Multilingualism, Legal Drafting and Interpretation of Bilingual Law in Italy

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Abstract

The article begins with a short history of the current Italian language, as an example of a dialect evolving and becoming elevated to the status of a national language. Next, an overview of Italy as characterized by multilingualism and of the different minority languages is offered. A third part is devoted to the different legal languages of Italian law and particularly to the consequences of multilingualism in Italy, which refers to the obligation to draft some local laws in two or tree languages. Multilingual drafting concerns institutions – and therefore concepts – of Italian law which are applied within one single legal system, namely the Italian one, and are merely expressed in a legal language which is not only Italian, but German, French or Ladin. This part is discussed more in deep. The article underlines that legal multilingualism in Italy is a rather unexplored research field. As in Europe there is a clear need for studies inquiring the problem of intepretation and application of mulitlingual law, the praxis and the operative reality of the "regional" legal languages in Italy would probably deserve more attention.

1. Introduction

If compared to the other "mother languages" spoken in the rest of Europe, Italian could be considered a "young child": the habitual use of Italian by a majority of Italians is a rather recent phenomena.

In the Italy of 1860, one year before the unification of the country, the proportion of the population which could speak Italian has been calculated around 10 [1] or 2,5 [2] per cent, depending on the criteria used. Only over the last quarter-century has the majority of the Italian population habitually used Italian in all situations [3] .

Much of the origin of this situation can be attributed to the effects of ignorance and illiteracy, but the main reason was probably a total lack of linguistic unity, reflecting a non-politically unified Italy; at that time in Italy there was no linguistic control at a central, national level and as a consequence, local dialectal differences could continue to evolve [4] . Therefore, the country was fragmented into countless idioms and the majority of Italians knew no language other than their local dialect.

In this framework, the history of the current Italian language is an interesting example of a dialect evolving and, as a result of particular conditions, becoming elevated to the status of a national language.

DOI: 10.14762/jll.2012.063

As Maiden has noted [5] , the linguistic variants into which Italian has become fragmented since the end of the Roman empire until the late nineteenth century were not "dialects of Italian"; what today we call Italian is historically just one of the dialects, that of Tuscany, having acquired, from the fourteenth century onwards, more influence and prestige, so as to become accepted as the *Italian language* [6] .

2. Multilingualism v. Monolingualism in the history of Italy

The definition of Italian as a country characterized by multilingualism or by a unbroken linguistic unity is a matter of perspective: if the analysis is limited to relatively elevated domain – the language of literature, law, science, religion and so on – and to literate people, who were able at least to read and write, Italy could be broadly defined as a monolingual reality, even if since the tenth century the "vernacula" languages have been gaining at the expense of Latin.

Latin was the language of educated written and oral discourse until the early sixteenth century, when the "Questione della lingua" [7] was resolved in favor of Florentine. Therefore, this Florentine variety of the Tuscany language came to supersede Latin as the language of elevated discourse.

In the thirteenth century Tuscan was already in use outside Tuscany, as the language of an economically and commercially powerful Region [8] . But when Florence failed to become the political leader of the Italian peninsula, Florentine – a variety of Tuscan–was kept alive for several centuries as a culturally prestigious idiom for example by Dante, Petrarch and Boccaccio, who used it as a literary language [9] .

For many centuries Italians lived in a state of "diglossia", in which high-register languages were used as a means of communication in elevated discourse, but their remoteness from everyday popular speech were very marked. From the 15th century, Latin was the language of written and spoken elevated discourse, but vernacular languages were used in spontaneous speech by the mass of the population. Later, from the 16th century on, Florentine having won the day to the detriment of Latin, Pietro Bembo promoted a model of this language which was not the contemporary Florentine, but the one of prestigious literary languages of two centuries earlier which, as in the case of Latin before it, became remote from everyday popular speech [10] .

Only recently, at the end of the millennium [11] , the Italian population started to become a real linguistic community, with over 90% speaking Italian.

This situation is the result of different factors – such as the strong influence of Italian exercised through the media – but the pre-war Fascist policy against all languages that were not Italian has been crucial. At that time, a well known measure was used in order to absorb the linguistic and ethnic minorities present within the territories: the transfer of majority groups to the territories traditionally occupied by minorities, with the aim of "making them minorities in their own land" [12] . This was Mussolini's policy, for example, in the bilingual Italian/French Valle d'Aosta region where, after the Second World War, Italian had slowly been making inroads into the domain traditionally occupied by French.

3. Minority languages in Italy

In Italy, more than in any other country, the language system of the various regions is complex. In most cases, to communicate, read, write or speak for the purposes of elevated discourse, people tend to use a literary language and use a dialect additionally. [13] There are a large number of such dialects [14] .

In addition, nowadays a number of languages other than Italian have gained official recognition by the Italian State as "minority languages", as provided by Law 482, 25 November 1999 "*Norme in materia di tutela delle minoranze linguistiche e storiche*". The Law was implemented in 2001 [15] and enacted 51 years after the Italian Constitution of 1948 entered into force; art. 6 states that "The Republic shall safeguard language minorities by means of special provisions". On this basis, many of the regions of the Italian peninsula, including the islands, have included provisions for the protection of minority languages, or have enacted at least one legal text [16] . Finally, in 2000 Italy signed the European Charter for Regional or Minority Languages.

