

Book Review

Language and Culture in the EU Law: Multidisciplinary Perspectives

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*Language and Culture in the EU Law:
Multidisciplinary Perspectives*
Susan Šarčević (2015)
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The useful gathering of reviewed papers that were once presented for the occasion of the multidisciplinary conference on Language and Culture in the EU Law at Jean Monet Inter-University Centre of Excellence in Opatija, made it possible to achieve a higher level of discourse when compared with the average pre-published editions of this sort. The accession of Croatia into the EU in 2013 was the excuse that allowed this opportunity.

At the very beginning of our reading, there is a concise introduction made by Šarčević, over viewing this work as a step mark into interdisciplinary, into the undeniable impact of European law in shaping internal law and national cultures. The sentence that sums up and ties all the contributions being “to build unity in diversity” (page 2).

Firstly looking into its structure, this book is divided in three parts with 4 chapters each: Part 1 entitled “Law, Language and Culture in the EU”, Part 2 entitled “Legal Translation in the EU” and Part 3 entitled “Terms, Concepts and Court Interpreting”.

Following the book’s content, throughout the entire volume the different perspectives are well covered, either from several backgrounds from the insiders’ points of view (professionals who work within the EU institutions) or outsiders’ points of view (national scholars or professionals). Moreover, this categorisation allowed a complete vision of the interaction of disciplines, cultural marks and languages involved in the entire process of transferring and harmonising EU Law in all Member States.

In Part I, the article presented in Chapter 2 by Michele Graziadei highlights the entitlement to translation and interpreting in criminal proceedings granted by the Directive 2012/13/EU of 22 May 2012, concluding that the principle of legal certainty is still hardly balanced when concerning the equal authenticity of all language versions of the legal instruments in EU law. This author identified exceptions that deviate presumptions, such as when litigants choose a different language version besides their own native language or when citizens of a country do not express themselves in their national language. For this reason, tasks cannot rely exclusively on verbal expression but there is a need to achieve the same semantic value in order to avoid the failure of a uniform interpretation. There is tacit knowledge that influences how the law is applied. The law creation and communication demand a new awareness of linguistic needs. So, in this sense this author is a fierce defender of the *Lex Franca* – with the consequent awareness of a third supranational law. In the legal texts there are elements or ‘linguistic signs’ without any established meaning, which are formed naturally by the legal activity.

On the other hand, in Chapter 3, Colin Robertson points out that there are 4 main linguistic issues in European law such as: the type of verb to use – shall (verb of command for enacting articles) or should (conditional verb for recitals which explain and justify the contents of the act) –, actions, legal effects and the implementation and transposition of the rules. Whilst analysing the different interfaces of the EU law, language and culture, this author recalls that the EU has its own legal personality based on primary law (treaties). The relationship between EU law and the Member States law is a condition of mutual dependence. All national courts interpret EU law but its ultimate arbiter is the Court of Justice of the European Union (CJEU). Although quoting an undated Murray (page 41), Robertson defends the legal analysis of comparative methods to detach submerged meanings that will necessarily influence EU interpretation. From this real insider’s perspective, EU legal jargon is a separate genre and a separate legal order, in which French language gives the principal semantic structure, for that when translated into English new terms arise such as codification (meaning consolidation). Among many references, the Inter-institutional Style Guide provides a synoptic approach for that, nowadays language versions are synchronised.

In Chapter 4, the focus shifts to the interaction of both national courts and CJEU by Mattias Derlén. This article indicates that national courts often do not differentiate EU case law from EU legislation (instead “blending the two approaches of a single meaning and a single text”). Ideally, national courts can contribute to the application of EU law (positive perspective) and can constitute the limits of the *Acquis* impact (negative perspective). Yet, there are rules to apply: in primary law (treaties) there are 24 official languages equally authentic; in secondary law (legislation) there is attention to the working language – so the CJEU concedes equal authenticity of the official languages and requires the use of all languages, i.e., every provision of the EU law has a single meaning and all the languages “read together” create this meaning. Finally, in CJEU case law – article 37 RP – prevails the language of the case that is determined by the applicant; in appeals, it is the language of the decision of the General Court; in preliminary ruling proceedings it is the language of the national court referring the matter to the CJEU.

Barbara Pozzo, in Chapter 5, presents her comparative professional approach, emphasising the role of legal translation, the activity of comparative lawyers and the contri-

bution brought by the Draft Common Frame of Reference (DCFR). To level and normalise all different legal systems, one needs to master the “deep meaning” of the specific concepts. For this to be accomplished, the author draws attention to the need of uniform and hermeneutical principles of law and to a harmonised theory for the interpretation of multilingual texts.

