ARTICLES

Language Rights in the European Union

By Theodor Schilling[*]

A. Introduction

The destruction of the tower of Babylon led, or so we are told[1], to the emergence of different linguistic groups. Meant to be a punishment to mankind for having had the audacity to try to erect that tower, mankind has fervently embraced that punishment *i.e.* the resulting linguistic differences. Indeed, there is a body of legal scholarship promoting linguistic rights as constituting essential human rights. But there is another side to that story: it may well be considered that not so much the linguistic differences as such but the fervency of their embrace has been the real punishment[2].

An article published recently in these pages appears to be a case in point[3]. There, the authors claim that the European Union (EU) is still lacking in the protection and promotion of minority languages, especially those which are official languages of a part of a Member State but not of the EU. Traditionally, though not necessarily, the status of official languages is three-fold; they are the languages the citizens may use in their communications with public authorities and *vice versa*, they are the languages accepted in parliamentary debates and they are the languages in which legal texts are published, the different language versions generally being equally authentic. It appears[4] to be the authors' claim that the EU is falling short of a supposedly required respect of language rights under all three headings. The legal vehicle which is deemed to allow those shortcomings to be remedied is the idea

[*] Professor Dr. Theodor Schilling, LL.M. (Edin), Humboldt-Universität zu Berlin and Universitatea de Vest din Timişoara. Email: thsch@web.de.

[1]Genesis 11:7.

[2]Indeed, this theme is clearly in sight in Genesis 11:6.

[3]Iñigo Urrutia & Iñaki Lasagabaster, *Language Rights as a General Principle of Community Law*, 8 GERMAN LAW JOURNAL 479 (2007).

[4]It never becomes quite clear which exactly are the claims being made.

https://doi.org/10.1017/S2071832200000419 Published online by Cambridge University Press

that language rights are fundamental rights, and the respect of language rights therefore is a general principle of Community law[5] which binds not only the EU but also its Member States. This principle, the authors further appear to claim, requires additional efforts of the EU and its Member States to protect and promote certain languages, beyond the level presently achieved.

In trying to answer their analysis which I see as deeply flawed, for reasons that will become apparent, I shall first put the present language regime of the EU in a comparative context. I shall go on to dispute the claim that the respect of language rights is a general principle of Community law. This claim concerns different levels of multilingualism in the EU. Its discussion requires the application of different criteria[6]. The first such level, the discussion of which will form the bulk of the article, are administrative and court proceedings involving citizens and EU institutions; here, the most relevant criterion is the human rights character of language rights. Other levels merely to be touched upon are parliamentary and inter-governmental proceedings with the corresponding criterion of the equality of Member States and their official languages[7], and the multilingual publication of authentic legal texts with the corresponding partly contradictory criteria of legitimate expectations and non-discrimination. Further levels which will not be discussed specifically in this article would include education and the maintenance of linguistic diversity.

B. The EU Language Regime in Comparative Context

To gauge the degree of respect granted by Community law to Member State languages, the linguistic performance of the EU should be put into context. The EU as an organism somewhere between a traditional International Organisation and a traditional State should be compared with both. It therefore appears advisable to compare the EU language regime with other national and international

---

[5]Urrutia & Lasagabaster, *supra* note 3, 489.

[6]See further T. Oppermann, *Das Sprachenregime der Europäischen Union – reformbedürftig? Ein Thema für den Post-Nizza-Prozeß*, 4 ZEITSCHRIFT FÜR EUROPARECHTLICHE STUDIEN 1, 17 (2001).

[7]Also *see further* Proposals from the Group of Intellectuals for Intercultural Dialogue set up at the initiative of the European Commission, A REWARDING CHALLENGE. HOW THE MULTIPLICITY OF LANGUAGES COULD STRENGTHEN EUROPE 9 (2008), available at: http://ec.europa.eu/education/policies/lang/doc/maalouf/report_en.pdf, last accessed 25 September 2008: "The *bilateral* relations between the peoples of the European Union should hinge by way of priority on the languages of the two peoples involved rather than on another language."

multilingual regimes. But I shall start with the simpler case of the monolingual State. In such a State, the common language of its citizens is at the same time regularly the language in which the law in force is published, and applied by the executive and the judiciary. While in some States this is expressly provided for[8], in other States it goes literally without saying. In such States, a language question generally does not arise for its citizens because the sender and the receiver of a communication use the same common language[9].

Under some aspects similar to a monolingual State is a plurilingual State with a *lingua franca*, which has been regularly created by that State. If there is a State where the *lingua franca* is accepted as a language which everybody understands and is able to use, irrespective of her mother tongue, such a State appears to be quite rare. A prime example is Spain where, according to Art. 3 (1) of the Constitution[10], Castilian is the official language of the State, and officially proclaimed to be the *lingua franca*: "All Spaniards have the duty to know it and the right to use it". Therefore, national laws are published only in Castilian. However, according to Art. 3 (2) of the Constitution, "[t]he other languages of Spain will also be official in the respective autonomous communities, in accordance with their Statutes". A borderline case is Namibia — it is not quite clear how well English is mastered by all the citizens[11] —, which has chosen the most radical solution: after independence, it has decreed English to be its only official language[12], although at the time of independence English was the mother tongue of only 3 % of its population[13]. In

---

[8]For instance in Germany; see further, for judicial proceedings, § 184 *Gerichtsverfassungsgesetz* (Code of court constitutions), *Bundesgesetzblatt* (Federal Gazette) 1975 I p. 1077, and in France; see further Art. 2 of the French Constitution (English translation available at: http://www.assemblee-nationale.fr/english/8ab.asp, last accessed 25 September 2008).

[9]But there are exceptions: in the Grand Duchy of Luxembourg laws are published, according to Art. 2 — *Langue de la législation* (language of legislation) — of the *Loi du 24 février 1984 sur le régime des langues* (law of 24 February 1984 on the language regime), available at: http://www.tlfq.ulaval.ca/axl/Europe/luxembourgloi.htm, exclusively in French, although according to Art. 1 of the same law "*La langue nationale des Luxembourgeois est le luxembourgeois*" (The national language of the Luxemburgers is the Luxemburgish).

[10]English translation available at: http://www.vescc.com/constitution/spain-constitution-eng.html, last accessed 25 September 2008.

[11]See further Human Rights Committee (HRC), comm. No. 760/1997, *Diergaardt et al. v. Namibia*, views of 6 September 2000, available at: http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.81.NAM.En?OpenDocument&Click, last accessed 25 September 2008.

[12]See further Art. 3 of the 1990 Constitution, available at: http://www.grnnet.gov.na/aboutnam.html, last accessed 25 September 2008.

