

Language contact phenomena in EU legislative texts: a case study

Legislative acts of the European Union, which are published in 24 official languages, are the result of complex interactions of a multitude of actors at different levels, from the initial Commission proposal (Robinson 2014) to national delegates in the working groups of the Council of the European Union (Guggeis 2014) to members of the European Parliament (European Parliament 2020). While the Commission proposal is translated into all official languages and MEPs may – and do – use different languages in their work, interinstitutional negotiations with a view to establish a compromise text acceptable to the EP and the Council generally focus on one language version only, historically French, nowadays nearly exclusively English. Therefore, linguistic debates and contact phenomena are not uncommon.

A particularly striking case, which has not been settled since 2003/2004, addresses the lexicon, pragmatics and socio-intercultural context of the legal languages in contact.

It concerns the use of the English terms “penalties” and “sanctions” for measures to be applied in the event of infringements of legal rules, and the terms employed as their correspondencies in other language versions. As legal terms are rooted in their national legal systems and the legal systems of the 27 EU Member States differ as systems and in their legal concepts, definitions and taxonomies, a national term has to be used with utmost care for an autonomous supranational concept of EU law (cf. ECJ, Case 283/81 CILFIT¹, par. 19).

In this context, it is of interest to contact linguistics that the original request to replace the word “penalties” with “sanctions” in the English version of a legal act was not submitted by native speakers, but by the German delegation in the Council working group². The Council Legal Service was asked for an opinion and drafted a statement which was approved by Council’s committee of permanent representatives (Coreper)³ and, quite unusually for such a linguistic issue, endorsed at ministerial level by the Council⁴. The statement concluded in essence that there was no substantive difference between the two words. Nevertheless, the issue came up again in December 2021, when the Council suggested using “sanctions” instead of “penalties”⁵ in the proposed Pay Transparency Directive⁶, with the European Parliament opposing that suggestion⁷.

The present contribution studies the semantic fields of the English terms “penalties” and “sanctions” taking into account the absence of a legal definition in EU law, compares them to the terms used in the relevant places across the other, equally legally binding, language versions, the contact-linguistic part the German term “Sanktionen” and the French term “sanctions” play in the debate and the socio-cultural background of the German delegation that was concerned about the use of “penalties” in 2003/2004.

The findings of the study contribute to contrastive linguistics in the field of applied and interactional linguistics on the basis of polycentric languages for special purposes.

1 Case 283/81 CILFIT, Judgment of the Court of 6 October 1982, ECLI:EU:C:1982:335.

2 Council document 13632/04 of 22.10.2004.

3 Council document 14002/04 of 18.11.2004.

4 Council document 6701/06 ADD 1 of 3.3.2006.

5 Council document 14317/21, 2.12.2021.

6 Proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (COM(2021)0093).

7 Personal communication to author, 23.8.2022.

Sources:

Convention, drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests (1995)

Second Protocol, drawn up on the basis of Article K.3 of the treaty on European Union, to the Convention on the protection of the European Communities' financial interests (1997)

Legislative procedure 2000/0801(CNS) – documents pertaining to the initiative of the Kingdom of Denmark with a view to adopting a Council framework Decision on combating serious environmental crime, including Council Framework Decision 2003/80/JHA of 27 January 2003 on the protection of the environment through criminal law

Legislative procedure 2003/0301(COD) – documents pertaining to the proposal for a Directive of the European Parliament and of the Council concerning measures to safeguard security of electricity supply and infrastructure investment, including Directive 2005/89/EC of the European Parliament and of the Council of 18 January 2006 concerning measures to safeguard security of electricity supply and infrastructure investment

Legislative procedure 2021/0050(COD) – documents pertaining to the proposal for a Directive of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms

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