprocess a large number of documents i.e., retrieve text that could be inserted usefully into the draft translation without requiring the involvement of a lawyer-linguist. This may entail copying and pasting certain passages or, more and more frequently, finalising the translation materials in the translation

environment (currently Trados Studio), adding reference documents or termbases depending on the characteristics of the document to be translated.

Secretarial staff also play a role in the management of freelance translators to support the management assistant, because of the increase in the number of external providers and the number of pages outsourced. They ensure that the quality control sheets for external translations are completed and collated, they maintain contact with freelance translators and prepare correspondence with them. Some secretarial staff carry out the administrative monitoring of the services provided by freelance translators by applying the relevant procedures and the provisions of framework contract and the Financial Regulation.

The preprocessing of documents prior to their assignment to lawyer-linguists is the defining aspect of the progressive transformation of the role of the secretariats. Computerised preprocessing, now available via the *functional translation kit* provided within the Trados Studio translation editor, exists for judgments, orders, Opinions, résumés of decisions, information on unpublished decisions and requests for a preliminary ruling. Other documents must still be processed using traditional methods.

In consequence, assistants with responsibility for legal translation files now provide a different type of support to lawyer-linguists during the translation process, providing information on matters such as amendments, planning and document workflows.

Considerable importance is also attached to translation requests. Secretariats are responsible for checking that all the information specified by the requester of the translation has been included in the document and that the document meets all the requirements of form and quality.

The secretariat in the DGM and in the transversal units, are each responsible for supporting all the aforementioned activities through their various operational and administrative tasks and by applying the procedures, rules and techniques established by the Directorate-General, and so contribute to its smooth functioning. They share information, monitor continuously the progress of work and communicate with service users and with internal and external service providers of the Directorate-General.

3.2.5 - Specific professions

To support the staff of the translation and interpretation services in their work, the DGM can call on the support of a range of specific professions in the transversal teams and units (*see section 3.1*). Those assistants and administrators are responsible for workforce monitoring, welcoming and training staff, statistical analysis and the management of administrative files. In more technical areas, the DGM relies on experts such as IT technicians specialising in the development of management or translation support tools, managers responsible for the electronic preprocessing of documents and managers working in the field of translation request workflows and outsourcing-related administrative, contractual and financial procedures.

The DGM also draws on the services provided by specific professions within the Terminology Projects and Coordination Unit. The terminologists and documentalists, mostly lawyers, who comprise that unit are involved in setting up and supervising terminology projects in conjunction with the lawyer-linguists. They produce and enhance terminological entries and monitor their quality with a view to incorporating them into the Union's terminology database, known as IATE. [67] They support the work of the lawyer-linguists by carrying out terminological and documentary research on request, which the institution uses primarily in the processing of requests for a preliminary ruling. They also offer a wide range of training courses on terminology, on language and terminology resources, on document retrieval techniques and on tools, and coordinate requests from the members' chambers in connection with comparative language reviews. Some more technical staff produce the DGM's in-house communication tools, under the authority of the Head of Unit and in close cooperation with the DGM.

67| https://iate.europa.eu/home

3.3 - External service providers

In order to meet all its translation and interpretation needs, the DGM receives considerable support from external staff who work increasingly closely with internal staff within the limits of what is permitted under the public contracts and rules applicable to public procurement depending on the level of confidentiality of the documents.

3.3.1 - Lawyer-linguists and freelance translators

Outsourcing is a sound management practice In the legal translation service: if a sufficient number of officials were required to be permanently available to cover all uplifts in workload, a large proportion of that workforce would be underoccupied outside peak periods. The likelihood of underoccupation has become rather theoretical because the Directorate's workload is now such that the contribution of freelance translators is now indispensable for DGM to perform its essential tasks.

The legal translation service has recourse to public procurement procedures to recruit freelance translators. Therefore, there is a public procurement procedure for each target language; although, not all public procurement procedures cover all possible source languages. The only public procurement procedure covering all source languages is for legal translation into French, since the French-language unit is required to translate procedural documents directly from each of the official languages, without recourse to a *pivot language* (*see section 3.6.2*). The other language units avail of those procurement procedures to obtain additional capacity for translation into their language from at least French and the five pivot languages [68] and, where appropriate, from other languages for which there is a proven need. In particular, the 'pivot' units – namely the units which produce translations on the basis of which other units will produce their own language versions – ensure that they also cover the languages they have to 'pivot'. Units other than the French-language unit are particularly keen to have a long list of contractors able to translate from French because most of the documents to be translated are drafted in French.

In the context of those public procurement procedures, the tender opening committee and the boards responsible for evaluating the requests to participate and the tenders

68| The pivot languages are English, German, Italian, Polish and Spanish.

must first intervene; then the authorising officer by sub-delegation, in this case the Head of Unit or his or her replacement, will draw up for each lot (a lot corresponds to one language combination) a list of tenderers to whom a framework contract for the provision of translation services should be offered, according to their ranking on the dynamic list of contractors. That ranking is determined on the basis of the following ratio: price (30%)/quality (70%).

As a rule, only freelancers who have completed a full course of study in national law can take part in the public procurement procedures. Faced, however, with the reality of a market that is struggling to provide sufficient numbers of lawyers capable of translating from the desired languages, several language units have lowered that requirement for certain lots with a shortfall of freelance candidates and now accept training other than legal training provided that the tenderer has experience in legal translation; preference is nonetheless given to tenderers who are lawyers.

For each translation request, a purchase order is drawn up based on the page count, excluding the number of pages of similar text extracted by the IT search tools from the interinstitutional translation memories (*Euramis*). All translations are subject to quality control before the invoice issued by the freelance translator can be approved and paid. The translation must be of perfect quality, failing which contractual penalties are applied in the form of payment reductions or even termination of the framework contract.

The contribution of freelance translators has become essential. Mindful of the need to make the most efficient use of its resources in a context marked by increasing workloads, budgetary restrictions and the priority of meeting deadlines, the DGM launched an ambitious plan at the end of 2015, which it continues to implement, to optimise the contribution of external translation. That plan pursues five main objectives:

- to maintain – for each target language – a sufficient number of external providers to cover all necessary source languages;
- to attract external translators who have completed a full course of study in law in order to reduce reliance on translators who are not lawyers;
- to obtain high-quality translations that are immediately fit for use;
- to take advantage of the proximity between external providers who are lawyers and their national legal systems to ensure that legal terminology is highly relevant;

- to bridge the gap between contractors and the working methods of the language units, including through regular meetings and the provision of IT, terminological and documentary resources.

In order to attract more freelance translators, staff in all language units travel regularly to Member States on multipurpose missions aimed both at offering their current freelance translators the opportunity to attend training courses, presentations and Q&A sessions, and visiting universities and industry associations to raise awareness among target audiences of the opportunities of a career as a freelance translator for the Court, either as a primary or supplementary activity. Numerous missions were organised in 2019, including by the Maltese-language unit, which allowed staff to meet more than 500 schoolchildren and encourage them to learn languages; and by the Dutch-language unit, which led to the establishment of legal translation courses at the universities of Nijmegen (Netherlands) and Ghent (Belgium). Promotional and communication activities are also carried out in connection with public procurement procedures in the form of posters, brochures and advertisements in the trade press and on the Internet, while the information on the Court's website is regularly updated.

That investment is paying off, judging by the gradual increase in the number of tenders processed under freelance contract notices.

As part of the language units' proactive approach to ensuring the quality of external translations, they organise numerous meetings with external providers in order to raise awareness of the DGM's requirements and to explain the working methods used, the tools provided and the resources available via an interinstitutional platform for secure exchanges. Those meetings are also an opportunity for fruitful discussions during which freelance translators can share the difficulties they encounter in their work and receive specific answers from the language units.

At the end of 2022, 1 425 framework contracts for legal translation were in force, covering 195 language combinations. However, the need for active promotion remains. Some language combinations are not available on the market, while the coverage of other language combinations remains insufficient. Advertising in the press and other media outlets is not sufficient, since it is not merely about mobilising existing resources in the market, but also about generating new interest.

The plan to optimise the contribution of external translation has made it possible to increase gradually the outsourcing rate to 42% in 2021, which means that the overwhelming majority of less confidential documents are now outsourced (requests for a preliminary ruling, procedural documents, Opinions of Advocates-General and, where appropriate, judgments after delivery). That optimisation alleviates considerably the pressure on internal resources, notwithstanding the need to check freelance translations from a contractual and quality-assurance perspective.

The translation service makes every effort to optimise quality, in particular by sharing documentary, terminological and methodological resources with the freelance translators and by means of a feedback policy that is both instructional and thorough. In parallel, a quality network has been established within the DGM to enable in-house lawyer-linguists, who have been designated as quality advisers in their respective language units, to share experiences and ideas concerning the quality of translations, including external translations. A number of issues have been discussed, including the need to standardise quality control practices and criteria and to improve the structure of comments sent to freelance translators.

A significant effort is also being made by the transversal units to provide freelance translators with reference and support materials on the interinstitutional platform for secure exchanges (such as termbases, documentation and guides in the fields of terminology and document retrieval). That initiative is accompanied by methodological and technical support aimed at facilitating the preparation of the translation file and including therein all the reference documents that should enable freelance translators to produce high-quality work.

Given that the number of outsourced pages rose by almost 35% between 2015 and 2022, the number of purchase orders by more than 61% and the number of payments by more than 42%, the work of managers in the language and transversal units has increased as a result.

However, the possibilities for outsourcing are not without their limits. Draft decisions, which account for the bulk of the legal translation service's workload, are highly confidential documents which cannot be outsourced prior to delivery. After signature and delivery, those decisions become public documents. It should nevertheless be borne in mind that the objective of the legal translation service is to make available for the day of delivery as many language versions of the decisions as possible, which precludes those documents being outsourced unless that objective is set aside.

3.3.2 - Freelance interpreters (ACIs)

The Interpretation Directorate uses interpreters accredited by the EU institutions.

Freelance interpreters, also known as ACIs for 'auxiliary conference interpreters', are essential resources for ensuring that the interpretation service functions smoothly and has the capacity to adapt continuously to the particular language requirements of any given hearing.

The recruitment of ACIs is governed by the agreement concluded by the European Parliament, the European Commission and the Court of Justice with the AIIC.

The assignment of interpreters to hearings and the recruitment of freelance interpreters is effected through an application connected to a database hosted by the Commission (*Webcalendar*), used by the Parliament, the Commission and the Court to manage a joint list of ACIs who have passed the interinstitutional *accreditation test*.

In 2022, the Interpretation Directorate called upon the services of 416 different freelance interpreters for a total of 3 396 contract days, averaging 92 contract days per week of judicial activity. The recruitment of freelance interpreters also makes it possible to identify talented individuals capable of relieving the workload of staff interpreters while retaining a small core of competent ACIs.

When they come to work at the Court, freelance interpreters are always received and supervised by a colleague. They are given the complete file of the case to which they are assigned, including the notes for the oral submissions made available the day before the hearing or on the morning of the hearing. On Sundays and public holidays, staff interpreters are on duty to receive them. Irrespective of whether it falls on a weekday or a public holiday, freelance interpreters always have one day of preparation before the hearing to study the case file. Only the Court, all the institutions, provides that

preparation time: it is absolutely essential to ensure the quality of interpretation at hearings, which often deal with highly complex legal and technical matters.

Such commitment to the close monitoring of freelance interpreters of course calls to mind the plan to optimise external translation, which shares many of these features. Specific synergies can be identified here for the interpretation and translation services, particularly through visits, missions and activities to promote and support freelance skills.

3.4 - The importance of the quality of legal translation and interpretation at the Court

3.4.1 - The quality of legal translation

It is crucial that translations into the language of the case are of the highest quality, since the scope of the Court's decision must be perfectly clear to the parties and, where a request for a preliminary ruling has been made, to the referring court or tribunal. The quality of the translation must allow for a decision to be taken that is as clear as one that a Supreme Court of a Member State would take in a purely national setting. Although, technically speaking, the decision is the result of a translation from the language of deliberation, namely French, in law, the original language is indeed the language of the case so that the decision must be as clear and precise as if it had been drafted in that language.

However, the importance of the quality of translations does not stop there. Ever since the judgments in *van Gend & Loos* (*see footnote 18*) and *Costa*, [69] EU law has had direct effect and primacy over national law. Its applicability is not dependent on national implementing measures, except in the case of directives. The EU Courts, through their case-law, apply or interpret EU law. It follows that the highest level of quality is required not only for the version in the language of the case, in which the Court formally rules on the dispute, but also for all the other languages into which the decision is translated, particularly in preliminary ruling proceedings (i.e., binding *erga omnes*). The decision or interpretation of the EU judicature will be authoritative for all the Member States, at legislative, executive and judicial level. National courts and tribunals will effect the consequences of that decision or interpretation in their own decisions.

69| Judgment of 15 July 1964, 6/64, EU:C:1964:66.

Even slight legal deviations can lead to divergent case-law in the Member States and thus undermine the uniform application of EU law: such an occurence could have very serious repercussions for the smooth functioning of the internal market, for international trade, for the proper working of the common area of freedom, security and justice, or even for fundamental rights. That would be in addition to the detrimental impact on the image of the Court and of the European Union as a whole. Lastly, legal uncertainty would creep in, resulting in the adverse effects mentioned together with a potentially large number of requests for a preliminary ruling seeking clarification on what should already have been clear from the outset.

The very usefulness of language services is dependent on quality. If legal translations were not of the highest quality, this would soon become apparent to the users of the language versions concerned who would find it more difficult to grasp the substance conveyed and might sometimes be misled. They would likely come to rely, in parallel or exclusively, on the language version in which the document was drafted, provided they had a minimum command of that language, notwithstanding the vast loss of nuanced understanding compared with access to a high-quality version in their own language. Worse still, readers would not even be conscious of that loss since they would have no point of comparison.

In that scenario, translations would lose all meaning and a single language would eventually displace all others: the drafting language. But whatever the drafting language may be (French at the Court but English in most EU and international institutions), speakers of other languages would be prevented from attaining a level of understanding with the same ease and accuracy as in their mother tongue. Equality would be shattered and multilingualism a thing of the past.

But what is quality? How is it defined?

The key components for a translation of quality are faithfulness to the original, completeness, consistency, clarity, precision, fluency, linguistic accuracy (spelling, punctuation, syntax), the use of a language register tailored to the specific type of document and compliance with deadlines.

Ensuring consistency may seem self-evident, but consistency in the context of legal translation is multifaceted: it extends to legal consistency (consistency of reasoning), internal consistency (terminology, repetitions, references, and so forth), external consistency (diachronic (temporal consistency) and synchronous (consistency with

other language versions)), terminological consistency (not 'reinventing the wheel'), phraseological consistency (legal phraseology supplements terminology) and formal consistency (observance of the standards adopted by the unit). [70]

Although it might be regarded as a matter unrelated to the inherent quality of a translation, compliance with deadlines is also an essential aspect of service quality. It is difficult to imagine a less useful translation than one which is unavailable at the critical time: the belated translation of a procedural document can delay the conduct of an entire case; the belated translation of a decision into the language of the case prevents the adoption of that decision; The belated translation of a decision for the purpose of publication prevents certain categories of citizens from acquainting themselves with the new case-law as quickly as other language groups, thereby upsetting the balance of equality between those groups.

Consequently, the translation service therefore has a long-standing 'quality strategy' that it implements actively and improves continuously in line with all the requirements and factors that may affect translations (not only workload and budgetary constraints, but also, for instance, trends in litigation, changes to the Court's jurisdiction and the evolution of the EU judicature). That quality strategy is based on the premiss that the end-quality of texts must be prepared as far upstream as possible, during the phases that precede and support the translation work and, where appropriate, in conjunction with the drafters of the source text.

A series of measures have been put in place to assist lawyer-linguists in safeguarding the quality of translations produced in the context of references for a preliminary ruling, including translations from a pivot language.

The treatment of requests for a preliminary ruling is a matter above all for the reference person. He or she is a designated lawyer-linguist in the unit of the language of the case who is equipped with all the requisite (language and legal) skills to assist colleagues (notably the lawyer-linguists responsible for translation into other languages) throughout the processing of the document. It is the reference person who, for example, takes steps to shorten the text and to facilitate translation (by including comments explaining, in particular, terms referring to national legal concepts, by deleting text and explaining

70| Thierry Lefèvre, Pierre Bové, 'La Langue de la traduction dans le droit des traités internationaux et dans les juridictions internationales', *Journal des Tribunaux*, No 6540, 22 November 2013, pp. 755-757.

why, by inserting miscellaneous information and marginalia, and so forth) without, however, distorting the meaning or spirit of the document. The questions referred for a preliminary ruling remain entirely untouched. The reference person will often draft a summary of the main contents of the request for a preliminary ruling. That summary is then translated into all languages except French, since references for a preliminary ruling are always translated in full into the language of deliberation. Lastly, the reference person performs other tasks aimed at facilitating the processing and translation of the document: he or she conducts a prior analysis of the text and of the legal context and identifies identical or similar passages which have already been translated in other cases.

During the translation process, the reference person assists other lawyer-linguists by replying to their questions in a wiki created for that purpose or by providing them with guidance to understand terminology or national law. He or she then rereads that translation into the language of deliberation and, where appropriate, into the pivot language, in order to pre-empt the risks associated with possible errors or inaccuracies that have a particular significance in those two languages.

The unit of the language of deliberation and the pivot language units also have special responsibility, since the quality of their translations is decisive for the quality of the translations produced downstream. The unit of the language of deliberation ensures that the terminology used in the case file is consistent throughout the proceedings and at the end of the written part of the procedure.

Terminology work is an integral part of the quality strategy. It also contributes to rationalisation efforts and, as such, supplements and extends the cost-saving measures adopted by the institution. Terminology will be discussed later in the context of translation strategies (*see section 4.1.3*).

3.4.2 - The quality of interpretation

The same requirement of quality applies *mutatis mutandis* to interpretation except that interpretation is provided in real time and so cannot be checked or corrected afterwards. Whereas lawyer-linguists can invest time in assisting a drafter to improve the quality of the source text in the course of its translation, while adhering to each line of argument sentence by sentence, interpreters act in immediacy.

Advance planning is therefore a key factor in the quality of interpretation. Contrary to expectations, the work of interpreters does not begin when they take their place behind the microphone and put on their headsets; it is based on meticulous preparation, which often begins several days earlier and accounts for a significant proportion of their working time. Ongoing training is also essential: interpreters must have solid language skills and a thorough knowledge of the subject matter enabling them to dissect a speaker's statements in real time and faithfully reproduce their meaning. It is true that interpreters are dependent on the speaker, on the speed at which he or she speaks and the clarity of his or her reasoning, but a good grasp of the file, the subject matter and the language to be interpreted is often sufficient to overcome those difficulties.

Against that background, replacing an interpreter at short notice is extremely difficult. The hearing must take place, whatever the circumstances, and the interpreter concerned must be there in time and on time. That is, in a way, is what is meant by 'compliance with deadlines' in a context of immediacy.

For translation and interpretation alike, recruiting the right people is the first prerequisite for quality.

3.5 - Recruitment and ongoing training

3.5.1 - Competitions to recruit officials

Recruitment in the DGM is still mainly through open competitions organised by the European Personnel Selection Office (EPSO) for all professions. One change as regards recruitment competitions for lawyer-linguists is worthy of note. Those competitions previously consisted of translation and oral tests but, since 2020 and at the request of the DGM, they include a new test whereby candidates must perform a quality control of the neural translation of a text. The aim is to incorporate recent technological developments that impact the translation professions.

As an alternative, internal competitions may be held where an open competition is not practicable.