[13]There are 28 living languages listed for Namibia; see further Languages of Namibia, available at:.

such a State, while language questions may arise[14], in communications between citizens and public authorities both sides are expected to use the same language.

More common are multilingual States without a *lingua franca*. In bilingual Canada, all federal laws are published in both official languages, and the citizens may correspond with the federal authorities in either of those languages[15]. In quatrilingual Switzerland, some restrictions to the use of the languages apply: of the four State languages listed in Art. 4 of the Constitution[16], according to Art. 70 (1) of the same Constitution only three are general official languages of the federation. Also, the decisions of the Federal Tribunal are published in full only in the language of the respective procedure[17], which means in practical terms that the large majority of judgments is published in German only. In trilingual Belgium, the publication of legal texts in German, which is spoken there only by a tiny minority, is not systematic[18]. In multilingual[19] South Africa, the constitution recognises 11 official languages of which it obligates the government to use only two[20]. In those

---

http://www.ethnologue.com/show_country.asp?name=NA, last accessed 25 September 2008.

[14]See further HRC, *Diergaardt*, *supra* note 11.

[15]Section 16 (1) of the Canadian Charter of Rights and Freedoms, available at: http://laws.justice.gc.ca/en/charter/, last accessed 25 September 2008.

[16]English translation available at http://www.admin.ch/org/polit/00083/index.html?lang=en, last accessed 25 September 2008.

[17]See further the official website of the Federal Tribunal at: http://www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht.htm (last accessed 25 September 2008): "*Die Urteile werden in der Sprache des kantonalen Verfahrens verfasst und werden nicht übersetzt*" (The judgments are drafted in the language of the procedure in the *Kanton*, and are not translated).

[18]According to Art. 76 of the *Gesetz über institutionelle Reformen für die deutschsprachige Gemeinschaft vom 31.12.1983. Inoffizielle koordinierte Übersetzung des Gesetzes* (Law on Institutional Reforms for the German Language Community of 31 December 1983. Unofficial coordinated translation of the law), *Belgisches Staatsblatt* (Belgian Gazette) of 18 January 1984, an official German translation of legal texts is provided in accordance with the available budgetary means. While those translations are promulgated by the King, they do not appear to be authentic versions of the law translated.

[19]There are 24 living languages are listed for South Africa; see further Languages of South Africa, available at: http://www.ethnologue.com/show_country.asp?name=ZA, last accessed 25 September 2008.

[20]See further Constitution of the Republic of South Africa 1996, adopted on 8 May 1996 and amended on 11 October 1996 by the Constitutional Assembly, Act 108 of 1996, ISBN 0-620-20214-9, available at: http://www.polity.org.za/article.php?a_id=130703, last accessed 25 September 2008.

Languages Section 6.

States, it cannot be guaranteed that in communications between the government and the citizen both sides use the same language. Insofar as the government is obligated to use the language chosen by the citizen, it may be forced to rely on the services of a translator or an interpreter.

The language regimes of traditional International Organisations are quite different. To give but a few examples, the United Nations with 192 Members has only five Charter languages[21], the Arabic being an additional official language[22]. The World Trade Organization with 151 Member States makes do with the three official languages English, French and Spanish[23]. The Council of Europe with 47 Member States contents itself with the two official languages English and French[24] although a citizen's first access to the European Court of Human Rights (Eur. Court H.R.) may be made in any official language of a Member State[25]. Here, insofar as direct communications between the International Organisation and the citizen are

---

"(1) The official languages of the Republic are Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu.

(2) Recognising the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages.

(3) (a) The national government and provincial governments may use any particular official languages for the purposes of government, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population as a whole or in the province concerned; but the national government and each provincial government must use at least two official languages.

(b) Municipalities must take into account the language usage and preferences of their residents.

(4) The national government and provincial governments, by legislative and other measures, must regulate and monitor their use of official languages. Without detracting from the provisions of subsection (2), all official languages must enjoy parity of esteem and must be treated equitably."

[21]See further Art. 111 of the UN Charter, YEARBOOK OF THE UNITED NATIONS 953 (1969).

[22]According to the rules of procedure of the main UN organs: see further *e.g.* Rule 41 of the Provisional Rules of Procedure of the Security Council, available at: http://www.un.org/docs/sc/scrules.htm; Rule 51 of the Rules of Procedure of the General Assembly, available at: http://www.un.org/ga/ropga.shtml, last accessed 25 September 2008; this version originates in Res. 3190 (XXVIII) of 1973.

[23]See further Art. XVI (6) of the Agreement Establishing the World Trade Organization, UNTS vol. 1867 p. 3; no. 2 (c) (i) GATT 1994.

[24]See further Art. 12 of the Statute of the Council of Europe, UNTS vol. 87 p. 103, ETS No. 1.

[25]Rule 34 (2) of the Rules of Court (July 2007) of the Eur. Court H.R., available at: http://www.echr.coe.int, last accessed 25 September 2008.

provided for, the citizen who does not understand one of the International Organisation's official languages will have to rely on the services of a translator.

Comparative law therefore shows, it is submitted, that multilingual States with a *lingua franca* deem it sufficient to install the *lingua franca* — which they regularly have created themselves — as the only nationwide official language. In contrast, in States without a *lingua franca*, generally all major languages are nationwide official languages, certain restrictions being deemed acceptable for languages of very small minorities like Romansh in Switzerland or German in Belgium or the 13 languages not made into official languages in South Africa. In International Organisations, generally only a small number of languages is made into official languages, English and French being generally among them. In the case of both multilingual States without a *lingua franca* and International Organisations, the services of a translator/interpreter are indispensable for communications between public authorities and citizens while the responsibility for securing such services depends on the respective situation.

While the law and practice of the EU are similar, in their approach, to those of a multilingual State without a *lingua franca*, which the EU resembles most closely under linguistic aspects — multilingualism is part of the Union's self-portrayal[26] —, the resulting language regime is, from a comparative point of view, wholly exceptional. It provides for a two-pronged concept. On the one hand, by a soft-law approach, the EU promotes language-learning by its citizens[27], true to the beautiful Slovakian proverb, quoted by the European Commission as motto of its multilingualism communication[28], according to which "[t]he more languages you know, the more of a person you are"[29]. On the other hand, one could claim that it strives to make language-learning by its citizens superfluous, aiming "to give citizens access to European Union legislation, procedures and information in their own languages"[30]. This aim is pursued by a hard-law approach: indeed, similar to

[26]Alexander von Bogdandy, *Die Europäische Union und das Völkerrecht kultureller Vielfalt – Aspekte einer wunderbaren Freundschaft*, in PLURALISTISCHE GESELLSCHAFTEN UND INTERNATIONALES RECHT (Georg Nolte *et al.* eds), 43 BERICHTE DER DEUTSCHEN GESELLSCHAFT FÜR VÖLKERRECHT 69 (2008).

