

Society and Nation in Transnational Processes in Europe

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Edited by

Ralph Schattkowsky and Miloš Řezník

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INTRODUCTION

RALPH SCHATTKOWSKY AND MILOŠ ŘEZNÍK

The modern nation is the historically grown organization form of society. The question of nation in Europe in the nineteenth century has been posed and answered, but the basic conditions of its existence change and the national question can be asked again.

The question of nation is therefore again the centre of attention. After the collapse of the Eastern Bloc, in the succession states the right to self-determination of nations is demanded as the basic principle of the modern international law and is considered the basic law for the creation of a sovereign state. Also, in the conflicts outside Europe, “nation building” is seen as the best way to create solid structures of states and maintain durable pacification of the whole regions. However, the actuality of the historic phenomenon of the nation determines the processes of internationalization as the European unifying process, or globalization in general, which visibly goes against this organization principle of the modern society, making the nation apparently unnecessary, replacing it completely and contributing to further stigmatizing it. At the same time, though, under the conditions of transnational processes of societal self-organization, the term “civil society” is gradually becoming more significant. Even more remarkable is the fact that the civil society paradigm of the process of modern nation building is rarely used explicitly in the nationalism research. Such a basis would be very suitable as a pattern of clarification for the role of democracy and power in nationalism and the relation of the individual to the large group. Without doubt, the modern nation is an organizational form of the modern mass society, serving the existing conditions, objectives and attributes of the civil society. It realizes the promise of solidarity and community which the nation makes so attractive to the masses, and has an effect on identity formation. Without those structures of the civil society, self-organization as the implementation of national thought is unimaginable, and the self-organizational obligation to the nation brings the feeling of community and mobility potential for that durability which makes the national societies function. Through the necessary comparison with the individual

life project, a spectrum which satisfies the necessities for security of an individual develops. Understanding the necessity and the possibility of the designability of the society through the idea of nation and the functionality of civil society determines the strength and stability of the national movement. As a result, feasibility is considered as a considerable element of civilization.

Under these basic conditions it must be asked how the national behaviour, perception and identities change or adapt, and how the society and state react. The answer is not only essential for the self-perception of large groups, but also decides the project of Europe.

This fourth volume of the Copernicus Graduate School Studies is devoted to these problems. Scientists of different generations and countries have developed interdisciplinary perspectives with historic, political scientific, cultural scientific and law bases in the categories of “identity,” “strangeness” and “self-presentation,” questioning the reasons, effects, possibilities and in the end the necessity for the nation.

CHAPTER EIGHT

THE OFFICIAL LANGUAGE PROBLEM IN EU LAW

LUÍSA VERDELHO ALVES

Introduction

Europe's linguistic diversity is one of the major challenges of European integration. In the territory of the member states of the European Union (EU) more than sixty indigenous languages are referenced. That number may rise considerably if, in addition to the languages spoken by autochthonous communities, we also consider the languages of the migrant communities.¹ Twenty-four of these languages are granted the status of "official languages of the European Union."²

The official language issue has always attracted the interest of the academic community, but in recent years it has been increasingly debated. The first and most obvious reason that explains this increased attention relates to the eastward enlargement of the EU, which had the effect of more than doubling the number of official languages. Another reason regards the enlargement of EU powers resulting from the various amending treaties. The extension of the scope of EU action has multiplied the problems caused by the impact of multilingualism on the harmonization of national laws. Moreover, the deepening of economic integration has led to the strengthening of political integration, which gave new impetus to the discussions on the EU's democratic legitimacy.

¹ See the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Multilingualism: an Asset for Europe and a Shared Commitment*, Brussels, September 18, 2008, COM(2008) 566 final.

² 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.

fundamental importance. Advocate-General POIARES MADURO, in the conclusions presented in the case *Eurojust*,⁴⁴ contended that access of the member states and the European citizens to the Union legal texts in different languages derives from a fundamental democratic principle, as it is the way of guaranteeing EU citizens the right to participate effectively and equally in the democratic life of the Union. This is a position that reminds us of the decision of the German Constitutional Court in the Treaty of Maastricht, in which it is stated that the possibility of a citizen to communicate with the public authorities in their language is a substantial element of the concept of democracy. According to the German Constitutional Court, the attribution of sovereign powers to the Union did not include the essential attributes of the democratic state.⁴⁵

Both positions, although departing from different perspectives—the Constitutional Law of the European Union and the Constitutions of the Member States—summon a reflection on the limitations faced by the Union legislature in shaping the language regime of the European Union, and make us doubt whether, *de jure condendo*, a much different solution from the current one will ultimately be admitted.

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⁴⁴ Opinion of Advocate General Poiares Maduro delivered on December 16, 2004, *Kingdom of Spain v Eurojust*, Case C-160/03, European Court reports 2005, I-02077, paragraph 43.

⁴⁵ *German Constitutional Court decision from October 12, 1993, concerning Germany's ratification of the Treaty of Maastricht*, BVerfGE 89,155.