3.5.2 - Selection procedures for temporary staff

Selection procedures for temporary staff are a necessary complement to competitions, particularly for the purpose of meeting foreseeable replacement needs (maternity, parental, family leave, etc.) that are limited in time. Interinstitutional tools are of invaluable assistance when selecting temporary staff, such as the *CAST lists*: those lists, managed by EPSO, help locate candidates who can be employed quickly as contract or temporary staff in the fields of legal translation, proofreading, language editing and secretarial work. The interinstitutional database 'EU CV online' centralises applications received in response to a permanent call for applications or a specific call for expressions of interest, as well as spontaneous applications. The Court has published two permanent calls for applications for administrators and assistants.

As regards interpretation more specifically, the number of successful candidates in open competitions for conference interpreters is very small as a rule, given the specific features of the profession and the scarcity of general competitions in the interpretation services. Interpreters may also be recruited as temporary staff to cover vacant posts. Candidates are selected from the accredited interpreters on the joint list shared between the Commission, the Parliament and the Court.

3.5.3 - Ongoing training for professionals in the field of multilingualism

Ongoing professional training plays a key role in maintaining and expanding on the professional skills required to carry out the duties specific to each profession in the field of multilingualism, whether those skills be of a technical, linguistic or legal nature. The DGM thus takes a proactive approach and professional training is a fundamental tenet of its policy to guarantee a very high level of quality in its translation and interpretation services. As a result, most of the directorate's staff participate in at least one training course each year. In 2022, more than 900 staff members spent an average of 6.5 days in training.

Training within the directorate is predominantly based on the principle of knowledge sharing, as evidenced by the exemplary commitment of colleagues, both of trainers and learners, to the diverse training activities described below.

Upon taking up duties, staff in the legal translation service are invited to partake in a training programme, the primary objective of which is to familiarise them with the department's tools and working environment. In the course of those training sessions, which may include up to 35 hours of training depending on the profession in question, new colleagues develop mainly their technical knowledge both by learning to use specific software and applications developed in part by the Court itself and by acquiring documentary, textual and terminological research skills to exploit the numerous available resources. New interpreters are given individual and tailored support by experienced colleagues who are responsible for helping them to assimilate and to master their new working methods and tools. The induction of new interpreters is often made easier by the fact that many will have already gained work experience in the DGM as a trainee.

By means of these measures, the DGM aims to equip new entrants with a comprehensive understanding of the workings of the Court by presenting to them, for example, the role of other departments within the institution in the life cycle of a case, beginning with the lodging of an action to the delivery of a decision, or, more specifically, for assistants who are not lawyers, to receive training in EU litigation.

In addition to that programme and in order to keep abreast of technical developments, comprehensive training packages are rolled out e.g., for IT migrations or the development of new tools geared specifically towards the different professions.

It should be pointed out that all such training is delivered exclusively by the institution's in-house trainers, ensuring the best possible fit with the working environment and the working methods of the Court.

In the field of multilingualism, the language competencies of the professions must be nurtured and developed throughout an individual's career. The interinstitutional language courses are the primary means for interpreters and legal translation units to maintain and expand their language coverage and therefore account for a very significant part of the DGM's training efforts. In concrete terms, investment in that area equates to approximately 75% of the total number of training hours completed by the DGM's staff.

Language courses are provided by private schools that are selected periodically following a call for tenders. They may be organised, wherever possible and depending on departmental needs, in all official EU languages, although in practice almost three quarters of the courses, in the legal translation service are earmarked for learning of

one of the five pivot languages (English, German, Italian, Polish and Spanish) or French (the language of deliberation).

The format of the courses may vary in terms of content, defined according to the target profession (interpreter, lawyer-linguist or other), pace or location, since there is the possibility of a language course abroad once a certain level has been reached.

While participation in those language courses is a necessary resource, it is not sufficient. In order to supplement them in a significant and tangible way, other types of training have been developed within the DGM itself, drawing on the skills of interpreters and lawyer-linguists to deliver the training sessions. They include weekly interpreting exercises, which are a pointed means of language improvement, and legal interpretation workshops, which are based on an explanatory reading of legal texts in one of the 24 official EU languages, usually when a new request for a preliminary ruling is filed, so as to support the ongoing translation process in real time, particularly in terms of quality.

While those workshops are clearly a means of providing language training, they equally afford colleagues an opportunity to expand their portfolio of legal skills, skills that the department also seeks to strengthen by organising regular conferences and seminars tackling specific areas of EU or national law where there is a need for colleagues to broaden their knowledge in those areas in order to respond to developments in terminology and to continue to provide high-quality translation and interpretation services.

Those seminars are delivered, as far as possible, by drawing on the institution's own skill pool, the speakers being lawyer-linguists, legal secretaries or visiting judges in the chambers of a Member of the Court of Justice or the General Court. In some cases, however, it may be necessary to call on an external speaker, often a university lecturer, in particular where the seminar concerns a major reform of national law.

Staff may also occasionally take part in legal training courses offered by other EU institutions or external bodies, such as the seminars for interpreters organised every year in conjunction with European universities.

In addition to training in the abovementioned specific areas, which are at the core of professions in the field of multilingualism, members of staff make every effort to hone their skills in other disciplines useful to the DGM or to the institution, such as managerial skills, office skills or inter-disciplinary or soft skills e.g., project management or stress management.

3.6 - Rationalisation and Multilingualism

3.6.1 - The language of deliberation

Communication between the Members of the Court has been an issue ever since the Court's establishment in 1952. At that time, it would have been possible to provide interpretation at meetings of the Members into the then four official languages, together with translation of all procedural documents into those languages. However, that posed a twofold problem: the presence of interpreters during deliberations which, in accordance with Article 35 of Protocol No 3 on the Statute of the Court of Justice of the European Union, must remain secret, and a very heavy interpretation and translation workload. The Court decided therefore to deliberate in a single language.

Even today, that choice has a major impact on the Court's organisation.

As the Members of the Court communicate orally and in writing in the language of deliberation (currently French), the use of that language has in practice, quite naturally, become generalised among the Court's departments in their work. [71]

Officials recruited by the Court must therefore be proficient in the language of deliberation. On the rare occasion when the Court finds it necessary to recruit someone who does not initially satisfy that condition, he or she will be invited to undertake intensive French courses to bring his or her knowledge up to the required level. The language services attach even greater weight to the language of deliberation, to the extent that a high level of knowledge of that language is required and verified when recruiting interpreters and lawyer-linguists. [72]

All draft decisions of the Court of Justice and the General Court are drawn up in the language of deliberation and translated into the other required languages. Those

71 | Valeriu M. Ciucă, 'Limba de lucru a Tribunalului Uniunii Europene – de la vernaculum, de la „limba casei", la vehiculum, la un limbaj cudestinație universală. Alocuțiune de deschidere a Conferinței internaționale Traducerile juridice in cadrul Uniunii Europene', *Analele Stiintifice Ale Universitatii Alexandru Ioan Cuza Din Iasi Stiinte Juridice*, vol. 63, Supliment, 2017, p. 25.

72 | Exceptions are sometimes made, however, when a new language is added and where it cannot reasonably be expected that there will be a sufficiently large pool of candidates proficient in French. That was the case for the open competitions held in connection with the enlargements of 2004 and when the Irish language derogation was lifted.

decisions account for the majority of the texts to be translated by the language units. The unit of the language of deliberation does not translate draft decisions, for obvious reasons, but does translate all procedural documents, in particular the observations or submissions lodged by the parties in judicial proceedings so that the Members of the Courts can become fully acquainted with them. Since the number and volume of those procedural documents outstrips the number and volume of draft decisions, and since their translation into the language of deliberation is a prerequisite for the smooth conduct of proceedings, that unit has more staff than the other language units.

Similarly, although a wide range of language combinations is offered by the Interpretation Directorate, each interpreter must be able to understand and interpret the statements of a Member of the Court formation who speaks – sometimes for the sake of economy of interpretation, not in his or her mother tongue but rather– in the language of deliberation. Moreover, all hearings are interpreted into the language of deliberation, thus covering the needs of Members who do not have interpretation into their mother tongue.

3.6.2 - The pivot languages (translation)

The most recent enlargements of the Union (2004, 2007 and 2013) posed an unprecedented challenge for the management of multilingualism: with 24 official languages, the number of language combinations necessary for judicial work rose from 110 before 2004 [73] to 552 in 2013.

Even prior to 2004 the translation service of the Court was unable to cover all language combinations directly. Despite sustained and continuous training efforts, a significant number of units were no longer equipped to handle certain requests. Workloads, the fact that many lawyer-linguists already translating from five or six languages were at maximum capacity and the low number of requests for translation from certain complex languages were all factors militating against investment in wide scale and long-term training. After the 2004 accessions, it became unrealistic to attempt to maintain a system covering all language combinations by direct translation.

73| Irish was recognised by the Rules of Procedure as a possible language of the case before becoming an official EU language in 2007.

The DGM anticipated this outcome with the establishment, in 2001, of a hybrid system of direct and pivot language translation. It selected the future pivot languages on the basis of technical criteria.

Direct translation is favoured wherever the necessary expertise is available within the language units. Those units have, however, access to a translation in a pivot language for source texts drafted in a language that is neither a pivot language nor French. Against that background, a distinction should be drawn between '*relay*' translation and 'pivot language' translation. In a relay system, the translation is not produced from the original language, but from the first available translation into a language known to the translator. By contrast, a pivot language is a predetermined language into which a document is translated from a predetermined group of languages for subsequent translation into other languages. Each pivot language therefore covers a limited number of other languages. That approach has significant advantages.

From the perspective of translation quality:

- the lawyer-linguist of the pivot language is keenly aware of his or her responsibility as regards the second stage of translation production in the other language units, which incentivises him or her to exercise special care when translating and, in particular, to engage with a lawyer-linguist – the reference person – in the language unit of the pivoted language;

- the translation into the pivot language is subject to a critical review by the lawyer-linguists involved in the second stage, which incorporates an additional consistency check and boosts team spirit among the lawyer-linguists with responsibility for translation of the same text;

- as soon as an amendment must be made to the pivot translation, it is easy to reflect this change in all the other translations;

- since each non-pivot language unit must provide a translation from the pivot language if it is unable to produce a direct translation from the original text, there is no need for a second-level relay translation (from a translation of the translation of the pivot language).

The pivot language translation system does not apply to all documents drafted in a language other than a pivot language or French but to three categories of documents only: Opinions of the Advocates General on the rare occasion when an Advocate

General has not already used a pivot language as their drafting language, requests for a preliminary ruling, and procedural documents lodged in a language other than the language of the case or one of the pivot languages. [74]

From the perspective of organisation:

- closer links are forged between each pivot language unit and the 'pivoted' language units; which has not only helped new units get off the ground because they could count on the support and experience of the pivot language units but has also facilitated cooperation between lawyer-linguists in the new units and colleagues who have begun translating from their language;
- realistic translation deadlines can be calculated on the basis of whether or not it is necessary to wait for the translation into the pivot language before beginning other translations.

The French-language translation unit must, however, be able to provide direct translations from all official EU languages into French since French is the language of deliberation.

To select the pivot languages, the legal translation service applied the following criteria:

- as regards the number of pivot languages, the view was taken that four pivot languages (besides French, the 'natural' pivot) would make it possible divide up more effectively training efforts for new languages and would increase the possibility of recruiting lawyer-linguists in the candidate States because a broader range of languages could be offered for the selection tests;
- as regards the determination of those pivot languages, the following factors were taken into consideration:

74| That is the case where a Member State submits written observations in preliminary ruling proceedings or intervenes in a direct action. The unit of the language of the case must then provide a translation. The only other unit required to translate such documents is the French-language unit. In order to avoid the situation whereby a translation into a pivot language has to be produced for the sole purpose of producing a version in the language of the case, the French-language version is used as a 'natural' pivot in those circumstances.

- the level of proficiency in the various languages within the units, that is to say, the number of lawyer-linguists who could translate from those languages;
- the frequency with which a language is used as the language of a case;
- the languages of the permanent Advocates General, since it could be expected that numerous Opinions would be drafted in those languages as opposed to the languages used by the Advocates General occupying posts that are rotated between the Member States;
- the stability of the different units (recruitment difficulties, turnover rate and level of control over workload).

Those criteria initially led to the choice of English, German, Italian and Spanish. It transpired that those languages were, in general, the languages in which the units were most proficient and that the number of pages received in those languages and in French accounted for more than 90% of the total number of pages to be translated.

Several factors were taken into account in deciding how to allocate the languages to be pivoted by each pivot unit:

- a fair distribution of the effort to be requested from each pivot unit;
- the level of proficiency in the new languages or in similar languages within the different pivot language units, given that, for example, a good command of Finnish is a major asset when learning Estonian and a good command of Czech is an asset when learning Slovak;
- cultural or linguistic ties between the Member States (old and new). For example, the existence of a Slovenian-speaking minority in Italy suggested that it might be possible to locate external providers capable of translating into Italian.

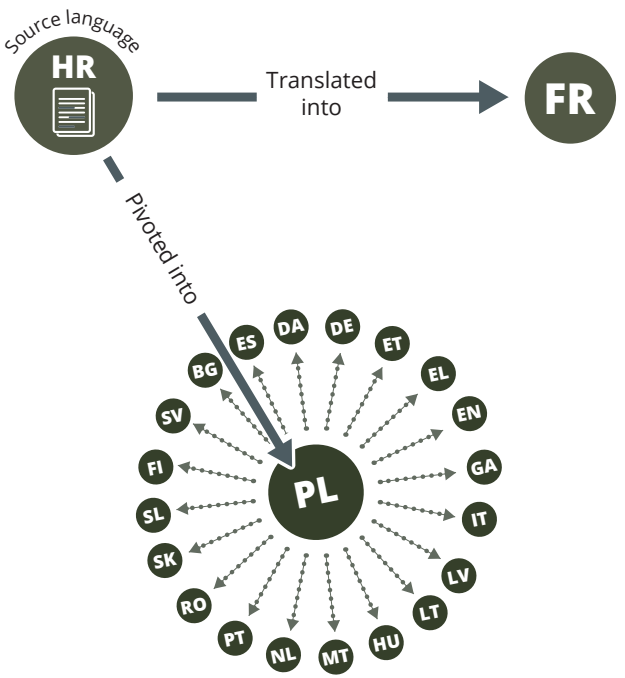
In light of the addition of several new official languages after 2004 (Bulgarian, Irish, Croatian and Romanian) and the creation by the Treaty of Lisbon of a sixth permanent Advocate General post reserved for Poland, the decision was taken to add Polish as a fifth pivot language with effect from 1 October 2019. Since that date, the Polish-language unit has been responsible for pivoting Czech, Croatian and Slovak. The advantage is twofold:

- the Polish permanent Advocate General may, if they wish to do so, draft their Opinions in their mother tongue without occasioning any translation delays;

- each of the other pivot language units was relieved of responsibility for one pivoted language (the German-language unit was relieved of Polish, the English-language unit of Czech, the Italian-language unit of Slovak and the Spanish-language unit of Croatian).

That change naturally required a significant investment in training, since the Polish-language unit was required to cover the languages that it would pivot going-forward and all other units had to become proficient in Polish. This change was accompanied by language training, including language stays abroad and the organisation of numerous legal interpretation workshops and seminars.

Translation via a pivot language



Pivoted languages

BG, ET, FI, NL	→ **DE**	**Pivot language**
DA, LT, MT, SV, GA	→ **EN**	
EL, RO, SL	→ **IT**	
HU, LV, PT	→ **ES**	
CS, HR, SK	→ **PL**	

3.6.3 - 'Relay' and 'retour' languages (interpretation)

At the oral hearing, the final part of the Opinion drafted by the Advocate General in their chosen language is presented in French and in the language of the case; whereas the operative part of the judgment is presented by the interpreters in French only. In practice, this is more a matter of 'reading out' than of interpreting, since the documents necessarily already exist in the language versions concerned.

By contrast, so far as oral submissions are concerned, interpretation into French is provided at all hearings and into other languages according to need, as mentioned above. At any given hearing, interpretation into any of the 552 language combinations may be required. With 70 interpreters – and notwithstanding the support of a large pool of freelance interpreters – it is unrealistic to attempt to cover each of those combinations directly. As with translation, measures of organisation were taken to ensure that interpretation is nevertheless always available, even in the least common combinations. To that end, two main strategies were put in place.

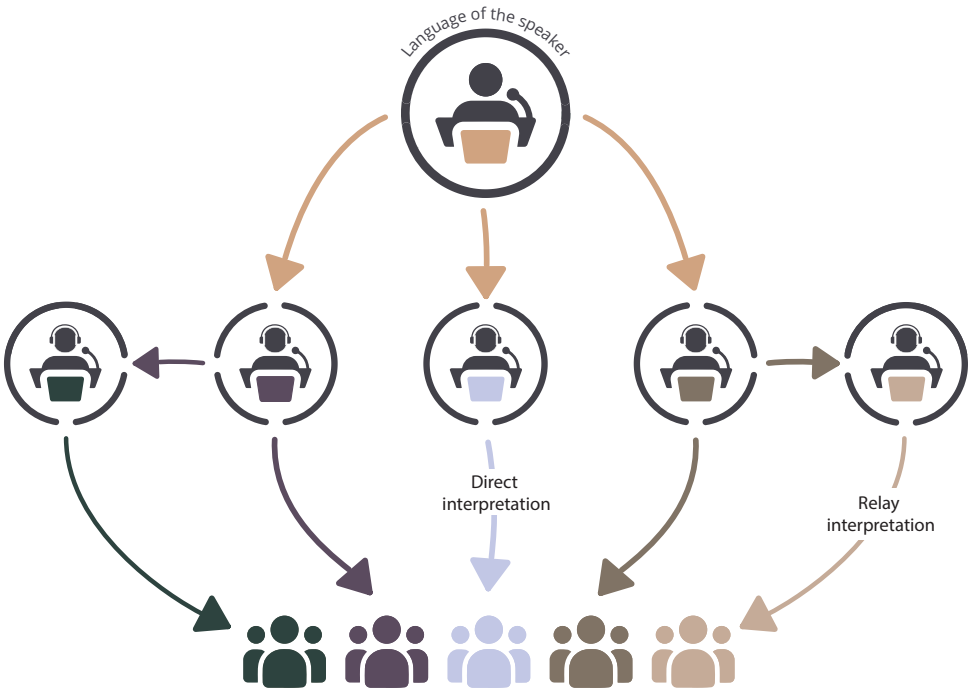
The first entails entrusting interpretation into the target language to an interpreter who is a speaker of the *source language*. As a rule, interpreters work into their mother tongue alone. However, some interpreters have such a high level of proficiency in another language that they are able to interpret into it as an active language, as if it were their mother tongue e.g., a Czech interpreter interpreting from Czech into English is what is known as '*retour*' interpretation.

The second strategy involves booths working in 'relay'. This occurs where some interpreters interpret – not from the language of the speaker directly but – from the interpretation provided by a colleague in another language booth who is able to interpret directly into his or her own language. For example, an Italian interpreter working directly from Czech while other booths listen to the interpretation into Italian in order to provide, in turn, interpretation into their own language.

These two strategies – 'retour' and 'relay' – may also be combined. To take the examples just given, one possible scenario would be where a Czech speaker is interpreted by a compatriot in 'retour' into English and by an Italian interpreter, with the other booths working in relay, according to their language coverage and availability, either from the interpretation into Italian or from the 'retour' interpretation into English.

Improvisation is obviously not an option here. Rigorous upstream planning is required to ensure that booth assignments are arranged carefully and that each interpreter knows exactly what his or her role will be, including the extent to which other booths will work from the relay interpretation that he or she provides.

Direct or relay interpretation



Flexibility in interpretation for hearing participants

In a full multilingual interpretation system, all official languages can be spoken and interpretation is provided into all of them. This is known as a symmetrical system; with 24 official languages, this means a total of 552 language combinations. In practice, such full language coverage is rarely necessary, except in certain procedures such as the opinion procedure under Article 218(11) TFEU where interpretation is offered into all languages.