[27]Art. 165 (2) of the Treaty Establishing the European Community (EC), OJ 2006, C 321E, p. 37.

[28]Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: A NEW FRAMEWORK STRATEGY FOR MULTILINGUALISM, Doc. COM(2005) 596 final of 22 November 2005, available at: http://europa.eu/languages/servlets/Doc?id=913.

[29]"Koľko jazykov vieš, toľkokrát si človekom".

[30]See, *supra,* note 28, pt. I.2 "What is Multilingualism?".

the situation in a multilingual State without a *lingua franca*, many of the languages spoken within the EU are made official languages of the EU. As of 1st January 2007, the EU has 23 official languages, Luxembourgish being the only nation-wide official language which is not, at the same time, an official language of the EU. In contrast to what normally applies in multilingual States, but reflecting the international character of the EU, the selection criterion for EU official languages is not so much the number of speakers of a language within the EU, but rather the fact that it is, or is not, a State-wide official language of a Member State[31].

It is also apparent that the number of official languages of the EU is more than double the number of those of the likely runner-up, the Republic of South Africa, having 11 official languages. By having so many official languages, the EU differs also from traditional International Organisations. While this difference is easily explained by the fact that the EU — in contrast to traditional International Organisations — is in constant and multiple direct contact with its citizens[32], the fact remains that, whereas the United Nations communicate with everybody, including, as the case may be, the world's citizens, in just six languages, and the Republic of South Africa with its citizens in only two, the EU does it in 23. On the face of it, therefore, and looking at the matter purely under a comparative aspect, the EU has largely done its due as concerns paying respect to language rights. Indeed, an obvious question that should raise is whether the EU has done too much of what is in principle a good thing, *i.e.* whether the very effort to communicate with its citizens in 23 languages is self-defeating, by necessity or at least as practiced by the EU[33]. However, this is not the main line of enquiry pursued in this article[34]. Rather, as indicated in the introduction, this article will mainly try to answer the claim that there is a general principle of Community law commanding the respect of language rights.

C. Language Rights as an Aspect of Human Rights

The starting point for the claim that the respect of language rights is a general principle of Community law is the claim that those rights are human rights. More

---

[31]Critical Urrutia & Lasagabaster, *supra* note 3, 482-483.

[32]See further also text at *supra* note 25.

[33]Also see further Group of Intellectuals, *supra* note 7, 3: "[I]n any human society linguistic ... diversity has both advantages and drawbacks, and is a source of enrichment but also a source of tension".

[34]It is the main line in Theodor Schilling, *Beyond Multilingualism*, forthcoming.

specifically, it has been claimed that languages "are now dealt with as part of the EU's commitment to human rights, which includes the rights of linguistic minorities"[35] even if it is admitted that "the specific extent of those rights might be open to argument"[36]. This is a dubious approach to any human rights discussion, which rarely should center on the existence of a certain right but rather on the question whether a specific interference, or type of interferences, with such right might be justified. Indeed, it is a characteristic of human rights that they protect nearly every aspect of human activity and human choice, and it, therefore, would be surprising if language rights were not so protected.

The analysis should start with written texts. It appears that in most human rights catalogues freedom of language is not mentioned by name[37]. As the Eur. Court H.R. expressly held, no provision of the ECHR guarantees liberty of language as such[38]. However, the "as such" invites speculation as to the form in which liberty of language might be protected all the same. Indeed, there can be no serious doubt that a person's language, which may or may not be her mother tongue, is a defining aspect of her human identity[39]. As such, the freedom to use one's own language has been considered as an individual human right forming part of the right to respect one's private life[40] which is protected under Article 8 of the [European] Convention for the Protection of Human Rights and Fundamental Freedoms[41] (ECHR) or even an essential part of human dignity[42] which is protected expressly under Article 1 of

---

[35] Urrutia & Lasagabaster, *supra* note 3, 486.

[36] *Id.*, 500.

[37] One exception is Art. 30 of the Belgian Constitution, English translation available at http://www.fed-parl.be/constitution_uk.html, last accessed 25 September 2008.

[38] Eur. Court H.R., *Igors Dmitrijevs v. Latvia*, Judgment of 30 November 2006, not published, available at: http://echr.coe.int/echr/en/hudoc, last accessed 25 September 2008, para. 85, with further references. The judgment is available only in French.

[39] This may also apply, with less force, to the "personal adoptive language" whose idea the Group of Intellectuals (note 7), 10, recommends the EU to advocate.

[40] Rainer J. Schweizer, *Sprache als Kultur- und Rechtsgut*, 65 VERÖFFENTLICHUNGEN DER VEREINIGUNG DER DEUTSCHEN STAATSRECHTSLEHRER 371-372 (2006). A human rights dimension of language is also discussed by Franz C. Mayer, *Europäisches Sprachenverfassungsrecht*, 44 DER STAAT 367, 393 (2005), who sees language as a constituent characteristic of individual identity. In contrast, for Peter Häberle, *"Werkstatt Schweiz": Verfassungspolitik im Blick auf das künftige Gesamteuropa*, in *id.*, EUROPÄISCHE RECHTSKULTUR 355, 360 (1997), language is a cultural group right that forms part of the protection of minorities.

[41] Of 4 November 1950, UNTS vol. 213, 221; ETS No. 5.

the Charter of Fundamental Rights of the European Union[43] (EU Fundamental Rights Charter), but also under the ECHR the "very essence [of which]... is respect for human dignity"[44]. While those claims appear to be correct in principle, they are far too general. Rather, it is necessary to be quite specific and to make distinctions according to the respective circumstances. Not every claim which may be packaged under the label of freedom of language can be subsumed under the right to privacy or the protection of human dignity, and even claims which can be so subsumed will be protected against interferences only within the limits provided for in the respective human rights provisions.

I. Human Dignity

To start with human dignity, it is conceived as covering and protecting the very core of a person's humanity. In the discussion of Art. 1 (1) of the German Basic Law[45], which contains what is probably the first written guarantee of human dignity, the latter is often defined by the so-called object formula according to which human dignity is violated whenever a person is treated not as an end in herself but as an object, *i.e.* as a means to achieve some ulterior end[46]. But as there are many innocuous situations in which a citizen reasonably can conceive of herself as a mere object of the State action[47], this definition is still too wide. To narrow it down, it is important to realise that human dignity is meant to protect a person's autonomy[48] which refers to her relationship to others[49]: autonomy means a person's

---

[42] Wolfgang Kahl, *Sprache als Kultur- und Rechtsgut*, 65 VERÖFFENTLICHUNGEN DER VEREINIGUNG DER DEUTSCHEN STAATSRECHTSLEHRER 386, 395 (2006).

