

# United in Diversity

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RICHARD L. CREECH, *Law and Language in the European Union: The Paradox of a Babel 'United in Diversity'* (Groningen, Europa Law Publishing 2005) 176 p., ISBN 9076871434

Most people will subscribe to the vision of a Europe united in diversity, where the people of Europe collaborate while maintaining their own cultural identity. Yet when we try to solidify this vision, the consensus rapidly vanishes. How united should Europe actually be, and how much room should it leave for diversity? This makes the debate on the effect of Europe's many languages in the European framework even more captivating. How does the Union, as it strives to break down barriers between the peoples of Europe, deal with this phenomenon from a legal standpoint or in everyday practice? Is it possible to reconcile the creation of a European market and identity with the notion of promoting cultural diversity, expressed by the differences in language? These are key questions in Richard Creech's 'Law and Language in the European Union'. The author, an American who has spent several years in Europe, clearly is fascinated by the topic and describes it with all the enthusiasm of an entomologist discovering the species of a new continent. Interestingly enough, he has dedicated the book to 'all people who speak a European language, wherever in the world they may find themselves to be'.

Mr Creech begins his systematic overview of law and language in the Union by dissecting the linguistic regime of the Community institutions, including its background and its practical implications. Over time, the number of official languages has grown steadily with the various enlargements. As a result of the enlargement in 2004, the institutions now have 20 official languages, including Maltese, although the lack of qualified translators for this language has led to a transition period in which not all documents will be translated. This makes the Union by far the largest multilingual experiment in history. Soon, Irish will become official language number 21, upgraded in the aftermath of the 2004 accession. All official

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languages are equal in status, which means that all European laws, legislative proposals and official communications are issued in these languages. This has considerable financial consequences as well as operational complications. The logistics of translation often slows down the Community decision-making processes. Moreover, translation errors combined with the intrinsic impossibility of rendering a text in exactly the same way in different languages leads to interesting discrepancies between the linguistic versions of the same legal text. All of this is well documented in the book but, unfortunately, the author devotes relatively little space to the many fascinating cases before the European Court of Justice in which differences between the linguistic versions have played a role. The Court has tackled these cases with admirable pragmatism and even a degree of opportunism.

Although the languages formally are equal, some languages are more equal than others. Mr Creech draws up a list of the relative importance of the languages in the Union's practice with English at the top of the list followed by French and, at some distance, German. The primacy of English within the Institutions seems natural now but is a relatively recent phenomenon. For years, French was the predominant language, maintaining its place long after the UK joined the Community. The entry of Sweden, Finland and Austria, and more recently of 10 other countries where English is more widely spoken than French, has definitively tipped the balance. Yet it is not only in the practices of the institutions that full linguistic equality is difficult to achieve, it is also true of the Union's policies to promote multilingualism. Paradoxically, Community measures to promote linguistic diversity, in practice, even may have contributed to the dominant position of the major languages. Mr Creech points to the *Lingua* programme (later absorbed by *Socrates*) that from 1989 onwards promoted opportunities for students and language teachers to study foreign languages. Although the programme was supposed to give special priority to the 'less widely used and less taught languages of the EU', in practice it mainly funded courses in English, French and German, with few examples of beneficiaries studying the less widely used languages such as Danish, Dutch or Portuguese. Still, these languages are far better off than the minority and regional languages, which are presented in the book as the neglected stepchildren of the EU's language policy.

Chapters 3 and 4 are at the heart of 'Law and Language in the European Union'. These chapters deal with the dilemmas faced by the European legislator and the European Court of Justice when weighing the fundamental freedoms granted by the European Treaties against the importance of national languages. On several occasions, the co-existence of the different languages has become at odds with the freedom to move between countries and the free movement of goods. What is more important in these cases, the unity or the diversity, the internal market or linguistic pluralism? This is an important consideration when deciding, for ex-

ample, what language requirements a member state can impose for product labelling. When are multilingual labelling requirements justified – to ensure that people are informed about the products they buy – and when do they become an unnecessary barrier to trade? Weighing the importance of cultural diversity against the freedoms granted by the Treaty is also necessary in deciding whether language eligibility requirements for a job are in line with Community law. Is it really relevant for a foreign teacher working in Ireland to speak Irish, or is the requirement just a hidden measure aimed at protecting the national job market? Whereas legal measures inciting people to buy Irish products are clearly against the letter and the spirit of the Treaty, a legal requirement to speak Irish may sometimes be justified.

Where economic arguments and linguistic considerations go hand in hand, the ruling of the European Court of Justice is predictable. One example is that of a Greek citizen living in Germany who was not happy with the way his name officially was transcribed into Roman characters. He therefore challenged the transcription claiming that the spelling favoured by the German authorities amounted to a violation of his rights of establishment under the Treaty. The Court backed his claim indicating amongst others that the phonetic distortion resulting from the official spelling exposed him to the risk of confusion among potential clients.

In cases where economic and linguistic arguments do not point in the same direction, things tend to get more difficult. A perusal of the Court's decisions shows a continuous struggle in a delicate balancing act to reconcile economic rationales with the protection of individual languages. In the case of the Irish language requirement for the post of an art teacher in Dublin, the Court decided that it was permissible for Ireland to require its teachers to have an 'adequate knowledge' of Irish. In a Belgian case on the labelling of mineral waters, it ruled against a group of firms that had initiated proceedings against a competing firm based on linguistic arguments. The Court found that marketing mineral waters labelled only in French and German in a Flemish region was compatible with a directive on the labelling of foodstuffs that required labelling to be 'in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed.'

Taking stock of the attitude of the Community institutions in linguistic matters, the author strongly criticises the predominance of economic arguments. As an alternative, he proposes in his final chapter a human rights based approach in an enlarged European Union and sketches the possible consequences, in particular for the language regime of the Community institutions (extending it to some of the minority languages), and for the way language teaching is stimulated at Community level. Even the interaction between the freedoms granted by the Treaties and linguistic considerations could be affected by this approach, although the

author is not really convincing when pointing out what is actually going wrong in this area. This somewhat weakens the call at the end of the chapter for the EU to ‘re-conceptualize language as being something more than a medium through which commerce is conducted and to recognize that it is at the core of what it means to be a human being.’

The basic strength of ‘Law and Language in the European Union’ is that it brings together in one volume the different legal aspects that exemplify the potential tension between the ideal of an ‘ever closer Union’ and the promotion of linguistic diversity. It draws upon case-law, Community programmes and other relevant information sources to build the story of law and language in the Union. The cross-references between the issues form one of the appealing features of the book and will provide food for thought for anyone working on multilingualism in the Union or legal issues involving the various languages.

In spite of its richness, the book also has some flaws, which, overall, are forgivable. At times, the conclusions of the individual chapters seem a bit contrived – trying to prove a thesis rather than drawing the logical conclusions of the material presented. Indeed, the plea at the end of the book for making human rights rather than economic considerations the basis of the Union’s language policies is hardly a convincing alternative to a general conclusion, enlightening the reader in a more neutral way on the genuine efforts to give multilingualism its place as a key factor within the European construction.

However, even in the absence of a conclusion along these lines, ‘Law and Language in the European Union’ offers a strong contribution to the literature in this area. While presenting ample anecdotal and analytical evidence for the specialist, it will appeal to anyone trying to understand how the Union faces the challenge of uniting the peoples of Europe in (linguistic) diversity.