What the interpretation service provides in practice is an 'à la carte' system. Each member of the Court and each party speak in the language of their choice and are interpreted into the language of each of the other hearing participants. That system can be tailored to meet actual needs: some hearing participants may wish to speak in their mother tongue in certain cases but may agree to listen to the original or to the interpretation thereof into another language; in other cases, they may agree to speak and listen in a foreign language. This is known as an asymmetric system. Such flexibility makes it possible to reduce the number of languages requiring interpretation.

Accordingly, at oral hearings, members of the Courts do not always ask to follow the proceedings and speak in their mother tongue, even though they are entitled to do so and it is materially possible for them to do so. All Judges and Advocates-General are proficient in several languages, including French, and agree, where necessary, to use languages that are common to or are understood by the other members and the participants at the hearing, or by a substantial number of them. The interpretation service contacts each new member as soon as he or she takes up office to determine which languages he or she could use and the conditions and circumstances in which he or she would agree to use them. Thereafter, the Hearings and Resources Unit of the interpretation service plans carefully the assignment of interpreters to hearings.

On the other hand, some parties or their representatives may exceptionally request and obtain permission to plead in a language other than the language of the case. That possibility is permitted only in preliminary ruling proceedings. [75]

75| See paragraphs 62 to 64 of the Practice Directions to parties concerning cases brought before the Court (OJ 2020 LI 42, p. 1).

3.6.4 - Cost savings in translation

Translation and interpretation activities are costly (*see chapter 5*). It is not necessary, however, to calculate the exact cost to be able to take reasonable measures to accommodate multilingualism to keep its financial impact on the EU budget in check.

The first reasonable accommodation came about back in 1952 when the Court chose a language of deliberation. That choice means that it is not necessary to translate procedural documents into all official languages where those documents are not served on Member States, published or otherwise disseminated. (The chief exception to this are requests for a preliminary ruling.) As a result, interpretation is not required at the numerous meetings of the Court formations, further protecting the secrecy of deliberations. In return for that very substantial cost saving, [76] all members of the Courts must be able to work, both orally and in writing, in the common language used, known as the language of deliberation.

As new languages were added, together with the growth in the number and complexity of cases, the number of translation pages increased. The institution felt it necessary – and seized the opportunity – to reduce the translation workload, without affecting adversely the rights of litigants nor, essentially, the multilingual availability of the case-law.

Some of those cost savings came about in a pragmatic way: for example, through the translation service's practice of identifying certain parts of orders for reference that do not need to be translated and which it replaces with an *ellipsis* ('…') or other equivalent wording, accompanied by a brief explanation of the nature of the text omitted e.g., considerations that concern questions of admissibility under national law unrelated to the request for a preliminary ruling itself. That is also the case with the decision not to translate automatically voluminous annexes to pleadings, but only if and in so far as the need for translation remains despite the production of a neural translation and a consultation with a lawyer-linguist proficient in the source language. The decision to translate via a pivot (*see section 3.6.2*) into numerous language combinations also makes it possible to achieve savings in terms of training and staffing. However, other cost savings result from formal decisions taken by the institution – decisions that were each carefully considered.

76| That saving amounts to around 2 000 000 pages of translation per year.

For instance, in 1994 it was decided that reports for the hearing would no longer be published in the *ECR*; instead, they must be translated only into the language of the case for service on the parties. The decisions of the Courts contain a sufficient description of the context and arguments of the parties, without it being really necessary for that content to be published in full by means of the reports for the hearing.

Since 2004, a number of other bold cost-saving measures have gradually been implemented with the support of both Courts. The institution's translation needs have been reined in and have remained stable for several years through the adoption of various organisational measures with a direct impact on those needs.

The starting point was the introduction – in 2004 for the Court of Justice and 2005 for the General Court – of selective publication of the case-law. Thereafter, only the decisions the legal significance of which justified publication, rather than all decisions of the Courts, were to be published in the *ECR* and therefore translated into all languages. That practice was extended and increased in 2011. At the same time, it became possible to publish certain decisions of the General Court in the form of extracts. The current practice of the Court of Justice is not to publish decisions handed down by Chambers of three or five Judges ruling on direct actions or appeals, unless those decisions are preceded by an Opinion. At the General Court, unless the formation of that Court decides otherwise, judgments of the Grand Chamber and of Chambers composed of five Judges are published in the *ECR*. The publication of the judgments of Chambers of three Judges is decided on a case-by-case basis by the formation. Judgments of the General Court sitting as a single Judge and orders of a judicial nature are not published in the *ECR*, unless decided otherwise. The translation savings achieved through the selective publication of decisions exceeded 494 000 pages in 2021 and 375 000 pages in 2022.

Also in 2004, the Rules of Procedure of the Court of Justice were amended so that particularly long orders for reference could be summarised. [77] In combination with the abovementioned practice of replacing text with an ellipsis ('…'), in 2022, the preparation of summaries saved more than 153 000 pages of translation.

In 2011, far-reaching cost-saving measures were taken in the field of translation. The extension of selective publication and publication in the form of extracts have already

77 | Article 98(1) of the Rules of Procedure of the Court of Justice. In practice, the translation service seeks to summarise, as far as possible, requests for a preliminary ruling the length of which exceeds 15 pages.

been mentioned. The institution also decided to curtail the length of Opinions of the Advocates General, endeavouring to reduce their average length to 40 pages, except where the Opinions form part of appeal proceedings. Since Opinions are translated into all official languages, that additional measure has considerably reduced the volume of translation.

Moreover, the Court of Justice ceased preparing reports for the hearing when its Rules of Procedure were amended in 2012, while the General Court decided to reduce the length of those reports, which, in 2022, allowed the number of pages of translation to be reduced by more than 10 000 pages.

The Courts have also established, in principle, limits on the length of pleadings in the Practice Directions to parties. For example, in the written part of the procedure in references for a preliminary ruling, written observations are normally limited to 20 pages. As regards interventions in direct actions and appeals, statements in intervention should be more succinct than the written pleadings of the party supported by the intervener and should not exceed 10 pages in length. [78] The General Court also provides for maximum lengths of written pleadings depending on the type of pleading and the procedure concerned. [79]

Other cost-saving measures are gradually being implemented. The scheme for prior determination as to whether appeals should be allowed to proceed, introduced in 2019, meant that it was not necessary to deal with 39 appeals in 2022. Although the request that an appeal be allowed to proceed and the order ruling on that request are translated into French and the language of the procedure respectively, the net savings created by not translating procedural documents and dismissed appeals was estimated to be more than 22 000 pages. The Chambers of the President of the Court, his Registry, the RDD and the DGM have strengthened their cooperation to identify quickly requests for preliminary rulings that can be closed by reasoned order under Article 53(2) of the Rules of Procedure (manifest inadmissibility) and by Article 99 (identical question or where the answer may be clearly deduced from existing case-law), thereby avoiding the need to translate them into languages other than French. That enhanced cooperation

78| Practice Directions to parties concerning cases brought before the Court (OJ 2020 L 42, p. 1).

79| Paragraph 105 of the Practice Rules for the implementation of the Rules of Procedure of the General Court of 20 May 2015 (OJ 2015 L 152, p. 1), as amended on 13 July 2016 (OJ 2016 L 217, p. 78) and 17 October 2018 (OJ 2018 L 294, p. 23, corrigendum OJ 2018 L 296, p. 40).

contributes to good administration and the control of the workload of the DGM, even if it is difficult to calculate the savings made.

That overall picture would not be complete without mentioning the significant savings resulting from the implementation of modern and efficient working methods (*see section 4.3*), such as training and terminology, which enable lawyer-linguists to reach the correct conclusions more quickly, outsourcing, which often provides competitively priced translations even though they still require revision, and IT, particularly translation support tools, which help save considerable time.

Those measures – which were adopted by the Courts in a complicated budgetary context, marked by a scaling-down of internal resources in the language services and in the translation service in particular [80] – are essential to achieve the three main objectives of the legal translation directorates: to keep pace with proceedings without occasioning any delay to them, to ensure the rapid dissemination and publication of case-law, and to continue to provide high-quality services.

3.6.5 - The impact of multilingualism on the duration of proceedings

It is sometimes said that the translation process protracts significantly proceedings before the Court of Justice and the General Court: but is that really true? At first sight, such an assertion seems plausible because the challenge of ensuring that all language versions required for the proceedings are available appears to be a huge one. However, it does withstand scrutiny. In order to calculate the length of time by which proceedings are prolonged solely as a result of the translation process, it is necessary, first of all, to exclude the time allocated for all the essential stages of the procedure which take place at the same time as the translation process.

The written part of the procedure

The translation process is activated as soon as the document initiating proceedings is lodged before one of the two Courts in a direct action or an appeal. The application

80| Between 2012 and 2021, with the exception of posts in the Croatian- and Irish-language units – new languages for which coverage henceforth had to be provided – the translation service lost 71 budgetary posts and the interpretation service lost 4. That said, the workload, which is beyond the institution's control, is constantly increasing.

or appeal is served on the parties at the same time as it is forwarded for translation, with service triggering the procedural time limit for lodging the defence or response. Thereafter, where appropriate, new time limits will apply to the lodging of any replies and rejoinders. All the while, the translation process continues apace. The impact of the translation of procedural documents on the length of proceedings is therefore limited, as far as direct actions and appeals are concerned, to the time that elapses between the lodging of the last pleading, which brings the written part of the procedure to a close, and the provision of its translation into French, since it is from that moment on that the Judge-Rapporteur has a complete file to work from and a full picture of the parties' written arguments. Some will rightly argue that work could begin on a case before the last pleading becomes available in the language of deliberation, [81] but not under the best possible conditions.

The same applies to preliminary ruling proceedings, except that requests for a preliminary ruling must be served not only on the parties, but also on the Member States in their own language (the usual translation deadline is 20 working days). The time limits for submitting written observations naturally start to run only from the date of such service. That time is in addition, in references for a preliminary ruling only, to the time necessary to translate the last pleading..

81| The provision of a neural machine translation in advance could permit, even at that stage, a better assessment of the complexity of the case and make it possible for some research to be undertaken or even for measures of organisation of procedure to be adopted, such as a decision that there should be only one exchange of pleadings.

The oral part of the procedure

The following time must be added to the time devoted to managing multilingualism during the written part of the procedure.

- For the General Court, the time required to translate the report for the hearing drawn up in the language of deliberation into the language of the case (the Court of Justice no longer produces reports for the hearing). It should be borne in mind that the time necessary to translate the report for the hearing is not be the sole consideration taken into account in setting the hearing date, since it will be necessary to factor in a reasonable period of preparation time for the parties after the report has been served, as well as other considerations, such as the availability of hearing rooms and interpretation arrangements. To date, it has always been possible to provide interpretation for scheduled hearings, even if that has meant calling on the services of external providers, and no hearing has ever been postponed because of a lack of interpretation availability.

- In cases before the Court of Justice in which an Opinion has been delivered, the time required to translate the Opinion of the Advocate General into the language of deliberation, if not already drawn up in that language.

At hearings, since simultaneous interpretation is provided, it naturally has no impact on the length of proceedings

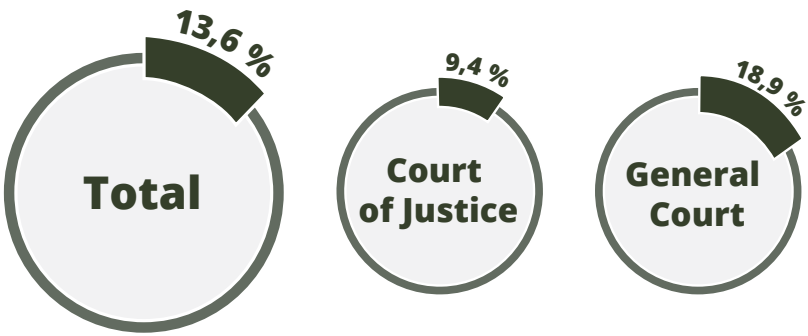
The stage of deliberation

Lastly, account must be taken of the time taken to translate the decision itself into the language of the case. The translation process begins even before the draft decision, drafted in French, has been finalised: to varying degrees at the Court of Justice and the General Court, draft judgments receive input from the cell of readers of judgments, which is responsible for the review of the draft decision by French-speaking lawyers, whose task it is to improve (and standardise) the linguistic and legal style employed therein, and for correcting proofreading errors. The time that elapses exclusively because of the translation process must obviously be reduced by the time required to finalise the ‘original’ version. Sometimes, that work is completed even after the point in time at which the translation could have been provided, entailing an automatic deferral of the translation deadline.

A careful analysis produced by both Registries of all the tasks and processes carried out with a view to the delivery of a judgment or the signature of an order demonstrates that the time consumed by the translation process alone accounted for 13.6% of the total duration of proceedings in 2022. [82]

That is the actual temporal impact of multilingualism on proceedings before the EU Courts. It is far removed from some of the less-substantiated figures cited in the press or by policymakers.

The impact of translation on the duration of proceedings



82| 9.4% at the Court of Justice. At the General Court, that figure went from 14.1% in 2021 to 18.9% in 2022 since more cases were disposed of without a hearing, thereby reducing the total duration of proceedings.

4. - Translating and interpreting: strategies, methods and tools

In essence, lawyer-linguists and interpreters continue to provide the same services they have always provided: legal translation and interpretation. Of course, they now perform many other duties, ranging from summarising requests for a preliminary ruling to training and representing the department. Nevertheless, the core of their activities remains unchanged.

To ensure that those central tasks are carried out to a very high standard, lawyer-linguists and interpreters have recourse to specific methods and strategies, that is to say, a balanced management, both individually and collectively, of the challenges inherent in multilingualism at the Court.

They are also increasingly assisted by IT tools that have to be mastered so that their added-value can be integrated without any impact on the quality of the work product, particularly in terms of accuracy and reliability.

4.1 - Legal translation

Lawyer-linguists are at the heart of translation work. They perform complex, technical tasks to which mandatory deadlines apply and in the course of which unexpected issues frequently crop up. Their input is a link in a virtuous chain of production, the result of collective and individual management of translation tasks that enables lawyer-linguists to tackle the daily challenges of combining a very high level of quality and performance while working to a deadline.

Each translation task is, in fact, an exercise in choreographed efficiency, inseparable from the organisational and technical preparation carried out upstream by the transversal units and senior management.

That organisational preparation is integral to a strategy that requires astute management of capacities and needs at the level of the language unit concerned, necessitating judgment calls which themselves form part of a resource and quality management policy adopted at the level of the Directorate-General.

Thus, before assigning a translation to a lawyer-linguist, the head of each translation unit (or the person entrusted with those functions) makes choices on the basis of the information provided by the Registries and the Members' chambers, as compiled and

collated by the transversal units and, in particular, by the central planning section (Planning and External Translation Unit), which enters all those details into the global translation management database.

First of all, as soon as a document arrives, consideration is given as to how long the translation will take. Documents marked with a mandatory deadline are immediately assigned to a lawyer-linguist or, if the documents are not confidential, to a freelance translator. It may not always be possible to assign some texts immediately because of capacity limitations, in particular for the coverage of the *source language* concerned. In those instances, the texts enter a queue to be processed as soon as possible. The choice of texts to be put on hold in such circumstances depends on their relative importance. Certain texts are never queued: for example, judgments and Opinions in cases in which the language of the case is that of the language unit concerned will always be accorded priority. Next in line are cases allocated to the largest formations of the Court, starting with the Grand Chamber of the Court of Justice, as well as cases of special interest to a Member State of the language concerned, as evidenced, for example, by an intervention, by the lodging of observations or simply by national media coverage.

At the same time, the issue of the translation resources to be allocated to the document must be addressed. That is a matter, first of all, of deciding who will produce the translation: a highly experienced lawyer-linguist, a lawyer-linguist or freelance translator specialising in a particular field, a trainee lawyer-linguist, and so forth. While each unit encourages independence in its lawyer-linguists and freelance translators. Nevertheless, quality control will often be necessary for the most important, difficult or sensitive documents, in particular where the language of the case in question is that of the language unit. That control will more often than not take the form of revision or review by a peer or even by the Head of Unit, who maintains the overall quality of the work of each lawyer-linguist and of the unit as a whole. A Head of Unit cannot, of course, review everything produced by their unit: he or she is a manager first and foremost, but one who is responsible for the overall quality and evaluation of each colleague.

Second, at the level of the lawyer-linguist – the architect of the decisive stage of the process – who is assigned a translation task, must organise strategically his or her work on the basis of demand and personal work capacity. Each lawyer-linguist manages a list of translations, ensuring that all deadlines are met notwithstanding any unforeseen circumstances that may arise. A constant readjustment of individual priorities is necessary in the light of the complexity of each text, its language, its length, the time to be allocated to the task and the deadlines for delivery. Moreover, texts may be added

to the lawyer-linguist's list at any time, to be incorporated into his or her individual task management. Although collective management at unit level makes it possible to balance out somewhat the assignment of long documents (Opinions, judgments, observations, and so forth) to lawyer-linguists, it does not shield them from unforeseen circumstances necessitating such readjustments.

The main reasons for the readjustment of a lawyer-linguist's individual task management are as follows.

- Requests for a preliminary ruling to be pre-processed, summarised or translated from another language. Those requests are sometimes accompanied by a request for an expedited procedure or for the urgent preliminary ruling procedure to be applied.

- Different types of urgency, such as orders, questions to the parties and replies, and matters of administrative urgency.

- Amendments made to texts by the drafter while the translation is underway. Such amendments are routine and stem, in particular, from questions or comments raised by lawyer-linguists, although their volume and extent sometimes entail major and often urgent readjustments.

- The realisation, while translating a text, that it is more complex than anticipated.

- The illness or sudden unavailability of a colleague, entailing the reassignment of some of his or her work.

- Uncertainties concerning the scale of other planned tasks. Sometimes a judgment is much longer than previously indicated or must be delivered at the same time as another judgment which suddenly becomes urgent. The situation might also arise where, for instance, the translation service is asked to comply, as far as possible, with the same deadline for all answers to questions put in a case, irrespective of the language of those answers and even though their number and length is unknown.

A certain amount of unexpected work is entirely normal and is accounted for in the sound and responsive management at the level of the institution. However, the institution is also keenly aware that such unexpected work should be avoided where possible, since it hampers the productivity of lawyer-linguists. It means that they have to exit the current

translation file in progress and close all other work windows in order to attend to the urgent matter. Only after that matter has been resolved can the lawyer-linguist reopen the file he or she had left together with all the relevant documents, reacquaint himself or herself with them and regain his or her concentration. Urgent matters sometimes mean that less urgent deadlines are pushed back in a domino effect, especially in the French-language unit, which is especially urgency-prone.

4.1.1 - How lawyer-linguists tackle translation

Before embarking on the translation proper, it is essential for the lawyer-linguist to identify and obtain all relevant reference documents. Legal translation, especially at the Court, is not an exercise in free translation: the regulatory acts, case-law and procedural documents cited directly or indirectly must be reproduced with care and precision. The same is true of the terminology used: in the choice of terminology, it is necessary both to respect the source text and previous translations of the terms used and to consult the databases and termbases compiled over the years by generations of translators and lawyer-linguists.

The reference documents mainly comprise:

- the procedural documents lodged in the case or in a joined or related case;
- the regulatory acts of EU law cited in the case or which are otherwise relevant;
- the case-law of the Court of Justice and of the General Court cited in the case or which is otherwise relevant;
- any relevant national legislative or regulatory acts and any relevant national case-law (these exist in the national language and may sometimes also be available in other languages);
- any relevant international agreements;
- relevant terminology.