[43]OJ 2007, C 303, p. 1.

[44]Eur. Court H.R., *Pretty v. United Kingdom*, Judgment of 29 April 2002, Reports of Judgments and Decisions 2002-III, para. 65.

[45]German *Bundesgesetzblatt* 1949, 1.

[46]This formula goes back to Immanuel Kant and has been developed by Günther Dürig; *see further e.g.* Peter Häberle, *Aspekte einer kulturwissenschaftlich-rechtsvergleichenden Verfassungslehre in weltbürgerlicher Absicht*, 45 JAHRBUCH DES ÖFFENTLICHEN RECHTS DER GEGENWART 555, 557 (1997), and the decision of the German Federal Constitutional Court in ENTSCHEIDUNGEN DES BUNDESVERFASSUNGSGERICHTS,vol. 87, 209, 228.

[47]See further the examples given by Hasso Hofmann, *Die versprochene Menschenwürde*, 118 ARCHIV DES ÖFFENTLICHEN RECHTS 353, 360 (1993).

[48]See further Reinhold Zippelius in: KOMMENTAR ZUM BONNER GRUNDGESETZ *(Drittbearbeitung* [third adaptation] December 1989), Art. 1 Abs. 1 und 2, para. 79-80.

[49]According to Hofmann (note 47), 364, dignity in the legal sense is a concept concerning relations or

authority to dispose of her own legal sphere, especially the ability to protect her interests by speech acts[50]. This, then, is the deepest meaning of language rights being protected as an aspect of human dignity: it must be considered an inadmissible violation of a person's human dignity to forbid her to use the language(s) she knows, being equivalent to forbid her to communicate at all and thereby reducing her to a subhuman level by incapacitating her to protect her interests other than by raw force.

Human dignity, because it protects the core of a person's humanity, must be inviolable[51] and therefore does not allow for any balancing of other human or other rights against it. For this very reason, the protection granted under the heading of human dignity must not be over-extended but rather restricted; human dignity must not be trivialised. Freedom of language claims, beyond the one discussed above may only rarely and exceptionally be subsumed under this concept. As a possible example of a claim which may be so subsumed, one could think of a poet's right to use whatever language she feels is best suited to express her innermost feelings in her poetry. Beyond those rather theoretical and extreme cases, it is hard to see that freedom of language claims would be protected under the heading of human dignity.

II. A Person's Private Life

Turning then to a person's right to respect of her private life protected under Art. 8 (1) ECHR, it "is a broad term not susceptible to exhaustive definition"[52] which undoubtedly covers also a person's freedom to use her own language as part of her "social identity"[53]. In principle, therefore, as part of a wider human right, freedom of language is a subjective right[54]. However, interferences with that right can be justified, according to Article 8 (2) ECHR, for a vast variety of reasons. The upshot being that, in practical terms, all interferences which are provided by law and, more

communications.

[50]See further Hans Schultz, *Gewaltdelikte als Schutz der Menschenwürde im Strafrecht*, in RECHTSSTAAT UND MENSCHENWÜRDE. FESTSCHRIFT FÜR WERNER MAIHOFER ZUM 70. GEBURTSTAG, 517, 524 (Arthur Kaufmann *et al*. eds., 1988).

[51]Art. 1 of the EU Fundamental Rights Charter.

[52]Eur. Court H.R., *Pretty, supra* note 44, para. 61.

[53]*Id.*

[54]But see further Urrutia & Lasagabaster, *supra* note 3, 488, who claim for the EU that "[n]o subjective right of use of languages is configured".

importantly, are proportionate to a legitimate aim which the interference is meant to achieve[55] are justified. As aims are more likely to be legitimate when their pursuit interferes with the penumbra rather than the core of a person's private life, *i.e.* when they concern her social and especially her official rather than her private contacts, it appears that interferences are the more difficult to justify the more they concern the inner core of a person's private life. Interferences with a completely private use of language therefore regularly will not be apt to be justified. It is difficult to perceive of any legitimate reason to proscribe *e.g.* the use of a specific language between lovers.

The more public the use of language becomes, the more interferences are apt to be justified by legitimate aims. To give an example, the prescription of the use of (a) certain language(s) in commercial transactions might conceivably be justified by a governmental interest in controlling such transactions. Even clearer is the interest of every public authority to choose the language in which it deals with the public. This is reflected in the Eur. Court H.R.'s jurisprudence, which has held that the ECHR does not guarantee the right to communicate with public authorities in the language of one's own choice and to receive an answer in that language[56], and in Article 30 of the Belgian Constitution[57] according to which "[t]he use of languages current [*i.e.* spoken] in Belgium is optional [*i.e.* free], only the law can rule on this matter, and only for acts of the public authorities and for legal matters". For dealings with public authorities therefore freedom of language may be restricted by law[58]. Here, the counterweighing interest of private persons in using their own language is, under the aspect of the right to respect of their private lives, generally not very strong: it commonly does not concern a central aspect of their personality, obvious exceptions being status and criminal proceedings against a person. In any event, as it clearly would be absurd to claim that a person may use her own language vis-à-vis public authorities throughout the world[59], whatever their

[55]See further e.g. Theodor Schilling, INTERNATIONALER MENSCHENRECHTSSCHUTZ 89, (2004), para. 169, with further references.

[56]Eur. Court H.R., *Igors Dmitrijevs, supra* note 38, para. 85, with further references.

[57]See, *supra,* note 37.

[58]See further also Court of First Instance, Case T-120/99, *Kik v. OHIM* 2001 E.C.R. II-2235, para. 58: "the rules governing languages laid down by Regulation No. 1 cannot be deemed to amount to a principle of Community law", upheld by ECJ, Case C-361/01 P, *Kik v. OHIM* 2003 E.C.R. I-8283, para. 82. *Contra* Urrutia & Lasagabaster (note 3), 489, who try to make the case for language rights as a general principle of Community law.

[59]*Contra* apparently Mayer, *supra* note 40, 394, who postulates the fundamental right of a person to communicate in her own language with the public authorities that refer to her.

language, without the intervention of a translator or interpreter, the question of the protection of language rights in communications with public authorities boils down to the rather pedestrian question of which party is responsible for securing and paying for the services of a translator or interpreter[60]. An express international regulation on this matter can be found only with respect to one of the exceptions mentioned above: the treaty law of human rights provides for the right to free interpretation and translation in criminal proceedings against a person who does not understand the language of the police or the court[61]. All this applies to aliens, obviously, but also to the citizen whose language is not an official language of her State[62].

