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## Emerging EU legal culture and its paradoxes

The monograph *Language and culture in EU law*, carefully edited by Susan Šarčević, an eminent scholar in the field of legal translation, is a valuable contribution on European Union (EU) legal translation, focusing specifically on the EU legal culture and its emerging status. As such, it is a perfect complement to other edited volumes on EU legal translation, most notably Pozzo and Jacometti (2006) and Baaij (2012), which have harmonisation as their starting point.

The book is based on papers presented at a conference celebrating Croatia's accession to the EU in 2013. It comprises the editor's introduction, 12 contributions and an index. The contributions are organised into three parts: Part I — Law, language and culture in the EU, Part II – Legal translation in the EU, and Part III – Terms, concepts and court interpreting. Overall, the book offers interdisciplinary perspectives from law, translation studies and terminology, striking a good balance between linguistic and legal contributions and incorporating both insider and outsider perspectives as well as academic and practitioner views.

Part I focuses on the EU legal culture from a legal perspective. The first contribution by Michele **Graziadei** entitled "Law, language and multilingualism in Europe: The call for a new legal culture" discusses the birth of a new European legal culture, focusing on problem areas related to its emerging status, in particular the lack of a uniform set of legal concepts shared throughout Europe. As Graziadei argues, this lack of conceptual uniformity limits the uniformity of EU multilingual legislation (p. 25), leading to a divergent interpretation and application of EU law in the Member States. The next contribution by Colin **Robertson** entitled "EU multilingual law: Interfaces of law, language and culture" offers an insider lawyer-linguist viewpoint on interdependencies of EU law, explaining a complex interplay of procedural, political, linguistic and legal factors which affect EU legislation at two stages in its life cycle — drafting and interpretation. Robertson introduces a useful distinction between the vertical and horizontal linguistic dimension of EU law. The vertical dimension lies *within* a single official language between a legislative text and its predecessors and any future superseding texts (p. 41), related legislation and higher-ranking texts (p. 42), as well as the language of national law (p. 43), also known in translation studies as textual fit (cf. Biel, 2014). The horizontal dimension offers a 'parallel' view — it covers all language versions which are synoptically synchronised through style guides and other reference materials: "The language versions march in step like a row of soldiers, each aiming to convey the same message" (p. 44). The idea of vertical alignment is more frequently referred to within EU institutions as 'multilingual concordance'. Another helpful distinction has been proposed in the thought-provoking contribution by Mattias **Derlén** "A single text or a single meaning: Multilingual interpretation of EU legislation and CJEU case law in national courts", which reveals paradoxes related to EU multilingualism. Derlén distinguishes between two competing approaches to multilingualism — the single meaning approach and the single text approach. The former is connected with

EU legislation, where all language versions are *de jure* authentic (full multilingualism) even though it is possible to identify a *de facto* original (now usually the English version). The latter applies to EU case law where only one language version is deemed by the Court of Justice to be authentic, i.e. a judgment in the language of the case (p. 58, limited multilingualism) — the *de jure* original as opposed to the *de facto* original, the French version, since the judgment is deliberated in French as the procedural language of the Court. Next Derlén provides an informative overview of techniques applied by national courts when they interpret EU law and CJEU case law, amply evidencing an (inconsistent) use of both the single text and single meaning approaches in national contexts, which, as he rightly points out, creates uncertainty as to which language will have a key role in interpretation (p. 70). What I find particularly interesting is Derlén’s observation about the spillover effect between case law and legislation — he argues that the single text approach for case law fosters the same approach for EU legislation since the CJEU deliberates in French and is likely to consult EU legislation in French (“the use of French in the CJEU may enable French to hold on to the perceived position of legislative original”, p. 69). In the final contribution of this section, entitled “Comparative law and the new frontiers of legal translation”, which due to its generality would better fit the initial part of the section or Part III on EU concepts, Barbara **Pozzo** — referring to comparative law — discusses conceptual problems in multilingual law, in particular the lack of uniform legal terminology, “stratification of different meanings” in legal concepts (p. 74), inconsistency of terms within and across language versions of EU legislation, as well as the lack of coherent interpretation theory of EU multilingual texts (p. 83). She next focuses on rationalisation measures, including attempts to elaborate a neutralised language and a Common Frame of Reference (CFR) for fundamental concepts, e.g. *event beyond control* instead of *force majeure*. Pozzo concludes with a shrewd observation that it is naïve to assume that the introduction of neutral neologisms ensures uniform interpretation and application of EU law *per se* since they in fact require constant monitoring to ensure equivalence (p. 84).