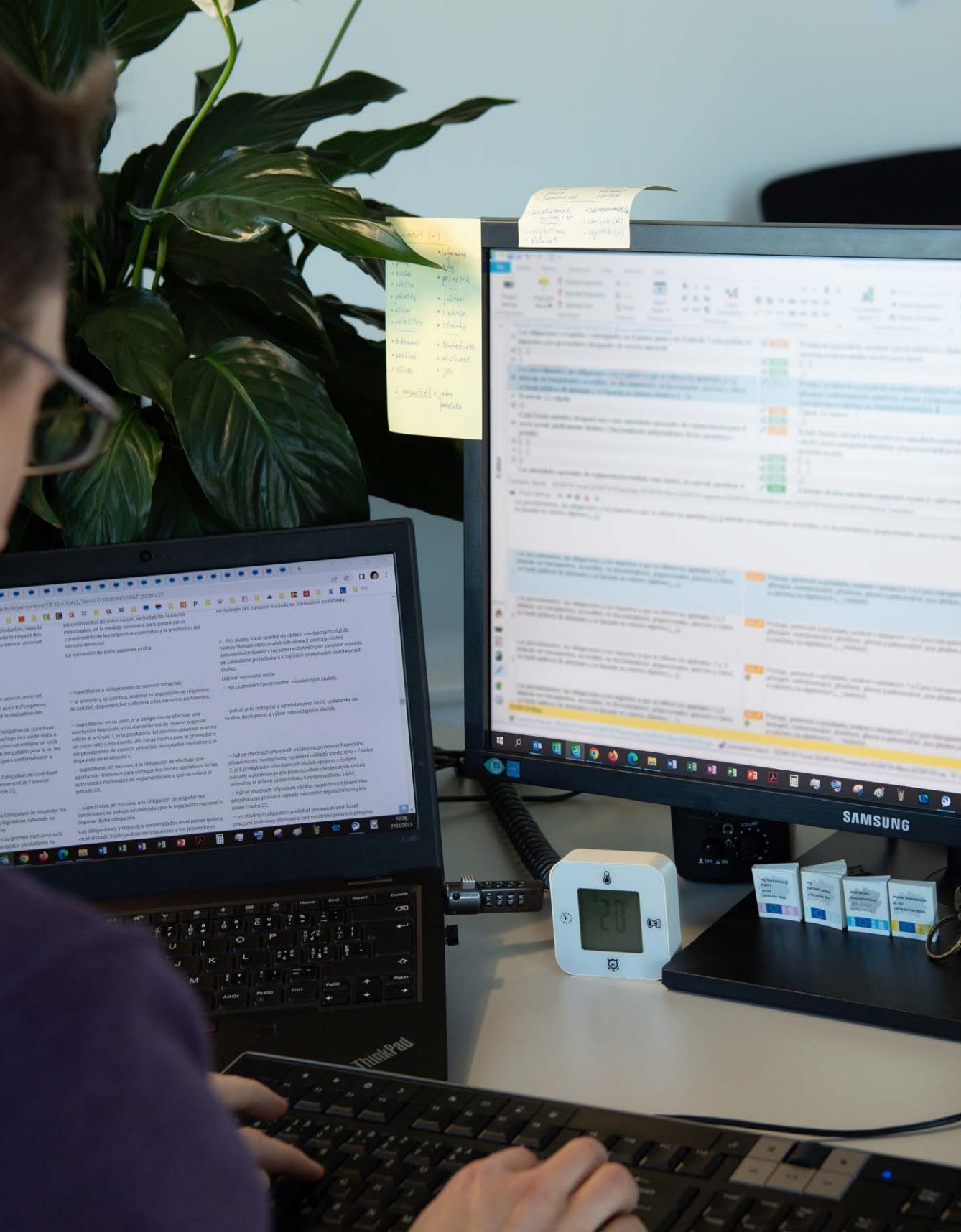
Once the lawyer-linguist is equipped with the reference documents, he or she needs to extrapolate from it. This involves examining the relevant parts of the documents gathered to gain a sound understanding of the legal context of the case and to identify the reference vocabulary.

At present, those tasks are greatly facilitated by a combination of IT and methodological tools, particularly as regards documentation and terminology.

The IT tools specific to translation will be discussed in the context of legal translation itself. Terminology will also be discussed below, but within the common context of legal translation and interpretation, both of which are dependent on high-performing terminology (*see section 4.3*).

The 15 golden rules of translation for lawyer-linguists

1. Remember that lawyer-linguists are part of the judicial process.
2. Take all necessary measures to safeguard confidentiality.
3. Treat each translation as an individual and collective project that requires above-all good personal organisation.
4. Choose a translation strategy that best fits the type of document and the recipient of the translation.
5. View the document in its context:
    - field of law/legal system(s) concerned,
    - previously translated texts (similar or related cases),
    - documents in the case itself.
6. Understand the text before translating it, in spite of legal and linguistic false cognates, taking account of the specific nature of the legal systems involved.
7. Undertake research and contact with the relevant people.
8. Become acquainted with and use translation support tools.
9. Respect previous translations: legislation, case-law, terminology and phraseology.
10. Be able to justify terminological choices.
11. Ensure terminological and linguistic consistency throughout the translation.
12. Flag up difficulties immediately, without waiting to complete the translation.
13. Apply the formal conventions of the unit.
14. Always reread the completed translation with a critical eye, applying logic and common sense.
15. Comply with the deadlines.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4.1.2 - The specific nature of legal translation at the Court

The first challenges of legal translation are those of translation in general. Above all, lawyer-linguists must understand the text, the legal reasoning, the terms and the syntax employed therein. Nevertheless, the legal nature of the translation also requires lawyer-linguists to conduct a comparative examination of the laws concerned. They must identify related concepts and false cognates, gauge the difference between concepts inherent to several legal systems and make terminological choices taking account, in particular, of any previous translations.

The potential difficulties that lawyer-linguists face are primarily related to their knowledge of the source legal system (in addition to the source language), to the clarity and quality of the drafting style used in the document to be translated and to the length of that document having regard to the deadline. Problems stemming from language ambiguity, polysemy, synonymy, unusual terms or novel terminology will also arise.

The context of legal translation places a number of constraints on lawyer-linguists. The texts they are entrusted with translating concern the interpretation of existing regulatory acts or case-law. In the text to be translated, those documents will be cited either directly, in inverted commas, or indirectly, in other words by producing passages not marked by inverted commas, or loosely, using certain phraseology and terminology deriving from the documents in question. If a version of those documents exists in the *target language*, the lawyer-linguists must respect the content of that version to the letter. They will depart from it only for good reasons, which they must be able to substantiate and, in some cases, will indicate to the reader either, in the case of published documents, by inserting in a direct quotation an alternative version quoted in square brackets [83] or, in the case of pleadings to be translated into the language of deliberation, by adding an explanatory footnote for the attention of the Advocate General and the formation of the Court hearing that case. Lawyer-linguists must also have regard to the phraseology and terminology used in their language unit and at the Court in general, which will in most cases be consistent with the regulatory acts. If that is not the case, they will have to make a judgement call.

83| This is necessary where the language version of the document cited is of inferior quality or even incorrect.

The more tangible and universal the subject matter of the translation, the more likely there will be close equivalences between languages. The more abstract and culturally specific the concept, the more the question of equivalence will arise and the complete absence of equivalence may even occur. Thus, 'manganese' will always be 'manganese'. If there is a word for it in another language, the equivalence will normally be flawless and any breakthrough affecting manganese will affect it as a concept in the same way across all languages. By contrast, 'marriage' is a concept that is fundamentally specific in each culture and the term used to designate it depicts a reality so divergent from one language to the next that the equivalence can only be approximate, even though the concept is universally understood, as a sort of Platonic notion.

Legal translation is closely tied to culture because the law is intrinsically linked to culture and even produces the cultural phenomenon in which it takes its place. It therefore poses particularly acute challenges. Terminological (and semantic) difficulties account for only a part of those challenges, but they are nevertheless considerable.

4.1.3 - Terminological reflection in a legal context

The lack of actual equivalence and the overlap of concepts arising in different legal systems pervades legal terminology.

In two given languages, terms with similar morphology may refer to concepts that are similar, but different, potentially leading to confusion. It is therefore impossible to rely solely on the linguistic form of words. Identical morphology in two languages may, in fact, conceal different meanings. This is what is known as a 'false cognate'. [84]

Concepts as fundamental as 'contract' or 'government' are both universal in their abstraction (more often than not their 'genotype' corresponds to their basic definition) and different in their concrete and specific reality (their 'phenotype' is defined by conditions and rules). [85]

84| For instance, the term 'tax evasion' in English refers to 'fraude fiscale' in French, which attracts a criminal penalty, while the term 'évasion fiscale' in French ('tax avoidance' in English) refers to steps taken, whether legal or not, to pay the least tax possible.

85| See Rodolfo Sacco, 'Langue et Droit', in Rodolfo Sacco and Luca Castellani (eds.), *Les Multiples langues du droit européen uniforme*, ISAIDAT, Torino, Éditions L'Hartmann, Italy, 1999, p. 172.

A similar challenge is posed by what Harvey refers to as 'incongruence'. [86] Two terms that are ostensibly equivalent in multiple languages may in fact cover concepts, which are only partially equivalent because the reality they convey varies between languages and sometimes within the same language. However, those are not the only challenges.

The same term may have a number of meanings (polysemy), which are completely different or nuanced to a varying degree. Those different meanings or nuances may, depending on the situation, correspond to a single equivalent word in another language, particularly where the languages are similar, or to several different words. [87] .

Although synonymy is less frequent in specialist fields than in everyday language, it may exist in legal language. Lawyer-linguists must be able to identify terms that refer to the same concept in the original document. Those terms may be synonyms, variants, terms belonging to different registers or terms originating from different sources. Different terms may be used for the same concept in different sections of legislation. For example, in Portuguese law, the expression 'responsabilidade parental' is gradually replacing the expression 'poder paternal'. Perfect synonyms are nevertheless a rarity. A fortiori, correspondence between synonyms from one language to the next is anything but certain. The target language may have fewer synonyms than the source language, or none at all, and where there is one or more of them, the degree of synonymy may vary. If the source text deals with the nuances between the two synonyms, those nuances will not always exist or exist in the same way in the target language. It will then be necessary to convey the issue at stake in the dispute, limited to the source language, if it cannot be rendered in the target language. [88]

86| Malcolm Harvey, 'Traduire l'intraduisible – Stratégies d'équivalence dans la traduction juridique', *Revue de l'Institut des langues et cultures d'Europe, Amérique, Afrique, Asie et Australie* (ILCEA), No 3, 2002, pp. 39-49.

87| For geographical and historical reasons, some languages, such as French, German and Polish, draw a distinction between 'Proche-Orient' and 'Moyen-Orient', whereas English groups both regions under the latter term, 'Middle East'.

88| In a request for a preliminary ruling submitted to the Court of Justice by a Dutch court, the latter was trying to determine in a criminal case whether, as the defendant claimed, a calf was only tethered if it was tethered in a certain way by relying on a literal argument based on a distinction between 'anbinden' and 'vastbinden'. The Court of Justice held that 'tether' meant 'tether' (judgment of 3 April 2008, *Endendijk*, C-187/07, EU:C:2008:197). In that case, it applied its principles of interpretation in the event of divergent language versions.

On the other hand, the use of a given term in the source language may sometimes mean having to choose between two different terms in the target language, each of which designates slightly narrower concepts. Without context, it will be impossible to decide which to choose. [89]

Even where two countries share the same language, the same term may cover two similar but different concepts. There are as many 'contracts' as there are legal systems. The ways in which individuals can be grouped together by law in the form of 'companies' or 'associations' are also numerous and vary greatly from one legal system to another. It is also possible to distinguish a variety of terms for the same concept in several legal systems sharing the same language (see the concept of 'homicide involontaire' [90]). It should be noted that the terminology deriving from EU law is often deliberately broad, if not artificial. The autonomous nature of EU law and its terminology may be the reason behind that willingness to depart from national terminology.

In short, it is rare for a legal term to have a perfect equivalent in other languages, except in multilingual States.

Belgium, as a trilingual State, thus has a long tradition of translation whereby every legal term is deemed to have an exact equivalent. An 'arrêté royal' is a 'koninklijk besluit' and anything affecting one also affects the other. But that equivalence is limited to Belgium: the Netherlands 'koninklijk besluit' is not the Belgian 'koninklijk besluit', although it is very similar.

89| To 'dismiss' an action is translated as 'odrzucić' or 'oddalić' in Polish depending on whether the action is inadmissible or unfounded.

90| 'Involuntary culpable homicide' in Scottish case-law, 'involuntary homicide' in Maltese law, 'unintentional killing' in EU legislation and, lastly, 'involuntary manslaughter' in the case-law of Ireland, England and Wales, and the European Union. See, for example, judgment of 29 March 2017, *Alcohol Countermeasure Systems (International)* v *EUIPO* – Lion Laboratories (ALCOLOCK), T-638/15, not published, EU:T:2017:229, paragraph 73.

When comparing laws, a concept may appear to exist in a legal system without, however, being designated by a particular term. In those circumstances, the lawyer-linguist must find a language solution. For example, the concept expressed by the term 'filiation' in French is one that could be described as universal, yet several legal systems in the European Union do not have a specific term to describe it.

Those challenges are all the more present when two distant legal systems are concerned. The best example is that of 'common law', whose very foundations differ from 'continental' systems and whose vocabulary has only an approximate equivalence in French. That differing logic permeates even legal reasoning.

A common law lawyer may use the word 'remedy' to refer to a redress procedure as a procedural step, to the outcome of that redress procedure, and often also to both of them without distinction, which in some other languages is not possible. It is also no easy task to determine whether, when using the concept of 'standing', that common law lawyer is referring to 'standing to bring proceedings' or the 'legal interest in bringing proceedings', since the two will be intermingled in his or her reasoning.

In addition to the above, there may be concepts in the source language that do not exist in the target language. One example is the concept of 'Revision' in German law, a form of appeal in civil, commercial and criminal matters that is conditional upon first obtaining leave from the national court. Such a requirement is not unknown in England, for instance, but has no equivalent in some other procedural systems. To translate 'Revision' as 'recours' in French would be tantamount to erasing a fundamental element.

4.1.4 - The choice of strategy: a teleological approach

All of these challenges are compounded by changes in languages and the law. The terms used in the original text may be incorrect or obsolete, for instance, 'inculpation' in France is now 'mise en examen'.

In view of those challenges, the question of principle formulated by Schleiermacher [91] is which approach is preferable: the 'ethical' approach, which simply transposes the source text, without helping readers bridge the linguistic, legal and cultural gaps separating them from the author, or the 'ethnocentric' approach, which, on the contrary, involves reducing that distance, despite the risk that the translator might depart from the letter of the source text and thereby undermine its integrity.

Most academic writers and practitioners advocate the ethical approach, but there is no clear-cut answer. There is a necessary middle ground between ethics and ethnocentrism, and the Court's lawyer-linguists adopt a teleological approach, based on the use that will be made of the translation, in choosing which fork in the path to take towards the reader, without ever overstepping the boundary beyond which they would betray the author and mislead the reader.

Harvey identifies four techniques to address the challenges mentioned: transcription, formal equivalence, descriptive translation and functional equivalence. [92]

Transcription involves reproducing the original term, possibly with an accompanying gloss. Rather than mistakenly translating 'common law' as 'droit commun', the term 'common law' would be reproduced, explaining that it refers to the Anglo-Saxon system of law largely based on judicial precedent.

Formal equivalence means a literal translation, for example, translating 'Bundesverfassungsgericht' as 'Federal Constitutional Court'.

91| Friedrich Schleiermacher, *Über die verschiedenen Methoden des Übersetzens* (Abhandlung verlesen am 24. Juni 1813 in der Königlichen Akademie der Wissenschaften, Berlin). Hrsg. Elisabeth Edl, Wolfgang Matz, Alexander Verlag, Berlin, 2022.

92| Malcolm Harvey, *op. cit.*

Descriptive translation uses generic wording or circumlocution, at the risk of introducing ambiguity. Thus, the term 'prescription extinctive' in French would be rendered as 'time-bar' in English without distinguishing between 'prescription' and 'forclusion'.

Functional equivalence means using a referent in the target language and target legal system which performs a similar function. Rather than translating the Polish word 'Sejm' as 'Diet' in English, preference would be given to 'Chamber of Representatives', it being impossible for the reader to be misled given the proximity of the two concepts.

Those four strategies may be placed on a continuum ranging, as above, from the source language (ethical approach) to the target language (ethnocentaric approach). They guide the work of lawyer-linguists.

In short, except where there is one-to-one correspondence between terms and complete transposition from one legal system to another, lawyer-linguists, faced with those difficulties, shift between the strategies of transcription, formal equivalence, descriptive translation and functional equivalence mentioned above.

Lawyer-linguists must make a choice when translating and remain faithful to it to ensure terminological consistency. In general, the terms chosen by lawyer-linguists are part of specialised language (legal field) and come from reliable sources (legislation or case-law).

It should be borne in mind that the texts of the Court of Justice produce legal effects. Lawyer-linguists shoulder significant responsibility in their twofold mission of supporting the work of the EU judicature and ensuring the multilingual dissemination of the case-law. They should not attempt to correct or embellish the text, but should acknowledge and reproduce its nuances. They have little leeway. That said, each text calls for a bespoke translation strategy, which takes account of the nature of the text to be translated and its readership. The requirement that the translated text be reliable is absolute and that text must be understood in the same way in all languages. Translation errors have consequences, as readers react to case-law or to judgments they have read in their own language.

Translation strategies are sometimes oriented towards the source language, sometimes towards the target language. The choice of strategy is a pragmatic one and depends on the purpose of the translation, which must be identified by the legal translator: is it to inform the reader or to create legal effects?

In the first scenario, the translator's objective is to 'inform' the reader about the content of the document to be translated, that is to say, to enable the reader to grasp the message of the author of the source text. That is the type of translation used, for example, in procedural documents lodged before the EU Courts or in the description of the facts contained in Opinions or judgments in preliminary ruling proceedings. The reader must understand the issues at stake, the reasoning and the arguments, and must therefore be able to discern all the elements related to the source language which are necessary for that understanding, without overly dwelling on insignificant differences or nuances. If, for example, the precise form of the 'company' has no bearing on the substance, the translator may not feel the need to explain the differences that may exist between the two languages, provided that the reader is able to form an accurate picture of the context of which the translated document forms part.

Where, on the other hand, the 'translation' is in itself a source of law, thus creating legal effects, because the language in which it is drawn up is the authentic language, the 'translator' is in actual fact an 'author'. He or she works from a reference original, drafted in one language, to draw up an equivalent text in another language. That process is the same as the one followed in multilingual States like Belgium. Translation into one language often leads to discussions on the text drafted in the other language and some toing and froing between texts.

Lawyer-linguists at the Court who translate judgments from the language of deliberation into the language of the case produce the version that is authentic *inter partes*. However, all language versions also create law, especially in preliminary ruling proceedings, since preliminary rulings are binding *erga omnes*, [93] including on all courts and tribunals in the European Union. In practice, however, and despite the *Cilfit* case-law, each of those courts and tribunals will often acquaint themselves with those rulings only in their own language. [94]

93| See, as regards the language arrangements at the Court of Justice, Marc-André Gaudissart, *op. cit.* (*see footnote 24*).

94| An opinion of the Court of Justice delivered under Article 218 of the Treaty on the Functioning of the European Union (TFEU) is, on the other hand, authentic in all the official EU languages at the time of its adoption, as are regulatory acts adopted by the European Parliament, the Council of the European Union and the European Commission. All language versions therefore create law and, further, the same law.