This far, what has been described is rather hard and clear law. The very core of the private use of a language, including the use in criminal proceedings, if needed with the assistance of a translator or interpreter, is protected by human rights law and must not be interfered with by legislative measures. Beyond that core, the State is largely free to regulate the use of languages. Especially, the State is free to determine its official language(s) and to require private persons to use it (one of them) in communicating with the State authorities. The EU, as stated above, has chosen to have 23 official languages. It appears not to be arguable that the core content of the freedom of language just mentioned goes beyond what is guaranteed by the present state of Community law.

D. The Case for a General Principle of Community Law Protecting the Respect of Language Rights

There is a further body of treaty law, supplementing human rights law in this area[63], *i.e.* treaties for the protection of minorities, much of which has been made in

---

[60]See further Eur. Court H.R., *Çiçek v. Turkey*, Judgment of 27 February 2001, not published, available at: http://echr.coe.int/echr/en/hudoc, para. 187. — As ignorance of the law is no defence, clearly a person in foreign parts must also obey laws and other official texts drafted in another than her own language.

[61]See further Art. 5(2), 6(3)(a) and (e) of the ECHR, Art. 14 (3)(a) and (f) of the International Covenant on Civil and Political Rights (ICCPR), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, Art. 8 (2) (a) of the American Convention on Human Rights, 1144 UNTS 123, and also Art. 10 (3) of the Framework Convention for the Protection of National Minorities of 1st Feb. 1995, ETS No. 157 (Framework Convention).

[62]However, if there is an official capable of speaking a citizen's language, it may be an infringement of human rights to prevent her from doing so; see further HRC, *Diergaardt* (note 11): infringement of Art. 26 ICCPR.

[63]See further Art. 1 of the Framework Convention.

this context[64]. These are especially the Framework Convention[65] which provides in Articles 5 (1), 9 (1) and in particular 10 (1) for the "right to use freely and without interference his or her minority language, in private and in public, orally and in writing", and the European Charter for Regional or Minority Languages[66] (ECRML). These minority protection treaties, combined with Art. 1a of the EU Treaty as to be amended by the Lisbon Treaty[67], have been seen as the basis of what appears to amount to a duty of the Court of Justice of the European Communities (ECJ) to develop a general principle of Community law protecting language rights[68].

I. Under Community Law

According to the said Art. 1a, yet to enter into force, "[t]he Union is founded on the value[.] of ... respect for human rights, including the rights of persons belonging to minorities". It has been claimed that "[t]his express mention of minority rights means that respect for linguistic rights is unequivocally a principle of Community law, and is defined as common to Member States"[69]. There is a strong systematic argument against this view: human rights as protected by the ECHR will be general principles of the Union's law, under the Lisbon Treaty, not on the basis of Art. 1a of the EU Treaty but on the express basis of Art. 6 (3). As minority rights are not mentioned in Art. 6 (3), which unequivocally refers to the ECHR alone and not to the minority protection treaties, nothing permits the conclusion that for the minority rights the same would follow from Art. 1a. In any case, founding the Union on certain values is not equivalent to making any international provisions protecting specific configurations of such values the basis of general principles of the Union's law.

---

[64]Urrutia & Lasagabaster (note 3), 490, claim that "there are signs of emerging common European law on linguistic minorities and minority languages along the line laid down by the Framework Convention and the ECRML" [reference omitted] and without more conclude that "[i]t is the job of the Court of Justice to establish general principles of Community law by comparing the legal frameworks of Member States without requiring that all legal orders are exactly the same" [reference omitted].

[65]See, *supra,* note 61.

[66]Of 5 November 1992, ETS No. 148.

[67]OJ 2007, C 306, p. 1, Art. 1 (3).

[68]Urrutia & Lasagabaster, *supra* note 3, 490-492.

[69]*Id.*, 492.

On a more general level, to found a general principle of respect of language rights on Community law alone appears to be rather difficult. The development of general principles of Community law serves in first place to fill some perceived *lacuna* of primary Community law. Well known examples are the introduction of human rights into Community law[70] and the establishment of State responsibility for breaches of Community law[71]. But there is no perceivable *lacuna* in the case of language rights.

Rather, the EU has a well-developed system of language rules. There are the 23 Treaty languages[72], and most of the legal texts of the EU are published in all of them[73]; importantly, all the language versions of legislative (as opposed to judicial and administrative) texts are equally authentic[74]. Further, citizens can communicate with the EU institutions in any one of these languages, and have the right to get an answer in the language chosen by them[75]. In general, the same applies to a wider range of Community bodies, but there are exceptions for which special, *i.e.* more restricted language rules apply[76]. According to their respective rules of procedure, every member of the European Parliament (MEP) has the right to use any of the EU's 23 official languages[77] in parliamentary debates, and the same applies for the

---

[70]ECJ, Case 4/73, *J. Nold Kohlen- und Baustoffgroßhandlung v. Commission of the European Communities*, 1974 E.C.R. 491, para. 13, stating that "fundamental rights form an integral part of the general principles of law".

[71]ECJ, Joined Cases 6/90 and 9/90, *Andrea Francovich and Danila Bonifaci and others v. Italian Republic*, 1991 E.C.R. I-5357, para. 35, stating that "the principle whereby a State must be liable for loss and damage caused to individuals as a result of breaches of Community law for which the State can be held responsible is inherent in the system of the Treaty".

[72]Art 314 EC and 53 of the Treaty on European Union (EU), OJ 2006, C 321 E, p. 5.

[73]See further for secondary legislation, based on Art. 290 EC, Art. 1 (1) of the very first Council Regulation, the 1958 Regulation No. 1 determining the languages to be used by the European Economic Community (OJ, English special edition, Series 1 Chapter 1952-58, 59, with later amendments), as amended from time to time, and for the jurisprudence, the Instructions to the Registrar, adopted by the Court of Justice and the Court of First Instance, respectively, which refer to Art. 1 of Regulation No. 1 (Art. 24 of the Instructions to the Registrar of the Court of Justice, OJ 1974, L 350, p. 33, as amended from time to time, and Art 18 (3) of the Instructions to the Registrar of the Court of First Instance of the European Communities, OJ 2007, L 232, p. 1).

[74]See further for the founding treaties Art. 314 EC and 53 EU, for secondary legislation see further *e.g.* ECJ, case 283/81, *CILFIT v. Ministero della Sanità*, 1982 ECR 3415, para. 18.

[75]Art. 21 (3) EC, Art. 41 (4) of the EU Fundamental Rights Charter.