Part II shifts the focus to legal translation specifically and contains contributions by both legal and translation scholars. In her contribution “Theoretical aspects of legal translation in the EU: The paradoxical relationship between language, translation and the autonomy of EU law”, Anne Lise **Kjær** continues the topic of paradoxes behind EU translation, focusing on the declared autonomy of EU legal concepts — their ‘semantic independence’ from domestic law. Kjær asks how such autonomous concepts are actually applied in national contexts outside the international discourse community. She argues that “stating autonomy does not automatically result in autonomy” but, on the other hand, it refocuses the European lawyers’ legal discourse and may bring about a change also at the national level (p. 105). Another theoretical discussion is offered by C. J. W. **Baaij**’s chapter “EU Translation and the Burden of Legal Knowledge”, in which he hypothetically applies Schleiermacher’s division of literary translation strategies into domestication (familiarisation) and foreignisation (exteriorisation) in order to determine the degree of legal knowledge and comparative law skills required by translators. Like Schleiermacher, Baaij argues that the two approaches should not be mixed (p. 111) and instead of using both ‘diverging’ approaches concurrently, EU translation should decide on one (p. 119). This view seems too radical to me and it ignores the practical fact that (legal) translation often mixes strategies and techniques at different levels of linguistic organisation, e.g. a partial exteriorisation of terminology but familiarisation at the level of syntax. Baaij concludes with his recommendation for exteriorisation (including “syntactic correspondence”) which “is more likely to succeed in expressing EU law consistently in 24 languages” (p. 119). The next contribution by Annarita **Felici** entitled “Translating EU legislation from a lingua

franca: Advantages and disadvantages” discusses the status and impact of EU English, currently the dominant procedural language of the EU at the expense of French. Felici describes EU English as a “neutral and diplomatic tool” and “a vehicular language with a relatively neutral semantics” (p. 128) under the strong influence of non-native speakers. The final contribution of this section by Ingemar **Strandvik** “On quality in EU multilingual lawmaking” offers an insider perspective on the concept of quality in EU translation and evidences shifts in the EU institutional discourse on quality. Quality is defined through the prism of market standards ISO 9000 and EN 15038: 2006 as a degree to which needs and expectations are met. It is thus a gradable concept — a sum of characteristics “which may need to be ranked in order of priority or may even be contradictory” (p. 142). With this, Strandvik stresses the dynamism and relativity of the concept of quality, which may mean different things to varied actors and stakeholders, e.g. requesters, editors, translators, lawyer-linguists. In addition to fidelity to the source text, quality characteristics also comprise alignment to national legal cultures: “all language versions of a piece of legislation should deviate as little as possible from the target cultures’ drafting conventions” (p. 153). This marks an important shift in the institutional rhetoric on quality.

The final part comprises three chapters on EU terminology and ends with, somewhat surprisingly, a chapter on court interpreting. The first contribution by Jan **Engberg** entitled “Autonomous EU concepts: Fact or fiction?” continues the topic of the declared autonomy of EU concepts (see also Kjær’s chapter), approaching it from the perspective of knowledge mediation and cognitive semantics. He evokes the lenses of culture and interpersonal communication to demonstrate how meaning is conceptualised and how such conceptualisations are intersubjectively shared. Engberg concludes with a convincing observation that conceptual autonomy is ‘an emerging characteristic’ which develops over time: “we learn that known concepts from national law can also acquire a supranational, autonomous meaning over a period of time” (pp. 180-181). The next contribution by Susan **Šarčević** entitled “Basic principles of term formation in the multilingual and multicultural context of EU law” discusses secondary term formation, explaining rules and processes affecting EU terminology, including the double (national and EU) coding of terminology and an emergent status of EU law. Šarčević refers specifically to the translation of the EU *acquis* at the pre-accession stage when translators have to create the equivalents of entire EU terminology in their national language, to which she refers metaphorically as ‘a Herculean undertaking’ (p. 183). The chapter points out the tension between conformity and creativity, that is, whether translators should align a term to other language versions (the former) or to target language conventions and expectations (the latter). The next contribution co-authored by Maja **Bratanić** and Maja **Lončar**, entitled “The myth of EU terminology harmonization on national and EU level”, continues the topic of terminology management in the EU context based on Croatia’s experience, evidencing the lack of consistency, variation and overlooking its causes. The final section by Martina **Bajčić** “The way forward for court interpreting in Europe” discusses court interpreting in the context of the implementation of Directive 2010/64/EU on the Right to Interpretation and Translation in Criminal Proceedings across the Member States. Bajčić discusses different practices as regards the provision of interpreting, interpreter status and training.

The edited volume is a valuable interdisciplinary resource for academics and practitioners hoping to get insight into the interface between law and language in the EU. Its leitmotif is the new legal culture and its emerging formative status. It evidences a number of paradoxes and

tensions inherent in EU legal translation: vertical versus horizontal equivalence, fidelity versus readability, exteriorisation versus domestication, conformity versus creativity, the single meaning versus the single text approach to multilingualism, *de facto* versus *de jure* original, etc. Last but not least, the book confirms that the existing theoretical concepts and frameworks insufficiently address the complexity of multilingual law and its translation.

## Bibliography

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