4.1.5 - Communication between authors and translators

Authors of original and authentic texts may employ preventive techniques to avoid or mitigate the pitfalls of multilingualism. To some extent, those techniques spare lawyer-linguists the task of having to choose a particular approach to translation problems and they ensure that texts are understood and interpreted uniformly. [95]

The purpose of the 'convention' is to identify concepts whose transposition into another language and another system may give rise to confusion and to provide at the outset a definition of those concepts to forestall that risk. The author may also 'borrow' a term from another language to refer to a concept originating in an identifiable legal system. For example, the English-language version of Articles 18 and 39 of the United Nations Convention on the Law of the Sea of 1982 expressly refers to 'force majeure' (in French in the text) in favour of the more restrictive concept of 'act of God'. [96]

'Co-drafting' involves linking up experts in each language and each system concerned to identify possible divergences and avoid them by taking preventive steps such as those mentioned above. At the Court, that need is also addressed by the dialogue that takes place between lawyer-linguists and the member's chambers that has drawn up a draft Opinion or decision.

Lastly, by establishing a 'precept of interpretation', the author points to how any ambiguities should be resolved. The Court thus provides an autonomous interpretation of concepts of EU law, which departs from the meaning of any analogous concepts in national legal systems. [97] It applies that precept not only to primary and secondary law, but also to the interpretation of its own case-law.

95| See, in particular in that regard, Pierre Pescatore, *Vademecum – Recueil de formules et de conseils pratiques à l'usage des rédacteurs*, Éditions Bruylant, in the section on working with translation services. Also see the booklet prepared by the Translation Centre for the Bodies of the EU entitled 'Writing for translation' (https://cdt.europa.eu/en/news/writing-translation).

96| The concept of 'act of God' refers to unforeseeable natural events not caused by man, such as natural disasters, while 'force majeure' also covers man-made circumstances, such as acts of war or epidemics.

97| See, in particular, judgments of 18 January 1984, *Ekro*, 327/82, EU:C:1984:11, paragraph 11; of 27 January 2005, *Junk*, C-188/03, EU:C:2005:59, paragraphs 27 to 30; and of 7 December 2006, *SGAE*, C-306/05, EU:C:2006:764, paragraph 31.

The translation of autonomous concepts in EU law

In legal translation, the precept of the autonomous interpretation of concepts in EU law may preclude the automatic application of a comparative approach, that is to say, the selection of functional equivalents between legal systems. It is true that that approach based on comparative law befits, for example, the translation of a request for a preliminary ruling and the observations which follow it, since those documents are steeped in national law. However, at the stage of the Opinion and the judgment, although that approach largely predominates in the description of the facts and reflects the choices made upstream and, in particular, in the translation of the request for a preliminary ruling, it is applied less to the reasoning set out in those texts. That part is more suited to an approach based on EU law, another legal system that lawyer-linguists must master. It falls within the context of autonomous EU law, which consists of concepts specific to it ('direct effect', 'equal treatment') or creates genuine neologisms. The 'neologism' here involves creating a new concept to rule out any likelihood of confusion linked to national legal cultures. The Court of Justice has thus gradually adopted the term 'direct effect' to designate a concept specific to EU law. [98] Lawyer-linguists and, further down the line, interpreters will endeavour to reproduce those concepts in their own language and, inasmuch as they are not already part of established terminology, to render them in neutral terms devoid, as far as possible, of specifically national connotations.

98| Judgment of 5 February 1963, *van Gend & Loos*, cited above, in which the Court of Justice confirmed for the first time the existence and scope of direct effect, but at that time used the term 'immediate applicability'.

4.2 - Interpretation at hearings

4.2.1 - Principles and methods of interpretation

Simultaneous interpretation can be defined as a first and final rendition in a target language produced immediately on the basis of a one-time presentation of an utterance in a source language, with little chance for correction. [99] With the exception of sign language, interpreters produce that instantaneous translation orally, that is to say they express the communicative intentions of the speaker in another language through verbal, vocal and mimogestural channels. Since interpreters hear the utterances in the source language without interruption, they translate them in segments, as they go along, within a short time frame. [100]

Like lawyer-linguists, all the interpreters in the Interpretation Directorate are at the service of the Court of Justice and the General Court in equal measure. The principle of optimal use of resources governs the assignment of interpreters to the hearings of each Court, according to the needs of the Members of the Court formations and the parties. Groups of visitors attending hearings are also entitled to interpretation. In addition to hearings, interpreters also provide assistance at events and formal visits. Two methods of interpretation are used at the Court: simultaneous interpretation and *consecutive interpretation*.

In the case of simultaneous interpretation, the interpreters, who are allocated to booths depending on the language into which they work, interpret – generally into their mother tongue [101] — the oral arguments, questions and answers submitted in the courtroom by the various hearing participants. There are at least two interpreters in each booth because, given the intellectual effort involved in interpreting, they have to take turns, for example at the end of a set of oral arguments or a question-and-answer session, in order to maintain the same level of concentration and thus quality.

99| Franz Pöchhacker, *Introducing interpreting studies*, Routledge, London, 2004.

100| Heidemarie Salevsky, 'The distinctive nature of interpreting studies', Target, 5(2), pp. 149-167.

101| For some language combinations, the Court uses 'retour' interpretation in which the interpreters reproduce an address made in their mother tongue in another language, usually English or French (*see section 3.6.3*).

The other working method, consecutive interpretation, is where the interpreters take notes during the speaker's address and reproduce the content thereof consecutively. That technique is often used at formal events, visits, receptions and, at the General Court, during amicable settlements and bilateral discussions between the Judges and the parties away from hearings.

4.2.2 - The specific challenges of simultaneous interpretation at the Court

In an international judicial body like the Court, conference interpreters face two kinds of challenges: challenges specific to legal translation, already outlined in this book, and challenges specific to *simultaneous interpretation*.

Simultaneous interpretation is a form of translation. Consequently, the challenges faced by interpreters at the Court could, at first sight, be likened to those faced by lawyer-linguists. At hearings, the conference interpreters called upon to translate oral submissions and exchanges between the parties and the Members of a Court formation must inevitably negotiate the linguistic and cultural pitfalls of legal translation.

The Court's interpreters rely on the approach taken by the lawyer-linguists who previously translated the pleadings of the parties to the case. While lawyer-linguists translate requests for a preliminary ruling into all languages, they only translate pleadings into the language of the case and into French. The interpreters also work for Judges, Advocates General and groups of visitors, that is to say into languages that are not necessarily the language of the case or of the parties. If there is no written translation into the language concerned during the written part of the procedure, it will be for the interpreters to choose the right translation strategies, not only when studying the case file but also during the hearing, when they are interpreting.

Interpreters in international legal orders are also faced with challenges specific to their profession. The source discourse that interpreters must understand and almost simultaneously express in another language is uttered only once and is not written down. In order to understand oral submissions, often delivered at a brisk pace, and to translate them simultaneously with the required degree of accuracy, interpreters must make an intense and continuous intellectual effort resulting in an exceptionally high cognitive load.

The effort model [102] serves to better understand the issues at play in that cognitive challenge and its consequences. That model depicts interpreters' management of cognitive load as the coordination of several competing cognitive efforts within a system with limited processing capacity. Several non-automatic intellectual acts require simultaneous cognitive efforts: listening and analysing the source discourse, storing and retrieving information in one's short-term memory, producing the interpretation, and coordinating the allocation of cognitive treatment capacity to the different efforts. Since each effort requires processing capacity, which is available in finite quantities, the difference between the total required processing capacity for interpretation (TRC) and the total available processing capacity (TAC) results in the maintenance (TRC ≤ TAC) or, in the event of the overload of cognitive capacities (TRC > TAC), the deterioration of the quality of the interpretation provided. That deterioration is evidenced by errors in production, for example when the interpreter omits information, repeats it unnecessarily, hesitates or speaks in an unnatural intonation. [103]

The higher the cognitive effort required by the task, the higher the risk of cognitive overload. The risk factors for cognitive overload identified by Gile include discourse that is rapid, dense or read aloud, unfamiliar proper names, numbers and acronyms, unusual accents, complex logical reasoning, audio transmission problems, complex syntax, lexical or syntactic differences between source and target languages, speaker monotony and interpreter stress.

At the Court, interpreters frequently encounter most of those risk factors. To mitigate the risk of cognitive overload, they typically have recourse to specific strategies and tactics.

102| Daniel Gile, *Basic concepts and models for interpreter and translator training*, revised edition, John Benjamins Publishing Company, 2009.

103| See, on interpreters' characteristic intonation and its effects, Cédric Lenglet and Christine Michaux, 'The impact of simultaneous-interpreting prosody on comprehension: an experiment', *Interpreting*, 22(1), pp. 1-34.

4.2.3 - Strategies and tactics

Strategies

Strategies are conscious choices made by interpreters prior to the meeting or hearing. They cover, among other things, analysing the meeting documents or the case file, preparing terminology, keeping one's working languages up to standard and regularly polishing one's skills.

At the Court, the strategies used include the detailed preparation of each case during a specific period of working time, which accounts for the bulk of interpreters' work, confidential access to files and written submissions, and ongoing legal and language training.

Kalina places interpretation strategies within a broader framework of quality assurance, [104] which covers all the stages that precede, accompany and follow meetings and hearings. Strategies thus include not only individual acts of preparation and training, but also collective initiatives to promote quality supported by an interpretation service.

Muttilainen cites several such strategies that are in place at the Court's Interpretation Directorate: [105] raising speakers' awareness of the constraints of interpretation, distributing workload fairly between interpreters, giving interpreters recovery time, making advanced IT tools available, and providing ongoing training.

In short, strategies constitute the preliminary work undertaken behind the scenes by each interpreter and by an interpretation service as an organisational entity. They serve to lay the necessary foundations for mitigating the risk of cognitive overload and, therefore, achieving the interpretation quality required for the smooth functioning of judicial work.

104| Sylvia Kalina, 'Quality assurance for interpreting processes', *Meta: Translators' Journal*, 50(2), 2005, pp. 768-784.

105| Marie Muttilainen, 'Perroquets savants ou professionnels aguerris? L'importance de la préparation', Kilian G. Seeber, *100 Years of Conference Interpreting: A Legacy*, Cambridge Scholars Publishing, 2021, p. 190.

Tactics

Interpretation strategies are devised and implemented 'behind the scenes', but tactics come to life 'on stage', namely during hearings or meetings, in the *booth*.

When interpreters are in the process of interpreting, they employ tactics, that is to say they take ad hoc decisions to reduce the risk of cognitive overload when problems arise. Gile refers some of the most common tactics: [106] increasing the 'time lag', in other words listening for longer so as to gather more information before starting to interpret; inferring the missing part of a spoken segment from the context or from one's own knowledge; paraphrasing; providing a literal translation (calque, borrowing, reproducing the sound heard); using a hypernym; consulting one's boothmate or the meeting documents; segmenting a long proposition into several shorter propositions; anticipating the content of the source text; and using vague or general expressions that can be clarified at a later stage.

Depending on the situation, some tactics will be more appropriate than others. For example, waiting five seconds for additional information before proceeding with the interpretation will have a different effect on the quality of the service depending on the speed of the speaker, the restlessness of the audience or whether an on-screen presentation tool is used, the slides of which might no longer match the interpretation provided if the time lag persists.

Furthermore, tactics may conflict with each other. For example, should an interpreter in difficulty omit a problematic segment of the discourse which, if processed, might overload his or her cognitive capacity? Or should the interpreter allocate additional cognitive effort to it, at the risk of causing subsequent cognitive overload, which would obscure his or her understanding of later segments? It is the task of the interpreter, on a case-by-case basis, continuously and within a split second, to choose the right tactics according to the priorities of the communication situation. The outcome of the analysis of the situation and the appropriateness of the tactical choices made will depend on the interpreter's level of skill (linguistic and subject matter expertise, command of

106| Daniel Gile, *op. cit.*; also see Gérard Ilg, 'L'apprentissage de l'interprétation simultanée. De l'allemand vers le français', *Parallèles*, No 1, 1978, pp. 69-99, Cahiers de l'ETI, Université de Genève, and Roderick Jones, *Conference interpreting explained*, Routledge, Manchester, 1997.

interpretation techniques), working conditions (possibilities for preparing, view of the audience, fatigue, quality of audio transmission) and personal and professional ethics.

4.2.4 - Pre-hearing preparation

An essential strategy for ensuring that interpretation is of the requisite high quality is to allow time for interpreters to prepare. All interpreters assigned to hearings of the Court of Justice or the General Court, whether in-house or freelance, must have sufficient time to study the case file in detail before the hearing. That preparation is essential and forms an integral part of interpreters' work, with variations depending on the volume of the file, the complexity of the case and the number of languages at the hearing.

As soon as the interpreters learn of their booth assignments for the following week, they begin to study the documents in the file. They put together a list of specialised case vocabulary and assemble legislation and case-law references. They need to understand the substance of the case and the reasoning of the parties. They use a range of comprehension and memorisation techniques. For example, mind mapping (the visual representation of ideas or information in the form of diagrams) is fairly widespread among interpreters at the Court.

Preparatory work is based on all the documents relevant to the case, such as the relevant legal instruments and case-law in the field. That work is reliant in particular on the translations and terminology produced at an earlier stage by lawyer-linguists in the same case or in related, pending or closed cases.

Lastly, interpreters sometimes receive the notes for the oral submissions the day before the hearing, or just before the hearing starts. In those notes, figures, citations and references to legislation must be identified.

All of that preparation is carried out as a team, both in conjunction with the assistants who prepare the case files and reference documents and with the Directorate-General's cross-cutting departments, particularly where there are terminological needs. That team spirit is even more evident in the booth, where the interpreter who is not at the microphone is there to discreetly provide the colleague who is interpreting with a missing reference, a cited provision or the right word at the right time.

4.2.5 - The skills and duties of an interpreter

Given the specific challenges of interpreting at the Court, interpreters working for the institution must have a certain skill set and meet professional obligations of ongoing training, confidentiality and good faith.

In the first place, interpreters – who have to deal on a daily basis with the high level of legal and technical complexity of the cases before them and the speed at which oral submissions are read – must have a thorough knowledge of their working languages, a sharp and analytical mind, and the ability to express themselves in the language into which they work using the same register and with the same accuracy as the speaker. In the second place, interpreters must undergo continuous training, whether by keeping the languages of their language combination up to standard, which is crucial, learning new languages or attending legal seminars. They must also have solid general knowledge, as they are sometimes required to switch from a legal register to a more literary register, either in the context of formal addresses or when speakers pepper their discourse with quotations or cultural references.

In the third place, interpreters must have a clear awareness of their duty to act in good faith towards the institution and towards litigants. They are bound by the strictest professional secrecy with regard to both the information received before the hearing and the submissions that lawyers entrust to them. The notes for the oral submissions are moreover intended solely for the interpreters; they are not transmitted to the Members of the Court formation or the Advocate General responsible for the case and they are not included in the case file. [107] That bond of trust with the Members and with the parties' lawyers is invaluable for ensuring high-quality interpretation.

107| Practice Directions to parties concerning cases brought before the Court, cited above, point 67.

4.2.6 - The involvement of speakers

Cooperation with speakers is an additional strategy for ensuring high-quality interpretation. The quality of a hearing depends in part on the interaction between the various hearing participants. It therefore seemed natural to strengthen cooperation between interpreters and speakers. For a number of years now, steps have been in place to make agents and lawyers who regularly plead before the Court familiar with the profession of interpreter and to encourage dialogue between them prior to, during and after hearings.

In that way, lawyers and agents who come to plead at the Court can receive advice and suggestions aimed at facilitating the work of the interpreters. For example, they are advised to speak freely, at a natural pace, without reading out a written text, always quoting citations, references, figures, names, acronyms and so forth clearly and slowly. If, however, the speaker decides to read a written text aloud, he or she is asked to send it to the interpretation service in advance so that the interpreters can be prepared.

Shortly before the hearing, an interpreter designated as team leader contacts the speakers to remind them of those tips and to encourage any exchange of views that might contribute to a better understanding of the proceedings.

Lastly, after the hearing, the interpretation service responds to requests from speakers wishing to receive feedback on their performance.

In short, conference interpreters engage on a daily basis in an exercise fraught with risk, during which the unique cognitive challenges of simultaneous interpretation are stacked on top of the delicate judgment calls required in legal translation.

In view of what is at stake in cases dealt with by multilingual judicial bodies, simultaneous interpretation at hearings must be accurate and of a high quality. To that end, the Court and its interpretation service have developed a working environment conducive to quality. That environment promotes strategies to create the optimal conditions for mitigating the risk of cognitive overload in interpreters during hearings. Those strategies include giving interpreters appropriate preparation time, adhering to quality standards for audio and video transmission, providing ongoing training, and working with stakeholders.


VOICE

Once in the booth, conference interpreters employ interpretation tactics appropriate for accomplishing their duties, on a case-by-case and minute-by-minute basis. It is therefore important to recruit interpreters possessing the highest standards of ability, efficiency and integrity, usually evidenced by a postgraduate degree, succeeding in an *accreditation test* or in a competitive selection procedure.

As mentioned above, the importance of translation in international judicial bodies militates in favour of the use of lawyers, who are the only professionals capable of gauging the legal implications of their choices in the translation of case documents, judgments and Opinions. During the oral part of a multilingual procedure, the specific cognitive challenges of simultaneous interpretation demand that, here, seasoned conference interpreters, who are the only professionals capable of averting the permanent danger of cognitive overload, be used to ensure that discussions are fluid and clear, whatever language is used.

4.3 - Multilingualism support tools

4.3.1 - Terminology

As we have seen, the terminological difficulties faced by readers, drafters, translators, interpreters, lawyer-linguists and citizens are real, especially when it comes to legal texts: synonymy, polysemy, obscure terms, language common to several cultures, obsolescence of terms, false cognates, and so forth.

In order to ensure that case-law texts in all EU languages are of impeccable quality and thus facilitate access to and comprehension of those texts, reliable terminology is a must. In the same vein, terminology is essential for high-quality interpretation in order to ensure accurate legal debate at hearings.

Terminology work is carried out on various fronts: the creation of terminology collections; the human pre-processing of documents to be translated by indicating the terminological entries to be consulted for the translation of certain concepts of national law; supporting and training lawyer-linguists; enriching and consolidating the general terminology bank in the *IATE* terminology database; and improving inter-institutional and international cooperation in the field of terminology.

The main challenge for lawyer-linguists is to identify the most appropriate way forward when no functional equivalent exists and there is no suitable term in the target language designating the same legal concept. Their work often involves comparing heterogeneous legal systems and finding novel translation solutions. The terminology used must be as consistent as possible, meaning that lawyer-linguists should be able to leverage the results of previous terminology discussions. The results of those discussions emanate, in their raw state, from past translations. However, the efficient management of terminology requires the outcomes of terminology discussions to be organised in a commonly accessible database and the intellectual and legal processes leading to them to be shared. Where a solution to a problem in the translation of national law has been found after lengthy comparative law research, that solution should be recorded in a structured and documented manner in a terminological entry. Recording the results of comparative law research is key to ensuring that work done is not lost and that terminological choices remain consistent.

Such recording makes it possible to pinpoint not only the suggested terms for expressing each concept in the various legal systems, but also the documentary and terminological materials guaranteeing the relevance, clarity, accuracy and reliability of the choices made by the lawyer-linguists who drew up each terminological entry. In a work environment underpinned by the existence of almost 28 legal systems and 24 official languages, such a terminology database enriched with comparative law notes greatly reduces the comparative law research needed to translate texts, especially in preliminary ruling proceedings.

The purpose of terminology management and terminology pre-processing is to capitalise on the research carried out by lawyer-linguists, which should result in time savings in the translation process, greater terminological consistency and higher-quality translations.