[76]See further ECJ, *Kik, supra* note 58, para. 82.

[77]Art. 138 (2) of the Rules of Procedure (of the European Parliament), JO 2005, L 44, p. 1.

members of the Council in the latter's deliberations[78]. This is to say that the EU provides active and passive interpretation services for the official languages to MEPs and members of the Council. One can add Art. 55 (2) [ex Art. 53 (2) EU] as to be amended by the Lisbon Treaty[79] (Art. 55 (2) EU applies, according to Art. 358 (ex Art. 313a) of the EC Treaty, to be renamed the Treaty on the Functioning of the European Union, also to that Treaty) according to which "[t]his Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council". This provision thereby would recognise the existence of additional official languages in the Member States without, however, giving them any specific status in Community law. In particular, Treaty versions in those languages would not be authentic. The inspiration behind this provision appears to be the same as the one behind the recent Council Conclusion[80]: in answer to the requests to enhance the role of languages which are the official languages only in a specific region of a Member State but not official languages of the EU, the Council of the EU has adopted a conclusion according to which, roughly, on the basis of an administrative arrangement to be made between the Council and a Member State[81], and at the latter's costs, (a) translations into such language made by that Member State of certain legislative measures of the EU will be added to the Council's archives and published on its website, which will however clearly be stated not to have the status of law, (b) speeches in that language at Council meetings will be passively interpreted and (c) private communications to the Council and, on the basis of further administrative arrangements to be concluded with other EU institutions, to those institutions in that language can be sent to a body designated by the Member State in question to be there translated into one of the EU's official languages and then sent on, together with the translation, to the institution in question.

---

[78]See further Council Decision of 22 March 2004 adopting the Council's Rules of Procedure, JO 2004, L 106, p. 22, Annex III, pt. 1 (h) (n 1): "The Council confirms that present practice whereby the texts serving as a basis for its deliberations are drawn up in all the languages will continue to apply."

[79] Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, OJ 2008, C 115, p. 1.

[80]Council Conclusion of 13 June 2005 on the official use of additional languages within the Council and possibly other Institutions and bodies of the European Union, OJ 2005, C 148, p. 1.

[81]To date, two such arrangements have been concluded with the Council. See further Administrative arrangement between the Kingdom of Spain and the Council of the European Union, OJ 2006, C 40, p. 2; Administrative arrangement between the United Kingdom of Great Britain and Northern Ireland and the Council of the European Union, OJ 2008, C 194, p. 7.

Importantly, "[w]here the Union Institutions or bodies have a fixed period of time in which to reply, that period will commence from the date on which the Institution or body in question receives the translation into one of the languages referred to in Council Regulation 1/1958 from the Member State". Communications made in such languages are deemed to be received by the Council at the date the Council receives a translation into one of the 23 official languages, and the same applies *mutatis mutandis* to the Council's responses. In no case is the Council's responsibility engaged by those translations[82].

The EU's language rules therefore are quite clear. There is no *lacuna* in the relevant primary Community law, which partly regulates the matter itself and partly authorises secondary law, nor will there be any after the Lisbon Treaty enters into force. Therefore, there is no scope for a general principle of Community law concerning the respect of language rights. In any case, as not even the use of all official languages is a general principle of Community law[83], it is not possible to discern in Community law any basis for a general principle giving an additional role to this second tier of additional official languages of the Member States.

II. Under the Minority Protection Treaties

Firstly, to remedy this lack of basis, and irrespective of the absence of *lacuna* of primary Community law, an effort has been made by the authors to found a general principle of Community law protecting language rights on the basis of the minority protection treaties[84]. However, the development of such a principle on that basis would meet horrendous difficulties on a number of levels. First, the Framework Convention contains no definition of the minorities to which it shall apply but appears to leave that definition to its State parties[85]. The ECRML does contain, in its Art. 1, a definition of "regional and minority languages" but leaves it, according to its Art. 3, as a matter of Practical Arrangements, to the Contracting States to specify each language to which that charter shall apply. This specification, which is provided for in Part I of the charter, is not subject to the Contracting

[82]Para. 1 of the Administrative arrangements.

[83]See further ECJ, *Kik*, *supra* note 58, para. 82.

[84]Especially by Urrutia & Lasagabaster, *supra* note 3, 490-491.

[85]Especially clear the declaration contained in a letter from the Permanent Representative of Germany, dated 11 May 1995, handed to the Secretary General at the time of signature, on 11 May 1995, available at:
http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=9/30/2008&CL=ENG&VL=1.

States" reporting duty under Art. 15 ECRML which covers only Parts II and III of the charter, and is consequently left to the good faith of the Contracting States. As a general principle of Community law, one would expect not to leave the decisive question of its field of application to the Member States; however, there would be hardly any basis in the Framework Convention to found a definition of minority, and in the ECRML a definition of regional and minority languages can be found only at the price of disrupting the connection of definition in the charter and specification left to the Contracting States.

Second, while it is true that a general principle of Community law may be established even if the Member State legal systems in the relevant area are not exactly the same[86], it is also true that a certain similarity of those systems is necessary. This is demonstrated by the fact that the ECJ's human rights jurisprudence *post*dates the acceptance of the individual application procedure under the ECHR by *all* Member States, the last one to accept it having been France[87]. In spite of the existence of the minority protection treaties discussed, such a similarity, which could serve as the basis for the development of a general principle of Community law, appears to be lacking. Although both treaties have been ratified by most EU Member States, they have not been ratified by all of them. More specifically, the ECRML and the Framework Convention have not been ratified by 11 and 4 Member States respectively, including France in both cases[88]. This appears hardly to constitute the required similarity, especially as a finding of a general principle of Community law protecting language rights and based in particular on the ECRML would give rights to specific groups in specific areas of a State and would thereby directly challenge central tenets of French constitutionalism, *i.e.* the concepts of the "*république indivisible*" (indivisible republic), the equality of all citizens before the law and the "unicité du peuple français" (unitness of the French people), which also have been clearly, and in the present context, sanctioned by the French *Conseil constitutionnel* (Constitutional Council)[89], and would also be contrary to the constitutional provision that the language of the Republic is French[90]. To claim that a principle like the one

[86]Urrutia & Lasagabaster, *supra* note 3, 490, with further references.

[87]The first French declaration under former Art. 46 ECHR was made on 3 May 1974, the judgment of the ECJ in *Nold*, *supra,* note 70, dates from 14 May 1974.

[88]Status as of 18 August 2008.

[89]See further Décision no. 99-412 DC 15 juin 1999 *(Charte européenne des langues régionales et minoritaires)* Recueil p. 71, JORF 18.6.1999, p. 8974, para. 11.

