

Multilingualism and Language Rights

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Excursus

Private and public use of a language

Language rights in the private domain: case law fragments

1. Human Rights Committee of the UN

– *Ballantyne* doctrine

“A State may choose one or more official languages, but it may not exclude, outside the spheres of public life, the freedom to express oneself in a language of one’s choice”

2. European Court of Human Rights (ECHR)

– *Association Ekin v. France*

The ECHR considered that french legislation allowing for the administrative seizure of foreign publications, or publications in a foreign language, was restriction of freedom of expression and therefore a violation of article 10 of the Convention

– *Cyprus v. Turkey*

The ECHR held that the fact that Northern Cyprus government provided Greek-language primary schooling for the Greek minority living in Northern Cyprus, but did not provide the same at secondary school level, accounted to a breach of the right to education, guaranteed by Article 2 of Protocol n.º 1 to the Convention.

Private and public use of a language

Language rights *vis-à-vis* public authorities

Igors Dmitrijevs v. Latvia

European Court HR held that “the ECHR does not guarantee the right to communicate with public authorities in the language of one’s choice and to receive an answer in that language”

- Exception: the right to speak your language in criminal proceedings

EU linguistic diversity

- In the territory of the Member States of the EU the more than sixty indigenous languages are referenced.
- That number may rise considerably if, in addition to the languages spoken by autochthonous communities, we consider also the languages of the migrant communities.
- Twenty-four of these languages spoken in the European Union are granted the status of "official languages of the European Union" .
- In this list, three families of languages are represented: Indo-European, in the various groups (romance, Germanic, Celtic and Greek); Fino-Hungarian; and Semita.
- This diversity is further accentuated by the fact that the twenty-four languages of the Union use different alphabets: Roman, Greek and Cyrillic.
- For the purposes of translation, the recognition of twenty-four official languages implies 552 possible combinations.

EU constitutional commitment towards linguistic diversity

Charter of Fundamental Rights of the European Union

- Article 21 “Non-discrimination”
“Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited”.
- Article 22 “Cultural, religious and linguistic diversity”
“The Union shall respect cultural, religious and linguistic diversity”.

EU constitutional commitment towards linguistic diversity

The founding treaties of the EU: TEU and TFEU

- Article 3, n° 3, paragraph 4, TEU
The Union shall respect Member States cultural and linguistic diversity
- Article 4, n° 2, TEU
The Union shall respect the equality of Member States before the Treaties as well as their national identities
- Article 165 TFEU
The Union shall fully respect the cultural and linguistic diversity of the Member States
- Article 18 TFEU
Prohibition of discrimination on grounds of nationality

Jurisdiction to adopt rules regarding the use of languages in the EU

“The rules governing the languages of the institutions of the Union shall, without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union, be determined by the Council, acting unanimously by means of regulations.”

(Article 342 TFUE)

In short: the linguistic configuration of the EU will have to rely on a consensus among Member States.

Language rules of the EU – Regulation 1/58

The status of “official and working language” of the European institutions is granted to at least one official language of each Member State

- The initial language pluralism: four official languages: Dutch, French, German, and Italian (<https://eur-lex.europa.eu/legal-content/EN-FR/TXT/?uri=CELEX:31958R0001&from=EN>)
- The present situation, after successive enlargements: 24 official languages
- The impact of Brexit: will English remain one of the official languages?

Regulation 1/58: Scope of application

- Regulation 1/58 has its scope limited to the institutional framework of the Union

The Union legislator, when adopting the language regime of subsidiary bodies, is not limited by a constitutional principle of equality of languages.

(Christina Kik v Office for Harmonisation in the Internal Market)

- Regulation 1/58 has its scope limited to the relations between the institutions and a Member State, or a person within the jurisdiction of one of the Member States.

It is therefore not applicable to relations between the institutions and their officials and agents.

Regulation 1/58 – Catalogue of rights

- The right to communicate with the institutions and advisory bodies of the Union in their own language, provided that such language is one of the official languages of the EU.
- The right of access to Union legislation in one of the languages of the Union
- The right of access to justice in one of the languages of the Union