The outcome of the research carried out by lawyer-linguists, particularly in the field of comparative law, aimed at understanding concepts and finding solutions to translation problems, is therefore recorded automatically in a database containing terminological entries organised by concept. [108] When lawyer-linguists are required to create a terminological entry in the database, whether in the course of translating a text or in the context of a systematic exercise by subject area, they will draw on several sources. Those sources are EU regulatory acts (priority is given to terms in primary law followed by those in secondary law, which sometimes need correction), case-law (with attention to autonomous terms the meaning of which may differ from that under national law) and national law. A number of situations may arise. If the term is a match and is perfectly capable of being transposed from one legal system to another, the approach is straightforward. If there is a near match, it will be necessary to explain the differences. If more than one concept is a match for a term present in one or more legal systems with the same language (polysemy), that must also be documented. If there is no match between concepts, are we then faced with an untranslatable term? Of course not, because the Court's decisions must be translated in their entirety and the lawyer-linguist may consider, as in the context of translation, one or more of the approaches described above (*see section 4.1.3*).

In all cases, it will be necessary to give reasons for, and to document, the choices made. When lawyer-linguists create a terminological entry, they must be able to justify their

108| Caroline Reichling, *op. cit.*

choices, as they do with the choices made during a translation. They will often draw on the input of their colleagues, the members' chambers and national experts.

The terminological entry thus contains the information that enabled the lawyer-linguist to reach a terminology solution and to justify his or her choice. The terminological entry also sets out any difficulties encountered. Information gathered on a concept and recorded in a terminological entry serves not only to locate terms, but also:

- to place the concept in a clear context (the field to which the concept belongs and the context of the terms);
- to ascertain quickly whether the concept exists in the legal system in question;
- to gain a rapid understanding of the concept (definition and explanatory notes);
- to localise the concept in a system and access information concerning related concepts (domain trees);
- to identify the origin (legal system) and the source of the terms (terminology reference materials) and assess their reliability and relevance;
- to distinguish between terms designating a legal concept and expressions created to convey foreign legal concepts;
- to consult information on the use or assessment of terms (preferred term, use of term discouraged, obsolete term, and so forth);
- to read a summary of the conclusions reached following a comparative examination of legal systems (between national laws or between national law and EU law) and gain swift access to the legal literature referred to;
- to view any caveats so as to avoid falling into certain traps (false cognates, similar concepts, misnomers, and so forth).

The terminology produced by lawyer-linguists is primarily intended for them, since reliable terminology increases both productivity and the quality of legal translations. The terminological entries reduce the amount of comparative law research needed to translate certain types of documents (especially orders for reference and Member States' observations). Further, they facilitate the work of other departments at the Court which have to understand, draw up or interpret legal materials. They are also made available

to the language services of other EU institutions via the (inter-institutional and public) IATE database, which helps to increase consistency between EU legislation and national legal systems. Lastly, the terminology work carried out by the Directorate-General for Multilingualism (DGM), particularly the *Comparative Multilingual Legal Vocabulary (MLV)*, [109] is attracting growing interest, both within and beyond the institutions too, because it is a useful tool for anyone who has to understand and draft materials: citizens, legal practitioners and national courts and tribunals.

Terminology and interpreters

From time to time, the Court's interpreters provide assistance to the unit responsible for terminology. In general, however, they are more likely to be users of the terminology contained in the IATE database (*see section 4.3.2*) and of that deriving from regulatory acts, case-law and translations of procedural documents in cases produced by lawyer-linguists. Familiarisation with the terminology of the case is also part of their preparation for hearings (*see section 4.2.4*).

When the interpreters assigned to a hearing are unsure about divergent terminology, they work together to ensure that the terms used in their booth are identical, regardless of who is interpreting. In exceptional cases where incorrect terminology poses a problem at the hearing, they will inform the translation service so that it can take the matter into account downstream in the proceedings, for the Opinion and the judgment, or update the relevant terminological entry.

109| For searches by institution or collection, see the following explanatory leaflet: https://iate.europa.eu/assets/brochure_search_by_collections_and_downoad.pdf

Terminology in the context of EU judicial networks

Cooperation with the Supreme and Constitutional Courts of the Member States was established within the framework of the Judicial Network of the European Union (JNEU), created in 2017, on the occasion of the Conference of Judges bringing together the Supreme and Constitutional Courts of the Member States and the Court of Justice to celebrate the 60th anniversary of the signing of the Treaties of Rome. In January 2018, a multilingual platform for the secure exchange and sharing of documents and information was launched for members of the participating courts.

The JNEU platform thus makes available to its members a selection of documents chosen by the contributing courts concerning the application of EU law by the courts and tribunals of the Member States and by the Court.

In view of the platform's success and the interest, which some of its materials could generate among legal professionals, it was suggested to the participating courts that some of the JNEU's materials could be made available to the public in a specific section of the Curia website. That specific section was created in 2021 and the Court's first contribution to cooperation consisted in publishing its existing language and terminology resources (particularly the terminological entries and documentation). Sharing those resources contributes to the understanding of different national laws, supports drafting and translation work, and facilitates dialogue between lawyers from different legal cultures, who can therefore communicate in a common language while being able to refer to the Court's terminological entries to gain a better grasp of legal concepts, to describe the content of a document with the help of explained terms, and so forth.

Each court was also asked to identify national language and terminology resources likely to be of interest to the other courts and tribunals, including the Court.

Another potential form of terminology and language cooperation would involve establishing a virtual network (a forum or something similar) to which each participant could contribute by asking and answering questions on concepts of national law. The Court's terminology service, for its part, could search its terminology database to facilitate understanding of the question and the wording of the answer. Moreover, all the information provided could be usefully recycled in the terminology database for everyone's benefit.

It would also possible, thanks to that network, to enrich or correct the Court's now common terminology resources. Such cooperation could also include monitoring, in that national courts and tribunals are ideally placed to determine when legislative and regulatory developments warrant a review of certain terminology.

4.3.2 - Multilingual search tools

Lawyer-linguists and interpreters at the Court are required to carry out a great deal of research as part of their daily work and, in that task, they are supported by multilingual research tools developed at inter-institutional level or by the Court.

For terminology, lawyer-linguists and interpreters rely on IATE, [110] the terminology database common to all EU institutions, most of which is publicly accessible. There, they are able to consult, inter alia, the Court's terminology collections (*Comparative Multilingual Legal Vocabulary* or MLV, the terminology of the Rules of Procedure of the EU Courts, names of national courts, and so forth). The (multilingual and multisystem) data resulting from extensive comparative law research are presented in the form of a detailed terminological entry.

For full-text multilingual legal research, the first port of call would be EUR-Lex, [111] which provides access to EU law. That site enables users in particular to consult legislation and case-law using the bilingual or trilingual display function.

The Court's in-house search engine – EURêka – provides access not only to EU case-law, but also to procedural documents lodged by the parties to cases and other internal and external documents (notes on legal literature). Lawyer-linguists additionally use Curia, the website of the Court, which provides a detailed form [112] for searching the

110| https://iate.europa.eu/home

111| https://eur-lex.europa.eu/homepage.html?locale=en

112| https://curia.europa.eu/juris/recherche.jsf?language=en

It should be noted that the page dealing with the Judicial Network of the European Union (JNEU, link: https://curia.europa.eu/jcms/jcms/p1_2170157/en/) provides a specially configured search form for carrying out targeted searches of references for a preliminary ruling. Since 1 July 2018, it has also been possible to consult the national orders for reference in all available language versions.

case-law and is the reference source for the different language versions of the texts governing procedure.

The advantage of the QUEST inter-institutional meta-engine, a language search tool, is that it can search across several sources simultaneously. Those sources include IATE, the interinstitutional *translation memories* accessible via *Euramis*, and full-text databases such as EUR-Lex.

Euramis is a set of translation memories populated by the institutions, including the Court. That tool is used to prepare the work files provided to lawyer-linguists in the Trados Studio environment (*see section 4.3.3*).

4.3.3 - Translation support tools

The DGM has recourse to cutting-edge translation tools. Those tools are either specially designed at inter-institutional level or developed by market operators to meet the needs of translation services, including those of the EU institutions. They play an essential role in the work of lawyer-linguists. Their use depends on the specific intellectual exercise required at each stage of the translation process. Lawyer-linguists continue to be at the centre of that process and decide on the tools to apply. This is known as 'enhanced translation'. [113] While individual translation support tools are becoming more and more powerful, there is still room for their ability to communicate with and enrich one another to be improved, so that ever more relevant and accurate solutions can be offered to lawyer-linguists, who remain at the helm of the translation process.

The working environment: Trados Studio

The Court's translation service makes a translation-specific working environment available to all its lawyer-linguists. The Court currently uses Trados Studio, which was awarded the last two inter-institutional public contracts. That working environment displays the source and target texts simultaneously, so that sentences which have already been translated, which are still to be translated, which are in the process of being translated or for which there are 'machine' translation suggestions are shown side by side. The alignment of the language versions makes it possible, after translation, to populate the Euramis inter-institutional database. Within Trados Studio, lawyer-linguists can activate other translation support tools. That possibility provides a sound basis for future improvements, enhancements and developments in the field of enhanced translation.

113 | '[La] "traducción aumentada" (De Palma, 2017) o "asistida por conocimiento" (do Carmo et al., 2016: 149) ... consiste en integrar las tecnologías de traducción disponibles en cada caso en el proceso de traducción de modo que se optimice el rendimiento de los traductores y sin que por ello estas tecnologías asuman el control total o parcial del proceso de traducción.'

'"Enhanced" (De Palma, 2017) or "knowledge-assisted translation" (do Carmo et al. 2016: (149) ... involves incorporating into the translation process the translation technologies available for each situation, so as to optimise translators' performance, without those technologies taking full or partial control of the translation process.' Chelo Vargas-Sierra, 'La estación de trabajo del traductor en la era de la inteligencia artificial. Hacia la traducción asistida por conocimiento', *Revue Pragmalingüística*, December 2020.

IATE, Quest, DocFinder and Euramis

The tools currently available to the Court's lawyer-linguists via the Trados Studio working environment are IATE and QUEST (*see section 4.3.2*), as well as DocFinder, Euramis and neural machine translation.

DocFinder – a meta-search engine – centralises, simplifies and expedites access to documents from a single interface. One of its most practical functions is the automatic creation of a hyperlink to a reference document based on sometimes fragmentary quotations.

Euramis makes it possible to import into Trados Studio 'segments' (sentences or parts of sentences) that have already been translated. Trados Studio is able to analyse each segment of a text to be translated automatically and, if such a segment bears a high degree of similarity to another, previously translated segment contained in the Euramis database, the tool will display that segment while highlighting any differences. The suggestions provided by the Euramis database are of a high quality, since only the best quality translations produced and finalised by lawyer-linguists and translators, whether or not with the support of IT tools, are entered in Euramis. Lawyer-linguists can decide to display only pre-translated segments having a minimum percentage match with the source segments, set by default at 65%. However, the origin of pre-translated segments must be verified. For example, in the case of a direct or indirect quotation, there is no question of accepting a translation simply because it is semantically and linguistically correct. The translation must also originate specifically from the cited source. That is why the DGM has developed a tool enabling the documentation which, in all likelihood, is the most relevant for a given translation to be selected from Euramis. The segments deriving from that documentation are given priority within Trados Studio by means of a weighting mechanism. As soon as a translation project is created, the lawyer-linguist will receive a '*functional kit*', which he or she is free to add to and which contains automatically a number of relevant documents, such as documents already translated in the same or related cases and documents cited in the text to be translated. To enhance the relevance still further, the language units determine, for their language, the reference phraseology (general or specific to a particular type of dispute) and that phraseology is included in the functional kit.

The need for verification by lawyer-linguists

Irrespective of the quality of translation support tools, legal translation professionals will always have to check the software's suggestions, even if the source document from which that suggestion derives is the relevant document in the context and the retrieved segment and the segment to be translated are a 100% match. [114]

Similarly, the software may throw up anomalies on account of alignment errors in the language versions in the Euramis database itself and provide a translation suggestion for a segment other than the segment that should have been retrieved. Nevertheless, translators and lawyer-linguists may also commit translation errors, which, if undetected, will remain in the texts that populate the database and be suggested to whoever is using it.

Lastly, although the retrieval of previous translations is often a useful approach, it is nonetheless a conservative one: the suggestions might no longer correspond to current practices and mindsets, for example as regards inclusiveness. The quality of the segments in the Euramis database and of their alignment is therefore essential and is scrutinised with the utmost care by all EU institutions. That said, there is always a margin of error or discrepancy, which is for the lawyer-linguists to correct. On a final note, it should be borne in mind that the vast majority of sentences that lawyer-linguists are required to translate have never been translated – they translate them without constraint, subject to the use of appropriate terminology, with the benefit of assistance from another powerful tool: 'machine' translation.

114 | For instance, in respect of the phrase 'tous les États membres prennent les mesures nécessaires pour s'assurer que …', taken from Article 39 of Directive 2014/33/EU of the European Parliament and of the Council, the software returns the following two slightly different translations in English which are nevertheless marked as 100% matches: 'all Member States shall take the *measures necessary* to ensure that …' and 'all Member States shall take the *necessary measures* to ensure that …'. Only one of those translations is correct, but the software cannot tell which: that is for a human to decide.

Machine translation tools: eTranslation and DeepL Pro

The Trados Studio environment also incorporates a machine translation tool. As recently as 2018, such tools operated on a simple statistical basis, that is to say they relied on a computer model trained on large corpora of texts and suggested translations according to the mathematical probability of their relevance. They now operate on a neural basis, thus named by analogy with the functioning of the neural network of the human brain. To that end, a two-stage process must be carried out. The first stage consists in training neural engines on huge corpora of aligned bilingual segments, from which those engines will 'learn' to identify matches between segments: this is the training phase of the neural engines. [115] Once trained, those engines can be requested to provide translation predictions using algorithms that assign successive weightings to the matches identified, based on probabilistic, grammatical, contextual and other models. The suggestions provided by those tools are useful and often impressive. The general public and websites commonly use such neural tools to produce rough translations. Professional translators, including legal translators, also have recourse to them as support for the translation process..

eTranslation is a highly advanced neural tool developed and funded at inter-institutional level. It used initially the huge Euramis database to train neural translation engines returning translation suggestions from English into all other official languages and vice versa, as well as between German and French. Gradually, additional engines were developed at the request of the various institutions, especially the Court, to meet specific or subject matter needs. Thus, at the request of the Court's translation service, engines were trained exclusively on the case-law of the Court of Justice and the General Court. Having regard to the Court's working methods, those engines were trained to produce bidirectional direct translations between all the official languages and the language of deliberation. They use only the most relevant corpus for the Court's translation service: its own corpus. Those engines reproduce the legal language of the Court.

Lawyer-linguists at the Court can also access a market tool called DeepL Pro, which returns notable results especially for certain language combinations and for certain types of less legally technical texts. Efforts to evaluate the quantitative contribution

115| The engine creates thousands of neural connections in successive layers of such complexity that that training process based on corpora is often referred to as 'deep learning'.

of those tools have been made in universities and in the EU institutions, [116] including the Court. It is admittedly difficult to measure that contribution with precision, given the methodological difficulties associated with measuring the parameters involved (translator's level of skill, working conditions, quality of the final product). However, the benefit of machine translation tools is undoubtedly considerable, even though machine translation presently is not intended to be on a par with human translation. The process is automatic and the output needs to be evaluated, verified and, if necessary, critiqued by human intelligence. Although, most of the time, machine translation returns very few anomalies, it is unable to mimic what is required by a high-quality translation process: deep immersion into the drafter's mindset to capture the message, digest it and reproduce the idea in the same language register. There are also other limits, whether of a technical nature, such as word omissions, or of a conceptual nature, such as the impossibility of 'forcing' machine translation to suggest certain special or minority terminology compared with the terminology that, having been incorporated into the training corpora, is suggested at the outset.

The neural tool rightly gives rise to high expectations but it also generates misunderstandings between users and producers of legal translations. The former find that the raw machine output is very useful and brings them very close to a sufficient understanding of the source text, while the latter know that each translated segment must be examined with a critical eye in the same way as if it had been translated from scratch. They also know that the gap between the understanding gained through machine translation and full understanding is precisely where the most intellectual and therefore time-consuming part of the legal translation process lies, especially when the translation involves stating law that produces directly applicable rights and obligations.

In combination, the IT tools described above support the productivity and quality of the work of lawyer-linguists at the Court of Justice. Those tools serve to disburden their workload of the most straightforward tasks and thus allow them to better focus on the more complex and legal tasks, which call for a great deal of effort. The structural upsurge in the productivity of the Court's translation service is due to a number of

116 | Joint study by the Commission and Ghent University: 'Assessment of neural machine translation output in DGT's language departments', 3 June 2019; Lieve Macken, Daniel Prou and Arda Tezcan. *Quantifying the Effect of Machine Translation in a High-Quality Human Translation Production Process*, Informatics, 7, 12, 2020: https://doi.org/10.3390/informatics7020012

factors (individual efforts, outsourcing, terminology, training, and so forth), bolstered ever more effectively by new technologies.

4.3.4 - Interpretation support tools

Interpreters have a dedicated page on the interpretation service's Intranet dealing with pre-hearing preparation. It is a one-stop source for all the IT tools they need to prepare, which essentially mirror the tools available to lawyer-linguists. They include, for example, links to the document library containing all the procedural documents in a given case, to documents prepared by lawyer-linguists and the Directorate-General's transversal departments, and to language and terminology databases such as Euramis, Quest or IATE.

Those links can be accessed in the booth using the computer assigned to each interpreter. However, it is at the preparation stage that interpreters make the greatest use of IT tools. The immediacy of simultaneous interpretation minimises the time and cognitive energy available for consulting a computer while interpretation is being provided. Interpreters thus rely primarily on the quality of their preparation, their boothmate and their personal and professional skills (*see section 4.2*).

4.3.5 - The interpretation of submissions delivered remotely

During the Covid-19 crisis, new arrangements for remote participation were devised to enable the Court of Justice and the General Court to resume, as from 25 May 2020, the hearings they had had to cancel or postpone in March. While interpreters continued to work from the courtrooms, some speakers who had been unable to travel to Luxembourg due to health constraints were, for the first time, permitted to plead remotely. Since the quality and stability of the signal are essential for ensuring seamless, high-quality interpretation, a procedure for prior approval of the facilities hosting the speaker was established. Furthermore, before each hearing involving remote participation, the communication quality is tested. If it is not up to standard, the President of the sitting may decide to cancel or suspend the hearing.