[90]*Id.*, para. 12.

discussed, while it cannot be shown to be part of the law of 11 Member States and is clearly incompatible with the long-standing constitutional traditions of one important Member State, all the same reflects the common constitutional traditions of the Member States stresses credulity.

Third, the regulatory content especially of the ECRML is rather ill-defined. While its preamble calls "the right to use a regional or minority language in private and public life ... an inalienable right" its operative clauses are far less decisive. Indeed, according to Art. 2 (2) ECRML "each party undertakes to apply a minimum of thirty-five paragraphs or subparagraphs chosen from any of the provisions of Part III of the Charter, including at least three chosen from each of the Articles 8 and 12 and one from each of the Articles 9, 10, 11 and 13"[91]. As the French *Conseil constitutionnel* has noted[92], Part III contains 98 paragraphs and subparagraphs. The parties therefore undertake to apply a minimum of only a little more than a third of the charter's operative clauses. As to the choice of those clauses, while it is meant to allow the Contracting States to "match[...] the charter as closely as possible to the particular context of each regional or minority language"[93], there are no parameters to gauge such a match. In any event, there exist not only, naturally, differences between the parties but even differences within certain federal parties like Austria and Germany. It is therefore difficult to divine those clauses on which a general principle of Community law could be based. To check out how many times each of them has been chosen by the parties, and to select those chosen most often — how many choices would be required to establish a common constitutional tradition? — would not only be proof of a misconception of the very reason for the existence of the Contracting States' power to choose, but would also appear hardly compatible with the nature of a general principle. The brute fact appears to be that the regulatory technique applied by the ECRML does not lend itself to the development of a general principle of Community law.

Assuming, in spite of all the above, that a general principle of Community law protecting language rights could be developed on the basis of the minority protection treaties, here again, as indicated above, of greater practical importance than the establishment of that principle is the definition of its limitations. As the ECJ has consistently held, "rights of this nature [ownership] are protected by law

[91]According to the Explanatory Report, para. 42, "[i]t is possible for a contracting state ... to recognise that a particular regional or minority language exists on its territory but consider it preferable ... not to extend to that language the benefit of the provisions of Part III ...".

[92]*Conseil constitutionnel*, *supra* note 89, para. 3.

[93]Explanatory Report, *supra* note 91, para. 43.

https://doi.org/10.1017/S2071832200000419 Published online by Cambridge University Press

always subject to limitations laid down in accordance with the public interest. Within the Community legal order it likewise seems legitimate that these rights should, if necessary, be subject to certain limitations justified by the overall objectives pursued by the Community"[94]. What the ECJ did in this seminal decision was to look at the relevant national and international legal material and to find there limitations for the right in question; from these findings, it deduced that in the Community legal order certain limitations are justified. While these limitations are different from those found in the legal material considered by the ECJ, all of them are justified by the public interest, in the Community case "by the overall objectives pursued by the Community". In the present context, it is therefore necessary to consider the limitations the minority protection treaties provide for the protection of minority rights.

The first set of limitations provided for in the minority protection treaties is geographical. Under the "chapeau" of Art. 7 (1) ECRML, the "objectives and principles" of that charter apply "within the territories in which [regional or minority] languages are used". Concerning education, this is repeated in Article 8 (1) ECRML according to which the Member States of the ECRML only undertake (with further far-reaching restrictions[95]) "within the territory in which [minority] languages are used" to allow those languages to play some — echeloned — role in education; in other territories, according to Article 8 (2) an even more restricted undertaking applies "if the number of users of a ... minority language justifies it"[96]. This geographical limitation is repeated in all the other fields covered by that charter, *i.e.* judicial authorities (Art. 9), administrative authorities and public services (Art. 10), media (Art. 11), cultural activities and facilities (Art. 12) and economic and social life (art 13 (2)). The only provision which applies without geographical limitation is Art. 13 (1) in which the Contracting States undertake *inter alia* to eliminate from their legislation any provision restricting "without justifiable reasons the use of regional or minority languages in documents relating to economic or social life", and "to prohibit the insertion in internal regulations of

[94]ECJ, *Nold*, *supra* note 70, para. 14.

[95]See further especially Art. 2 (2) ECRML, quoted in the text at note 91.

[96]These restrictions appear to be compatible with the ECHR; *see further* Eur. Court H.R., *Case "relating to certain aspects of the laws on the use of languages in education in Belgium" v. Belgium (merits)*, Judgment of 9 February 1967, Series A, No. 4, B. Interpretation adopted by the Court, II. The six questions referred to the Court, No. 7. It is also worth mentioning that in some cases, members of a minority have manifested an interest not to be placed in classes taught in their language, considering that placement discriminatory; *see further* Eur. Court H.R., *Oršuš and others v. Croatia*, Judgment of 17 July 2008, not published, available at: http://echr.coe.int/echr/en/hudoc, paras. 65-59.

companies ... of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language".

This pattern is somewhat repeated in the Framework Convention which restricts the right to use a minority language, in Article 10 (2), in relations with administrative authorities and, in Article 14 (2), for receiving instruction to "areas inhabited by persons belonging to national minorities traditionally or in substantial numbers" and, further, guarantees it only "if there is sufficient demand" and "as far as possible". While the Framework Convention, in contrast to the ECRML, provides for an important number of rights without geographical limitation, those rights are either special forms of general human rights adapted to the situation of minorities or they provide protection against a forcible assimilation. They are not in any specific sense language rights.

A second set of limitations concerns the contexts in which minority language rights are protected. The main contexts are education (Art. 8 ECRML, Art. 14 (2) of the Framework Convention) and the communication with judicial and administrative authorities (Art. 9 and 10 ECRML, Art. 10 (2) of the Framework Convention), the other contexts dealt with in the ECRML — media (Art. 11), cultural activities and facilities (Art. 12) and economic and social life (art 13 (2)) — being only covered insofar as, or to the extent that, the public authorities are competent. In view of the geographical limitation discussed above, this raises the question whether the judicial and administrative authorities meant by those provisions are only those specifically competent for the area in question, or also nationwide, or such authorities situated in that area only accidentally. By referring to the judicial and administrative districts, respectively, in which minority languages are used, the language of Articles 9 and 10 ECRML strongly implies that the undertakings given by the Contracting States in those Articles concern only the authorities specifically competent for those districts. This interpretation is somewhat comforted by the Explanatory Report to the ECRML. According to that report, concerning judicial authorities, "[f]or higher courts ... it is then a matter for the state concerned to take account of the special nature of the judicial system ..."[97], implying that this is a matter not covered by the charter. Concerning administrative authorities, "[t]he purpose ... is to allow the speakers of regional or minority languages to exercise their rights as citizens ... in conditions that respect their mode of expression"[98]. This

[97]Explanatory Report to the ECRML, para. 90. The words omitted in the quotation "located outside the territory" might be taken to comfort the contrary view. However, they should be understood as referring to a higher court still specifically competent for the territory in question.