Now into the frame of legal translation, Part II opens with Chapter 6 by Anne Kjøer where distinctive legal discourse is defended, again, as a result of a lingua franca used by judges and lawyers within the EU and, particularly, within the CJEU. In this sense there is a conceptual semantic independence that will differentiate legal translation as a separate theoretical activity.

Further, in Chapter 7, C. J. W. Baaij focuses on the amount of national legal knowledge needed for EU translators and lawyer-linguists to achieve legal and linguistic equivalences in the translation of EU legal instruments. Urging for an option, the author analyses two possible approaches “familiarisation” (needing a lot more in-depth knowledge) and “exteriorisation” (requiring only a “nominal awareness”). Following on to the topic of language fluency, in Chapter 8 Annarita Felici assumes the pragmatism of selecting English as a lingua franca (ELF), as a language vehicle, distinct from the native legal English, neutralised, serving a diplomatic purpose, although not clear of hypothetical ambiguities and misinterpretations.

Chapter 9, by Ingemar Strandvik, opens the debate to the importance of defining quality, either following the point of view of international lawmaking or on the side of protecting norms, beliefs and values. And while precision and fidelity to the source text is recommendable, the author incentivises translators to produce understandable versions as a means to promote uniform application of EU law by each national court. As an example, Strandvik presents a case study of the translation work on Common European Sales Law (CESL) presenting all the quality requirements set out by the European Commission.

Furthermore in Part III, Chapter 10, moving on to court conceptual interpretation, Jan Engberg focuses on autonomous legal concepts stating the importance of being described with common characteristics. The author then alerts us to this dynamic process that might clash with statutory interpretation and legal translation. Throughout the article the author uses a clever metaphor of “two lenses” to describe culture and interpersonal communication, which are factors that influence knowledge. Also an attempt is made to define the meaning of autonomous: “a concept is autonomous if it activates its own knowledge element” (page 175). The autonomy of the EU Law should not differ when interpreted by national courts of the Member States. He states CILFIT case in CJEU case law (Case no. 283/81 [1982] ECR 3415, paragraph 19): “Community law uses terminology peculiar to it” to justify that is essential to be independent and coordinated through Knowledge Communication (with research knowledge elements – conceptualisations). An example is the definition of “consumer” in Article 2 of Directive 97/7/EC in which the definition is presented in a negative way: person contracting outside professional activity. Finally, he announces a positive perspective: the task can get easier with time; concepts tend to acquire a supranational and autonomous meaning in national law.

Chapter 11 by Susan Šarčević argues for a systematic approach to EU term formation. The author calls the attention to the underlining pressure of translators when aligning

terms in order to achieve the so called and desired “conformity”, sometimes having to accept neologisms and acultured versions.

Moreover, continuing the theme of the harmonisation of terminology, Maja Bratanić and Maja Lončar, in Chapter 12, defend the fatalistic perspective of the overall task. In their words, a real “myth” evidenced by the several entries in IATE, Euramis and Eurovoc, where inconsistency still persists.

Finally, in Chapter 13, Martina Bajčić develops the aims of the Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings, of 20 October 2010, mainly as an opportunity to enhance the status of courts interpreters. Bajčić defends the need for court interpreting to be levelled in all member states in terms of its quality. The language is vague when mentioning “remote interpretation” and “minor offences”, and fails to specify who is qualified to interpret and translate. She concludes that it is necessary to create a common accreditation scheme, as nowadays there are different procedures regarding summoning of sworn translators and even the extent of the term “interpreter” differs from country to country. This author mentions Qualetra (Quality of Legal Translation project funded by the EC) for further training of court interpreters and EMT (to unify university programmes at EU level) and establishing the so called “umbrella associations”.

As an overall conclusion, this book is an excellent contribution to the legal language field and benefits all scholars and professionals of both linguistic services and legal background. Personally, one can get an undeniable assistance from this reading whilst researching and lecturing. Throughout the book it is remarkable that the interdisciplinary research arises and is emphasised in order to supply both academics and professionals with the best strategies, methods and ideas to achieve the best end: the intersection or transdisciplinary research.

It is important to consider that this book not only sheds a light on the character of EU law, but also demonstrates its influence in multilingualism and multiculturalism. Evidence is in the amount of mentions made to Euro-English, often referred to as “neutralized English”, “lingua franca” or “Union-wide concept”.

Its reading does present multiple perspectives (from “insiders” and “outsiders” to the EU reality) although it does not introduce contrastive and opposite opinions, all of the articles indicating that there is a real need to assert the direction in which the legal translation activity boat is navigating. Notwithstanding, there is no doubt that references to the future are no longer in terms of equivalence and term alignment above all criteria and at all costs, as authors indicate that concordance and correspondence subsides in the presence of an undeniable supranational level law and language.