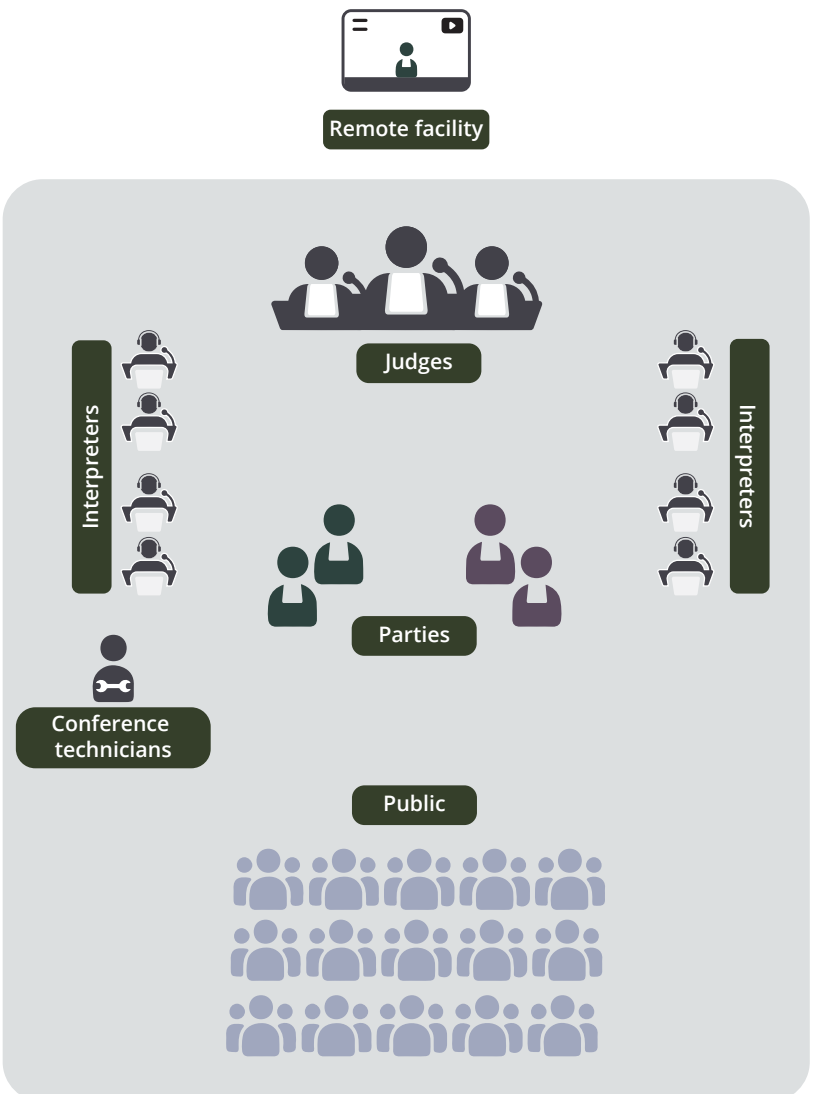
The interpretation of speakers pleading from *remote facilities* is made possible by the implementation of secure audio and video transmission techniques in the relevant courtrooms. The Court has opted for a Codec system whereby broadcasts are compressed (COding) and decompressed (DECoding), thus ensuring the integrity and, if necessary, the confidentiality of communications.

However, there are more than just technical matters to be taken into account here. Technicians must indeed be present to check tools and connections, and are often required to resolve problems in real time. But this new way of working also places interpreters themselves under greater stress and further increases their cognitive load, [117] so that such additional fatigue must be taken into account when managing working times, not to mention the risk of overrunning the scheduled duration of the hearing.

The implementation of that new method of delivering oral argument and of interpretation arose in the tricky context of the health crisis, and many technical, cultural and organisational obstacles had to be overcome. That was possible thanks to the commitment of the interpreters and technicians, in close consultation with their senior managers, the Registries and the chambers of the Presidents of the Courts. Such was its success that the European Ombudsman, Emily O'Reilly, honoured the Court with the 2021 Award for Good Administration in the 'Excellence in Innovation/Transformation' category.

117| See, for example, for a summary of that topic, Sabine Braun, 'Remote Interpreting' H. Mikkelson & R. Jourdenais (eds.), *Routledge Handbook of Interpreting*, Routledge, London/New York, 2015, pp. 352-367.

Interpretation of an intervention delivered remotely



4.3.6 - Remote interpretation

During the Covid-19 crisis, the combination of the remote delivery of submissions by *videoconference* and full language coverage at hearings before the Grand Chamber of the Court of Justice and the full Court sometimes necessitated the '*pairing*' of several courtrooms.

The need for an increased number of languages for certain hearings and the restrictions associated with the pandemic (occupation of booths by one, two or three interpreters depending on the conditions laid down by the current health protocol for hearings) meant that there were not always sufficient booths, even in the biggest courtroom of the Court of Justice, for the entire interpreting team.

Therefore, to compensate for the lack of booths in the main courtroom, part of the team would interpret from other courtrooms paired with the main courtroom. In those courtrooms, the interpreters would work with audio and video transmitted from the main courtroom and from the remote facilities. This is what is known as '*remote interpretation*'.

The 'pairing' of rooms, by linking interpretation booths located in the main courtroom to booths located in one or more secondary courtrooms, thus increased the possibilities of language coverage at hearings during the pandemic, which had made it difficult to provide interpretation under normal circumstances.

5. - What next for multilingualism?

5.1 - Prerequisites for the emergence of talent

The borders of Europe have faded away. Its citizens move around, mingle, develop friendships and expand each other's horizons. To take full advantage of that tremendous gift of our times, people need to communicate or, better still, understand each other. But can we truly understand others if we have no interest in their language or culture? How can a German person understand a French person talking about a 'coup de Trafalgar' if he or she has no grasp of that person's language or history? What would a Portuguese person's take be on a Latvian talking about 'nationality' if, for that Portuguese person, 'nationality' and 'citizenship' mean the same thing? Are we even able to understand otherness if we have not explored at least one other language and been acquainted with the culture and worldview that goes with it?

Learning another language, even just one, provides an understanding of something fundamentally important: otherness. I am not the other. Our common values are based on diverse histories, languages and world views, each of which can enrich the other. Once the reality of our own otherness has been assimilated, learning additional languages will enhance our understanding and open up channels of communication with every human being who shares that language.

Mit jeder Sprache mehr... [118]

Mit jeder Sprache mehr, die du erlernst, befreist
Du einen bis daher in dir gebundnen Geist,

Der jetzo tätig wird mit eigner Denkverbindung,
Dir aufschließt unbekannt gewes´ne Weltempfindung,

Empfindung, wie ein Volk sich in der Welt empfunden ;
Nun diese Menschheitsform hast du in dir gefunden.

Ein alter Dichter, der nur dreier Sprachen Gaben
Besessen, rühmte sich, der Seelen drei zu haben.

Und wirklich hätt´ in sich nur alle Menschengeister
Der Geist vereint, der recht wär´ aller Sprachen Meister.

With every language you learn, you liberate
A spirit held captive within you,

A spirit – now awake – with its own connections of thought
A spirit that reveals to you a new way of experiencing the world,

The way another people understand it ;
Now you have found that form of humanity within yourself.

An ancient poet, possessed of but three languages,
Boasted of his wealth, in having not one but three souls.

And truly, he who alone in himself would unite all human spirits
Is he who be the master of languages all.

118| Friedrich Rückert, *Die Weisheit des Brahmane*n, Gedicht Nr. 297 aus der Sammlung (1836-1839).

In recent decades, language skills in European countries and around the world have changed radically. In some ways, huge strides have been made, as most EU citizens now know another language, often English, or at least know the basics of it. That is undoubtedly useful. But what has become of all those European intellectuals who, just a few decades ago, did not stop at a single language, but went on to learn three, four, five or more? And why is the only foreign language learned almost always English? Have the languages of Goethe and Schiller, of Dante and Eco, of Voltaire and Camus, of Cervantes, of Vondel et al. nothing more to teach us? The lingua franca prevailing at any given time in history, as practised for better or for worse by many non-native speakers, is liable to compromise the necessary level of understanding and reflection. It is reasonable to ask whether such a language – which by definition is a simplified, distorted, even bastardised language – is capable of opening the door to otherness, when it barely scratches the surface of the world's cultures, even the cultures of those who call it their mother tongue. [119]

The answer doubtless lies in the multilingual practice of the Court. The multilingual needs of European citizens must be met by the multilingual commitment of Europe's institutions, which in turn depend on the availability of talent in each Member State. The very condition for the provision of high-quality multilingual services presupposes the existence of a well-stocked pool of individuals capable of carrying out that cultural, linguistic and legal mediation at the Court. Interest in languages and diversity must be awakened and supported from an early age. Children should be given the opportunity to learn more than one language. Young people should be able to travel and acquaint themselves with other cultures, immersing themselves in diversity. Some of them will want to make a career out of it, like interpreters and translators, while for others, like lawyer-linguists, it will be an important asset in the practice of their profession. The entire education system should support that trend: the learning of several languages at school; the continued existence of translation and interpreting schools; the upkeep and development of language and intercultural skills during university studies, particularly

119| See in particular, on all those matters, Robert Phillipson, *English-Only Europe? Challenging Language Policy*, 2003, also translated into French and updated in 2018 with the title *La domination de l'anglais: un défi pour l'Europe*. Also see the preface by François Grin in the French version.

legal studies; and the use of languages in the workplace, with tolerance and respect for each person's abilities, of course. [120]

Although language learning is important, the fact remains that legal and administrative multilingualism in the Union must be based on the premiss that every citizen is entitled to know only his or her mother tongue. [121] Even citizens who speak one or more other languages will always have the right and will usually have the need to communicate with the authorities and the justice system in their mother tongue. In order to address that fact, other citizens need to embrace the language professions and be able to do so on favourable terms.

The Court has a role to play in raising awareness of the importance of language learning and in promoting and proudly defending the use of languages. In particular, its language services may visit schools and universities, make contact with industry and cultural associations, meet policymakers and leading thinkers, and organise seminars on multilingualism. Furthermore, the Court plays that role in the context of its 'multilingualism strategy'; the Multilingualism Garden, mentioned in the foreword to this book, is one tangible and symbolic illustration of that multifaceted strategy.

5.2 - Awareness of what is at stake: short term or long term?

Access to justice and case-law in one's own language is a fundamental aspect of democracy, since it is decisive for enabling citizens to participate in a society governed by the rule of law and to have equal opportunities.

As early as 1549, the French poet Joachim Du Bellay, in his book *Défense et illustration de la langue française*, explained just how important it was for justice to be dispensed in the vernacular rather than in Latin, which was known to only a few elites. He was thus following in the footsteps of the Order of Villers-Cotterêts, enacted in 1539 by King François I, which generalised the use of French in public documents and before the

120 | For instance, it is common practice in the Belgian private sector for participants in meetings to choose to speak in French or Dutch, with the result that it is not necessary for everyone to speak in those two languages but everyone is expected to understand them. However, the use of English is becoming increasingly widespread for a variety of reasons.

121 | Alexandre Viala, 'Le droit à la traduction', *Le multilinguisme dans l'Union européenne*, edited by Isabelle Pingel, Éditions Pedone, Paris, 2015, p. 21.

courts. The history of our countries, even in recent times, shows us how communities whose linguistic and cultural identity is not sufficiently respected use that identity to develop sound arguments to oppose the established order and push forward change. That pattern has been followed both in democratic States such as Belgium and in nations under authoritarian regimes such as Lithuania in the Soviet era.

Armed with historical experience and a shared humanism, Europeans must reflect on the future of multilingualism in the Union. Money is scarce. Budgetary restrictions abound and what were once short spells of austerity are gradually turning into protracted bouts of near-permanent, ever more severe austerity. The pursuit of efficiency and savings is perfectly legitimate, and all efforts should be channelled towards ensuring that citizens benefit from the Union's contributions at the best possible price, including the fundamental right to respect for cultural and linguistic identities, dignity and multilingualism. However, if savings result, in practice, in multilingualism being unreasonably restricted, marginalised or neutralised, it will be time to ask whether those savings have come at too high a price.

Time and again in history, the peoples of Europe have overcome trauma by re-embracing humanist and democratic values, the only values capable of bringing about lasting emancipation. After the Second World War, the combatant countries, battered and ruined, nonetheless began to rebuild themselves by restoring and developing State structures and freedoms, whatever the cost. How can we allow a still prosperous Europe to forget the lessons of the past and, for the sake of saving money, weaken the foundations of the multilingual pillar that supports the common edifice of development, prosperity and peace built with so much vision, talent, tenacity and dialogue?

Yes, savings can be made, and yes, savings must be made. But what matters must be preserved and what matters is that we protect and, it is to be hoped, continue to build a Union based on common values that include and create a sense of belonging among all the peoples and cultures comprising that Union.

On the political stage, the Union's opponents are not mistaken, paradoxically enough: financially strangling projects that are close to citizens, especially multilingualism, is one way of creating a feeling of rejection and opening a breach between the Union's institutions and its citizens. The opponents of Europe find powerful objective allies in the proponents of swinging cutbacks that preserve only short-term political and economic goals. Those short-termist advocates of austerity are, either wittingly or unwittingly, indifferent to the fact that they are weakening a Europe, which they know, moreover,

has made an immense economic contribution. There are also those who understand and support the European model of integration and who, as well as their opponents, understand that it is the sense of cultural and linguistic alienation that threatens the European edifice and could cause the ideal of peace and prosperity in diversity to come tumbling down.

As we can see, in this thorny debate, good faith supporters of savings find themselves playing referee. Let us therefore address the question of the cost/benefit ratio of multilingualism in the Union without taboos, and see if we can muster arguments to convince them.

5.3 - Financing multilingualism versus the cost of no multilingualism

Multilingualism costs money. The cost of multilingualism can at least be calculated, but calculating the cost of no multilingualism is a far trickier endeavour. Democracy too has a cost, which can, to a large extent, be calculated. Calculating the cost of no democracy would be more problematic, yet we all agree that the cost would be enormous in economic, human and civilizational terms.

Thus, the European Parliament quite rightly describes the cost of the EU institutions' language services as a political cost. [122] However, that cost is not exclusively political, particularly in the case of the Court. Multilingualism is also an essential link in the procedural chain, as are all the other activities necessary for case inquiries, the resolution of cases and the production of case-law.

Some will say that this is the wrong debate, since the identity and dignity of all peoples, conveyed by their language, are inalienable values and must be preserved. Thus, languages themselves must be preserved for their cultural, symbolic and even economic significance. There are no minor or major languages in this debate: to protect one language is to protect them all.[123]

122| European Parliament resolution on the Court of Auditors' Special Report No 5/2005 on interpretation expenditure incurred by the Parliament, the Commission and the Council (2006/2001(INI)) (OJ 2006 C 305 E, p. 67).

123| Alfredo Calot Escobar, *op. cit.*

This subject is of the utmost sensitivity, evidenced by just how quick off the mark Member States are to bring actions when the European Personnel Selection Office (EPSO) seeks to make savings by reducing the number of languages used in open competitions of the EU institutions [124] (*see section 2.5.2*).

Such sensitivity is hardly surprising given that, over and above questions of identity and culture, which are in themselves fundamental, choices in this area have economic repercussions on the cost of language services and on their recipients. [125]

It is possible to calculate the direct savings that could be made by choosing to give priority to one or more languages over others: it would be the reduction in the amounts earmarked for translation and interpretation in such cases.

124| Athanasia Katsimerou and Dionysios Kelesidis, 'Le principe de non-discrimination en raison de la langue', Revue de l'Union européenne, No 592, Éditions Dalloz, October-November 2015, pp. 534-540, especially p. 537

125| See in that regard Philippe Van Parijs, 'L'anglais lingua franca de l'Union européenne: impératif de solidarité, source d'injustice, facteur de déclin?' Économie publique/Public economics (online), 15 | 2004/2, published online on 12 January 2006, consulted on 17 September 2021: http://journals.openedition.org/economiepublique/1670

However, it more difficult to assess the extent to which speakers of the 'losing' languages would be deprived of certain benefits compared with others and exposed to additional costs, resulting in economic inequality. The disadvantages they would experience could be viewed as the negative counterpart of the advantages that speakers of the 'winning' languages would enjoy. In that regard, François Grin lists five types of transfers for the benefit of native speakers of a single common language, which he describes as 'monarchic':

- no costs associated with translation and interpretation into that language;
- monopoly in the market for learning materials, teaching, translation and interpretation into that language, and other forms of language support;
- savings made in the country or countries of that common language because its speakers have no compelling need to learn any other language;
- the possibility for that country or countries to reinvest the savings thus made in the learning of other skills;
- the advantage enjoyed by native speakers of the common language in any situation of negotiation, competition or conflict, even if their interlocutor has made a significant and costly investment in mastering that language. [126]

In response to his colleague Philippe Van Parijs, who in some of his works muses on the adoption of a lingua franca in the Union [127] – English by necessity – Grin writes: 'The cost of monolingualism is different from that of multilingualism, but no less real'. [128] Only, in the case of multilingualism the cost is shared, whereas in the case of monolingualism the cost is borne exclusively by the losers. Although it is not possible to put a figure in a systematic way on the current predominance of English in the world, it has – in addition to its symbolic weight – a value of several billion euros per year, and the vast majority

126| François Grin, 'Coûts et justice linguistique dans l'élargissement de l'Union européenne', Panoramiques, No 69, 4th quarter 2004, pp. 97-104.

127| Philippe Van Parijs, *op. cit.*

128| See the foreword by Isabelle Pingel (ed.), *Le multilinguisme dans l'Union européenne*, edited by Isabelle Pingel, Éditions Pedone, Paris, 2015, pp. 55-71.

of Europeans thus find themselves the position of 'paying to be inferior'. [129] It is clear that even if a comprehensive picture could be built up of the different cost reduction models based on reducing multilingual services and of the varying impact of those reductions on different categories of citizens, the policy debate would not stop there. [130] Many other factors would also come into play.

5.3.1 - The cost of multilingualism

It is not particularly difficult to calculate how much the Union costs, with a total budget of around EUR 170 billion in 2023. [131] That budget accounts for a small proportion (approximately 2%) of public expenditure in the Union, and around 1% of the gross national income of Member States (roughly speaking, the budget of Denmark). [132] 6% of the EU budget is allocated to administrative operations, the bulk of which is spent on structural funds and common policies. The total cost of translation and interpretation across all EU institutions accounts for less than 1% of that budget (and therefore less than one sixth of expenditure on administrative operations). It is equivalent to EUR 1.1 billion, [133] or less than EUR 2.5 per citizen per year. To put this in perspective, we could say that multilingualism costs less than the price of a cup of coffee per citizen. Nonetheless, the cost of 450 million coffees is not insignificant.

The Court has calculated the cost of multilingualism as applied in the institution, taking into consideration all expenditure associated with the salaries of lawyer-linguists and interpreters, the Union's contribution to their pension scheme, training, infrastructure and the maintenance thereof, supplies, security, and outsourcing of interpretation and translation work. That, in short, is the total cost of multilingualism at the Court

129| François Grin, 'L'anglais comme lingua franca: questions de coût et d'équité. Commentaire sur Philippe Van Parijs', *Économie publique*, No 15, 2004, pp. 3-11.

130| Also see Dominique Hoppe, 'Le coût du monolinguisme', *Le Monde diplomatique*, May 2015, in which the author discusses the costs as well as the gradual shift in systems, particularly legal systems, and ways of thinking in relation to English as a *de facto* lingua franca.

131| See https://www.europarl.europa.eu/factsheets/en/sheet/28/les-depenses-de-l-union

132| European Commission, Fact check on the EU Budget, September 2022, https://ec.europa.eu/budget/publications/fact-check/index.html.

133| Robert Schuman Foundation, Speaking European, 23 December 2019, https://www.robert-schuman.eu/en/european-issues/0541-speaking-european

based on an analytical accounting approach. In 2020, that cost stood at EUR 159 million (or EUR 0.36 per citizen per year). It represents a significant proportion of the Court's budget, which was EUR 436 600 000 in 2020. That is not surprising, since the Court's far-reaching system of multilingualism means that officials and other staff in the language service account for more than one third of its total workforce, supported by a significant number of freelance translators. However, the Court is an institution financed by citizens and it must ensure that the resources allocated to it are managed to the best of its abilities. The numerous cost-saving measures mentioned above form part of that ongoing commitment.

Multilingualism is therefore expensive in absolute terms but, thanks in part to good management and cost-saving measures, very inexpensive in relative terms. We should ask ourselves what its absence would cost. That is harder to measure.

5.3.2 - The cost of no multilingualism

In estimating what the cost would be of no multilingualism in the EU institutions and at the Court, we can only rely on assumptions, since some consequences would be inevitable while others only possible; some effects can be measured with a certain degree of precision, but most cannot.