[98]*Id.,* para. 100.

appears to exclude the application to public authorities situated only accidentally in an area inhabited by a minority, and, together with the geographical limitation as such, also to such authorities nationwide.

It appears to follow from this short analysis that the application of a general principle of Community law protecting language rights of persons belonging to a minority, which would be based on the minority protection treaties, would most likely be restricted to areas inhabited by minorities, and in those areas would only cover education and the communication with judicial and administrative authorities. Based on those treaties, there is especially no reason to assume a general principle of Community law that would cover communications of persons belonging to a minority with Community bodies. This applies only to those bodies situated in "territories in which [regional or minority] languages are used"[99]. As the Community at present has no judicial or administrative authorities specifically competent for areas inhabited by minorities, a general principle of Community law based on the minority protection treaties simple would have no scope of application.

As far as the citizen and her position in administrative and court proceedings are concerned, there is, for a variety of reasons which all stand independent from one another, no basis for the assumption of language rights beyond those already protected under Community law at present. Especially there is no basis at all for the establishment of a general principle of Community law providing for the respect of language rights. It follows that the question of the application of such a principle within the Member States[100] is moot.

E. Language Rights in Parliamentary and Inter-Governmental Proceedings

There is no inherent necessity of official languages having the three-fold status of being the privileged means of communication between citizens and the government, of parliamentary and similar debates and of publication of authentic legal texts; rather, the different status can be regulated quite independently from one another. It is therefore worthwhile to consider briefly the two remaining status. The first of them concerns possible rights of MEPs and of members of national governments as such. Those rights are neither human nor minority rights but

[99]Urrutia & Lasagabaster, *supra* note 3, 483, refer to "the European Agency for Safety and Health at Work, which is based in Bilbao, and the European Commission Delegation in Barcelona".

[100]Discussed, with very disputable results, by Urrutia & Lasagabaster (note 3), 493.

institutional rights and cannot be based on human rights or minority protection treaties but only on the EU Treaties and derived Community law, especially the institutions' rules of procedure and, in a purely inter-governmental context, the free agreement of the governments involved. The governing paradigm here is not human dignity but the equality of the Member States and of their official languages. Unsurprisingly, those rules of procedure provide for the use of any of the 23 official languages[101]. But of course, it was open to the Council to allow further languages to be used in its meetings, and to define any conditions it thought fit to attach to that permission, as it has done in its Conclusion[102] and the implementing administrative arrangements[103]. On the basis of the principle of equality of the Member States, it is easily suggested that a Member State, requesting more than its equal linguistic due by asking for the interpretation from other than the official EU languages, should have to pay itself for the additional services. Of course, it was also open to the European Parliament to deny such permission[104]. There is nothing more to be said about this subject.

F. Language Rights and the Publication of Legal Texts

The third and last traditional status of official languages, *i.e.* that legal texts are published in all of them, and that all those language versions are equally authentic, brings one real problem of language rights in the EU in sharp focus. As I have dealt with this aspect elsewhere[105] I shall here only briefly summarise the argument. The starting point is the fact that no two texts in different languages will ever have exactly the same meaning. As in EU law all language versions, regardless of how they came to be, are equally authentic, this is not a minor problem. When all 23 language versions are equally authentic, and not all of them, considered each on its own, have the same meaning, it follows that different meanings are equally authentic. This legal conundrum has three equally unappealing solutions: either all the diverging versions have somehow to be interpreted uniformly, with the possible consequence of legitimate expectations based on the citizen's own language version being frustrated, or every language version is treated on its own merits, with the necessary consequence of discriminations because of the language, or again the law is considered as null and void because it is self-contradictory.

---

[101]See, *supra,* notes 77 and 78.

[102]See, *supra,* note 80.

[103]See, *supra,* note 81.

[104]See further Urrutia & Lasagabaster (note 3), 484, referring to a decision of the Bureau of the EP.

[105] See further, Schilling, *supra* note 34.

This problem which cannot be avoided *de lege lata* can be minimised by balancing the equal authenticity and the uniform interpretation solutions in this way that in principle, when a citizen has no reason to doubt the correctness of her own language version, the legitimate expectations she has based on that version must be protected, but that the uniform interpretation solution must prevail in the contrary case. While the results reached by that method largely coincide with those found by the ECJ on the basis of the uniform interpretation method alone in the typical cases which it had to decide in the past, the method here advocated allows for equitable results also in those cases when a uniform interpretation incompatible with a citizen's language version would disregard her legitimate expectations.

A solution of the conundrum that would be plainly compatible with the rule of law requirements, which is only possible *de lege ferenda*, would call for, rather than the addition of further authentic language versions, a reduction of the number of authentic languages, preferably to one, although not necessarily the same one for all legislative texts. Of course, this is not to say that there should be just one official language in the EU. It is only to say that there should be only one authentic language version of Community legal texts. In this sense, the Council Conclusion[106] may be seen as a first step in the right direction: while it does not reduce the number of authentic languages, it introduces for the first time quasi-official, non-authentic language versions and thereby may make the very idea of such versions respectable.

G. Conclusion

The conclusion of all this is quite clear: there is no general principle of Community law requiring the respect of language rights. Access of citizens to the EU institutions and bodies, and deliberations in the EP and the Council, are as a matter of fact obviously only possible with the assistance of translators and/or interpreters. The question which needs to be answered is who has to pay for this assistance. The answer does not need to be uniform: while there is a good case for the private citizen to be able to address the Community institutions in her own (official) language, implying that translations are to be provided and paid for by the institutions, a citizen in her economic capacity can be asked, in certain circumstances, to provide and pay for translations herself. In the case of persons belonging to a minority in a Member State, whose language is not an official

[106]See, *supra,* note 80.

language of the EU but whom the Member State, for reasons of its own, wants to be able to communicate with the EU in their own language, it suggests itself that this Member State should pay for the required translation services. In any case, outside of status and criminal proceedings this is not a human rights question. On the basis of the principle of equality of the Member States the same applies *mutatis mutandis* to debates in parliamentary and inter-governmental bodies. All this corresponds to actual Community law and administrative practice. It is only the question of the equal authenticity of all the official language versions of legislative texts which requires a different answer: *de lege ferenda*, this authenticity should not be a status of all 23 official languages but only of one of them.