The first of those consequences might be the decline and perhaps even the disappearance of the Union, deprived of the support of its citizens and, as a result, of its Member States. That may seem extreme but, in view of the above analysis of the fundamental importance of identities in strengthening people's sense of belonging, it cannot be ruled out. That consequence can to some degree be measured in economic terms. The Union's budget currently stands at EUR 164.25 billion (2021) for 447 million citizens, representing the indirect transfer of EUR 365 per citizen per year, with less wealthy citizens naturally contributing less than those who are better off. It would be simplistic to think that the disappearance of the Union would result in an equivalent saving. The Union may well have a cost, but above all it creates wealth and well-being. It invests heavily in its Member States and their regions and, in addition to the solidarity effect and the positive impact on the environment and living conditions, it generates a significant economic return.

The Commission estimates that by 2023, the funds invested between 2007 and 2013 will have produced a return of 274%, or EUR 2.74 for each euro invested. [134]

Furthermore, the Union's gross domestic product (GDP), namely the total value of all goods and services produced, was EUR 16 400 billion in 2019, accounting for around 15% of world trade in goods. That makes the Union the second largest player in international trade, behind China and ahead of the United States. [135] The average GDP per capita in the Union has almost doubled over the last 20 years. It has increased more than tenfold in some of the poorer Member States.

That would all be lost if the Union were to disappear, and much more besides, lest we forget the combined effect of other, less direct factors in the long term:

- no deepening of the Union enabling that wealth surplus to grow continuously;
- geopolitical insecurity, instability and even the risk of conflict;
- the weakening of the European region on the global political stage, particularly within the World Trade Organisation (WTO) and in bilateral agreements, since the weight of the Union far exceeds that of the sum of its Member States.

Such a drastic outcome might not occur, and Member States might even be expected to put in place alternative mechanisms that would preserve at least some of the Union acquis. Let us therefore confine ourselves to stating that any significant step backwards in multilingualism would risk a step backwards in the European project, which would not only entail, among other things, restrictions on freedom of movement, an impoverishment of cultural exchanges and identity-based isolationism, but would also have disastrous economic effects.

Economists will certainly be able to put a more detailed and accurate figure on the Union's economic contribution.

134| https://ec.europa.eu/regional_policy/sources/evaluation/expost2013/wp1_synthesis_report_en.pdf

135| https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/economy_en

5.3.3 - The consequences of the workings of the Court not being multilingual

Having painted that broad picture, let us now ask what the cost would be of no multilingualism at the Court, as if its work could be uncoupled from the overall political context. What would happen if the Court of Justice and the General Court were to function in one language, with citizens and Member States having to adapt to that situation? It should be noted at the outset that we have left the realm of what is quantifiable in figures behind and entered the realm of general consequences, the actual severity of which may vary.

Access to justice

If Member States and citizens had to lodge documents initiating proceedings, requests for a preliminary ruling, applications and appeals in a predetermined language, equality of litigants and of courts would clearly be shattered. The authors of those documents would have to choose between drafting directly in that language if they felt able to do so, or using private translation services, resulting in additional costs and delays. In both cases, the quality would vary, since an actual effective command of a foreign language, including legal language, is rare and it is unrealistic to think that translations provided to persons who are not proficient in that language would be subject to quality control. From the start, mistakes would proliferate and could prevent those documents and their context from being properly understood by the Courts seised, affecting the appropriateness of their decisions.

The same would apply to the exchange of pleadings by the parties in direct actions and to the observations submitted by the parties and Member States in preliminary ruling proceedings. The institutions themselves would be in a privileged position, as they could rely on the drafting or translation work of officials who are native speakers of the sole language of the case.

At the stage of the oral part of the procedure, where hearings would be held without interpretation, the parties would either have to rely on representatives proficient in the legal language of the sole language of the case, which in practice would favour members of the bar or bars of the country of that language, or have to continue with representation at national level, with the risk that the oral submissions would be less effective and dynamic.

Lastly, the decision, possibly preceded by the Opinion of an Advocate General in one language only, would more often than not be drawn up in a language foreign to the parties to the dispute, depriving them of a clear understanding of the Court's reasoning and the substance of its decision. In preliminary ruling proceedings, some referring courts and tribunals might even misunderstand the content of the judgment and, in good faith, fail to comply with it. The Court of Justice might also refrain from answering a question that is badly worded on linguistic grounds, thus paving the way for further preliminary ruling proceedings, with all the attendant delays and expenses.

Those considerations bring to mind in particular the situation of referring courts and tribunals, which often have an overwhelming workload and a large backlog of cases and would have to translate their orders for reference pending a response into a foreign language in which their proficiency varies. It is likely that many of them would try to settle the dispute without a preliminary ruling, thus undermining the preliminary ruling dialogue, one of the central pillars of the Union's judicial architecture.

In view of the above, the Court's multilingualism is a prerequisite for equal treatment, the proper administration of justice and legal certainty.

Publication

As mentioned above, EU law has direct effect and primacy over national law. Every court and tribunal of a Member State of the European Union is therefore required to apply it as higher-ranking positive law. That is particularly important in preliminary ruling proceedings, in which the Court of Justice provides interpretations of EU law that are of more direct relevance for all Member States.

If decisions were not published in their language, members of parliament, national authorities and national courts and tribunals at all levels would have to try – with varying language and legal abilities – to understand what is being required of them by that law written in a foreign language. Often, the stakeholders in the different Member States and even within each Member State would develop a divergent understanding of the case-law and apply it differently, creating numerous rifts in the uniform application of EU law, including as regards the internal market. Its functioning would thus be hampered, the economic impact of which would be potent and direct in equal measure, taking the form of trade restrictions. Moreover, many new questions might be referred for a preliminary ruling – particularly seeking interpretation – in order to obtain clarification of EU law,

but always in the unequal and unsatisfactory conditions described above. The cost of such additional litigation could in itself exceed the cost of the Court's language services.

Many lawyers would no longer be in a position to provide their clients with sound advice if that advice involved an analysis of EU law: that translation would have to be based on documents written in a language in which they are not fully proficient or not proficient at all.

Member States could, of course, choose to have the case-law of the Court translated at their own expense, but that would simply shift costs while creating a new inequality to the detriment of citizens of the least populous Member States, the least prosperous [136] or the least aware of the importance of having EU case-law available in the national language or languages. Even if translations were, in fact, produced by the Member States in all other languages, they would be produced retrospectively, so that they would not be available to the legal community on the day of delivery or even shortly after delivery. Furthermore, those translations would most likely be of inferior quality. Indeed, pressure on translation prices could adversely affect quality, in a context in which every word, every concept, every grammatical agreement and sometimes even a simple comma can alter the precise meaning of the text. Moreover, translation work would be carried out in a fragmented and uncoordinated manner, contrary to the Court's current practice, where lawyer-linguists from different language units consult each other directly or indirectly and interact with the chambers responsible for drafting Opinions and decisions. It is also conceivable that a State, which does not want EU law to be known and applied in its entirety in its legal system, might use the cost of translation as an excuse to dispense with it altogether.

136 | The solidarity mechanisms linked to the level of wealth of Member States are reflected in the financing of the general budget of the European Union, 70% of which is based on the GDP of the Member States, and therefore in the financing of multilingualism. Shifting the funding of multilingualism would place a disproportionate burden on less prosperous or less populous States. The financing of one language version by more than 90 million German speakers and another by 1.3 million Estonians would ride roughshod over both equality of citizens and solidarity between our people.

5.3.4 - Decentralised support for proceedings

It is sufficiently clear from the above that monolingual working at the Court would have immediate and very serious consequences and that a multilingual way of working is essential. But the question remains: is that multilingual way of working managed at the appropriate level or would it benefit from being decentralised.

The scenario in which the case-law is translated by Member States has already been discussed. It is also worth considering to what extent the direct involvement of Member States in the provision of multilingual services would enable the institution to function effectively.

Throughout the proceedings, from the translation of the document initiating them to the preparation of the decision in the language of the case, including interpretation at hearings, the provision of language support has a decisive influence on progress, which would grind to a halt if the supply of language services were interrupted.

Relying on Member States to provide those services would inevitably create a risk of shortfall as soon as a given State was unable to provide the necessary services at all times and in the appropriate quantity. Those services must keep pace with the judicial timetable for each case. Whether for organisational, logistical or budgetary reasons, a major obstacle would be the development, maintenance and availability in each Member State of resources with the capability to translate or interpret at any given time from all other official languages.

Further, the confidentiality of decisions and the secrecy of deliberations prevent the translations of such documents from being entrusted to the Member States before they are delivered, whether they use internal resources or freelance translation. The EU Courts must continue to work as a collegiate body in a fully independent manner and with due regard to the secrecy of deliberations.

Any translation or interpretation provided by a Member State would also raise questions of quality, in a context in which the challenges described above would be compounded by the risk of disparate terminological choices, misinterpretation of autonomous concepts and heterogeneous versions.

As we can see, only within a framework of full and proficient multilingualism can the Court fulfil its mission. That mission encompasses its judicial function, which depends to

a very large extent on dialogue with the parties, national authorities and, in particular, national courts and tribunals, and the dissemination of its case-law.

The best and arguably the only conceivable system for managing multilingualism at the Court is for that cornerstone of the Court's way of working and outreach to be handled internally. Given the savings of various kinds, including economies of scale resulting from the centralised management of workflows, terminology, training, outsourcing and IT tools, it is also the least expensive and most efficient approach in terms of hidden and apparent costs.

To conclude, it is unrealistic to attempt to put a figure on the cost of relinquishing multilingualism at the Court. The list of possible consequences is sufficient in itself to show that the cost of multilingualism at the Court is a very modest one compared with the cost of no multilingualism at all. Lastly, shifting the burden of managing and financing multilingualism to Member States would give rise to inequality, delay and uncertainty, and would undermine the secrecy of deliberations, which is an essential guarantee of the independence of the EU Courts.

Conclusion

Multilingualism is a process, an investment and a value.

As a process, it advances in step with proceedings before the Court of Justice. Applications may be brought before both Courts of that institution, the Court of Justice and the General Court, in any of the 24 official EU languages. The parties have the right to be heard in that language. Case-law must be made available in all official languages. As a result, legal translation and interpretation must be provided in the 552 possible language combinations, at the highest level of quality, at the best price and within time frames compatible with the proper functioning of European justice. To that end, the Directorate-General for Multilingualism (DGM) has recourse to legal and language specialists from all Member States. In addition to those scarce human resources, it relies on tried-and-tested methods, such as ongoing training, terminology, the use of pivot languages and constant reflection on how to achieve appropriate savings, and relies on cutting-edge tools, which it helps to build and maintain, whether they be inter-institutional multilingual databases, the latest translation support technologies such as neural translation, or powerful meta-search engines.

Legal multilingualism is not just a matter for the DGM, as this book makes clear. Day in, day out, a multilingual and multi-legal culture underpins the very functioning of both Courts and the institution's departments. The DGM is certainly the most visible face of that multilingual way of working, but the Registries and all the departments responsible for assisting and accompanying the EU Courts in their tasks operate according to the same logic and are organised around legal and linguistic clusters of expertise.

As an investment, multilingualism ensures the proper functioning of the EU Courts, which themselves contribute to the proper functioning of the European edifice as a whole, an edifice built on democracy, the rule of law and respect for minorities. Since the European Union's political, social and economic contribution is as considerable as it is indispensable, multilingualism should be preserved everywhere it operates as a prerequisite or leverage for that contribution. As regards the Court of Justice, access to justice and to the law are essential for the proper functioning of the internal market and the policies of the Union in general, including in its social and environmental facets. Only the Court of Justice can properly manage the multilingualism buttressing it, failing which efficiency will be reduced and concessions will be made that are fundamentally problematic for judicial independence.

Lastly, multilingualism is an asset, an essential value of the Union and a fundamental right. The peoples of Europe can be united in diversity only if their identity and culture

are fully respected, at the very heart of which lies their linguistic heritage. Failure to respect the equality of languages would be tantamount to disregarding the equality of peoples and wresting from citizens a Union that can belong only to them, since without them it is meaningless. It should perhaps also be acknowledged that, while giving priority to one or more languages arbitrarily marks out winners and losers, preserving multilingualism creates only winners, since it places all citizens on an equal footing, while upholding the multiplicity and diversity of the cultural and legal contributions which enrich all of us, whatever our language, in our daily lives.

The guiding objectives of this book are to raise awareness of, explain and protect institutional multilingualism. However, multilingualism, which goes hand in hand with multilateralism and integration, is just as important outside the EU institutions. Within the Member States, too, the question of linguistic pluralism has acquired a new urgency, as globalisation and the digital revolution push for simpler and faster exchanges.

The 'bouquet' of experiences and reflections that are contained in the second volume of this book provide a forceful illustration of the inalienable value of cultural, linguistic and legal pluralism.

Glossary

Booth

Refers, by metonymy, both to the part of the team of interpreters who, at hearings, work into a particular language and to the administrative sub-unit comprising interpreters of the same language.

Pairing of rooms

A technical intervention whereby interpretation booths located in the main meeting room are linked up to booths located in a secondary room. It is used when there are too few booths in the main room to accommodate the entire team of interpreters assigned to the hearing. The interpreters in the paired room work via remote interpretation with audio and video transmitted from the main room.

eTranslation

Neural machine translation service developed by the European Commission for the benefit of the EU institutions and national authorities. The Court contributes financially to maintaining, populating and developing eTranslation within the framework of inter-institutional cooperation. It works directly with the Commission to develop translation engines tailored to the work of the EU Courts.

Euramis

Interinstitutional translation memory management system. The memories, populated by all the institutions, contain legislative documents and EU case-law, among other materials.

EURêka

Internal search engine providing a single point of access to judicial documents and to the institution's legal, procedural, documentary and terminological analysis data.

IATE

Interinstitutional terminology database accessible to the public (https://iate.europa.eu/home). Since 2020, the legal terminology produced by the Court has been managed directly within the IATE database.

Interpretation by videoconference

A working arrangement whereby the interpreters are in the same location as most of the meeting/hearing participants. They see the speakers remotely by video link and hear them through the audio transmission of their statements.

Consecutive interpretation

A method of interpretation whereby the interpreters translate the speaker's statements once he or she has finished speaking, usually with the help of notes.

Simultaneous interpretation

A method of interpretation whereby the interpreters, sitting in a booth, listen to the speaker through headsets and immediately repeat the speaker's message in another language into a microphone. Technical equipment transmits that interpretation to the listeners' headsets.

Functional translation kit

The term used in the Directorate-General for Multilingualism (DGM) to refer to the set of files necessary for the creation of a Trados Studio translation project. The 'functional kit' contains the text to be translated (in a format that can be processed by the Studio editor), the relevant translation memories and the documentary and terminology resources identified as useful for the translation. Since 2019, it has also included neural machine translation suggestions from the eTranslation interinstitutional system and the DeepL market tool.

Target language

The language into which a person translates or interprets.

Pivot language

The language used in legal translation as an intermediary language between a source language and the different target languages when direct translation is not possible. The Directorate-General for Multilingualism uses 5 pivot languages: English, German, Italian, Polish and Spanish. Each of those languages can be used to 'pivot' a predetermined set of languages (for example, Spanish serves as a pivot for Hungarian, Latvian and Portuguese). Lawyer-linguists in the 'pivot' units produce a direct translation of the original within a short time frame so that their colleagues in other units can translate from that pivot version, which then acts as an original.

Relay language

The language used in interpretation as an intermediary language between a source language and a target language when direct interpretation is not possible due to the absence or unavailability of an interpreter proficient in the required language combination. Unlike a pivot language, the relay language is not predetermined, but is chosen according to the specific circumstances of the hearing.

Retour language

The foreign language into which interpreters may have to interpret from their mother tongue.

Source language

The language from which a person translates or interprets.

CAST list

Contract Agent Selection Tool. The 'CAST lists' come from a database managed by EPSO (European Personnel Selection Office) which compiles applications for contract agent posts in the different function groups and for different professions. A CAST list functions as a pool of candidates which the institutions may draw from to recruit temporary staff.

Translation memory

A language database containing translation units. Each translation unit consists of a text segment (phrase, sentence, paragraph) from a document paired with the corresponding segment from the same document in another language.

Ellipsis ('…')

Deletions made by the 'reference person' in the text of a request for a preliminary ruling in order to shorten the translation without distorting the meaning or spirit of the document. As a matter of course, the reference person will insert in square brackets a brief description of the content of the deleted text. Ellipsis is not used in the questions referred for a preliminary ruling themselves.

Reference person

A lawyer-linguist in the unit of the language of the case responsible for carrying out various tasks in order to facilitate the processing and translation of a request for a preliminary ruling (ellipsis, anonymisation, summaries, explanations, read through, and so forth).

Remote facility

A room with videoconferencing equipment from which a party authorised to plead remotely makes his or her submissions. That party is therefore able to participate in the hearing by video conference. Each of his or her submissions is interpreted and he or she can listen to the interpretation of the hearing in his or her own language.

Remote interpretation

A working arrangement whereby the interpreters are in a different location from the participants. They see the speakers by video link and hear them through the audio transmission of their statements.

Accreditation test

A test that freelance interpreters must sit and pass in order to be included in the list of auxiliary conference interpreters (ACIs) common to three European institutions (Commission, Parliament, Court of Justice) and to be able to work for those institutions.

Comparative Multilingual Legal Vocabulary (MLV)

A collection of multilingual terminological entries found in multiple legal systems resulting from comparative law research carried out by lawyer-linguists in the fields of immigration law, family law and criminal law.

Order of language versions and ISO codes [137]

Source language title	English title	ISO
български	Bulgarian	BG
español	Spanish	ES
čeština	Czech	CS
dansk	Danish	DA
Deutsch	German	DE
eesti keel	Estonian	ET
ελληνικά	Greek	EL
English	English	EN
français	French	FR
Gaeilge	Irish	GA
hrvatski	Croatian	HR
italiano	Italian	IT
latviešu valoda	Latvian	LV
lietuvių kalba	Lithuanian	LT
magyar	Hungarian	HU
Malti	Maltese	MT
Nederlands	Dutch	NL
polski	Polish	PL
português	Portuguese	PT
română	Romanian	RO
slovenčina (slovenský jazyk)	Slovakian	SK
slovenščina (slovenski jezik)	Slovenian	SL
suomi	Finnish	FI
svenska	Swedish	SV

137| Table based on the Publications Office's Interinstitutional Style Guide. The original, more detailed, table can be found at the following address: https://publications.europa.eu/code/en/en-370200.htm.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Multilingualism, which is the manifestation of unity in diversity and of deep respect for the cultural and linguistic identities that make up the EU, gives effect to the right of every citizen to address the institutions and receive a reply in their own language.

Multilingualism, in principle and in function, has been codified in various legal instruments, in particular by the first regulation adopted by the EEC, Regulation 1/58, which remains in force today. However, like democracy, its preservation depends on a constant endeavour to explain it within the context of a long-term perspective. Multilingualism is regularly called into question on the pretext of speed and economy, as though it were more of a constraint than an aspect our shared wealth.

At the Court of Justice of the European Union, multilingualism takes on a particular importance, as it determines, at the outset, how the procedures are conducted and, at a later stage, ensures that the case-law is accessible to everyone in their own language. However, legitimate requirements of efficiency and cost control remain crucial, with the result that there is constant reflection and the latest technologies are used to the fullest in order always to provide the citizen with an optimal service.

This book sets out the historical, legal and political factors that have led to the emergence of strong institutional multilingualism as an instrument of equality, inclusion and progress. It describes the language regime of the institution and the manner in which multilingualism is practised there, in particular by the interpretation and legal translation services. It reflects on the points of view and arguments that are regularly raised in the press and in academic legal writing, and it proposes, on the basis of objective analyses, a strong and optimistic vision looking resolutely towards the future.

COURT OF JUSTICE
OF THE EUROPEAN UNION

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