Although neither the Constitution nor Law no. 1999/482 define the term "language minority", the following definition, taking account of the relevant literature, could be advanced: "a speech community which uses a different language from the majority of the people living in the same political or national environment" [17] .

By this definition, twelve minority languages are officially recognized in Italy; a larger number of dialects – namely unofficial languages related to Italian–are also spoken.

Starting from the Italian islands, the Sardinian minority language ("*sardo*"), spoken by over a million people in the centre and south of the Italian island of Sardinia, is regarded by many linguists as a distinct language, because of the extent of its structural differences in relation to most other varieties of Italian [18] . In Alghero , one of the cities in Sardinia, a variant of Catalan, *"algherese"*, is also spoken. Besides being one of the official minority languages of Sardinia, it is an official languages of the municipality, together with Italian.

In the north of Italy, the Friulan language (*"friulano*") is a variety of Ladin, a Rhaeto-Romance language, one of the Romance languages or neo-Latin family of Indo-European languages. Friulan is spoken by 500,000 (perhaps 700,000 people) in the area of Portogruaro in the Veneto region and in the Friuli-Venezia Giulia region. Unlike Ladin, Friulan has the same relationship with Italian as the other Italian dialects: nowadays, Italian is the "high" language, used in formal situations and Friulan is the "low" language of personal relationships, particularly among older people living in rural areas of small towns [19] .

In Friuli-Venezia Giulia at least two more languages are spoken: a Carinthian variety of German and Slovene. This latter is the language of a specific population – the Slovenes – living in the area of Trieste, Gorizia and Udine. The protection of Slovene is very similar to that enjoyed by the German-speaking minority of South Tyrol (Alto-Adige/Südtirol) [20] , providing their right to use their language in all situations and spheres of life [21] .

The Occitan-Provençal language ("*occitano-provenzale*", perhaps 200,000 current speakers) and Franco Provençal ("*franco-provenzale*", perhaps 100,000 current speakers) are

spoken in some alpine valleys in the western Piedmont Region and in some provinces of the Valle d'Aosta region. Due to immigration, provençal is also spoken in some districts in the Calabria region, in the south of Italy.

In the Valle d'Aosta, French was recognized as the official language of the Region, equal to Italian. In this region, French is only the historical language of culture of the Aostans, who use Italian or Franco Provençal in their everyday activities. Even through the whole community is officially bilingual, only few people still use French today, at least not in "educated" discourse. Italian in particular is used as the language of current speech, but at the same time is taking the place of French as the medium of "high-register" activities.

The Italian multiligualism patchwork also has non-Romance languages as components: in the south, Greek is spoken in the Sicily, Calabria and Puglia (Salento) regions by about 20,000 people.

In the north, there are over 250,000 German-speaking people in the South Tyrol (Alto-Adige/Südtirol) region (using *Hochdeutch*) [22] , which was ceded to Italy from Austria after the First World War, and in parts of the Valle d'Aosta and Piedmont regions. German speaking Italian citizens from the South Tyrol regard the use of German as a mark of personal status, as a symbol of belonging to the Germanic people, which to some extent replaces the citizenship which was taken away from them in 1919, in defiance of any principles of self-determination. In contrast, the German-speaking *valdostane-walser* communities use *Hochdeutsch* not as a result of Italo-Swiss border issues, but for a purely linguistic reason: the Walser oral dialect (*"vallese"*), which is South German in origin, does not have a written form; Hochdeutsch is used for writing, but the use of Walser is the identifying feature of the community. [23]

The Ladin language (*"ladino", "ladin"*) is spoken by about 30,000 people in part of the Trentino region (in the Dolomites) and South Tyrol region, as well as in a small part of the Veneto region. Ladin is a Rhaeto-Romance language, a sub-family of the Romance languages.

In some areas of the Trentino and Veneto Regions, there is an ethnic minority, the Cimbrias, some of whom speak a Bavarian dialect called *"cimbro"*, which is recognized and protected by Law 482/99. Even if, under the influence of the dialects spoken in the same areas–which have always been the second language of the Cimbrian people, this language has evolved, – it has maintained many characteristics of early Middle High German [24] .

In the Cimbrian area, only a small part of the community speaks or understands Cimbrian [25] , and even fewer people can read and write it [26] ; as a consequence, the languages of communication within the Cimbrian community are the Veneto and Trentino dialects and only Italian is used in elevated and official discourse.

The last minority language group of Trentino Region [27] is used by the "Mocheni", a small population living in an area not far from the Cimbrian area of Luserna and who speaks *"mocheno"* (bersntoler sproch). The language is considered to be a variant of Ancient High German and it is currently spoken by about 2.000 *mocheni* people.

Finally, Albanian-speaking communities have been present in the south of Italy since the 14th century and 2,000 Croatian speakers live in that area (mainly Molise Region); this presence is a result of immigration and the language belongs to the Southern Slavic group

of Indo-European languages.

4. Bilingual legal drafting

The legal regime for bilingualism (*bilinguismo normativo*) in Italy, which refers to the obligation to draft the whole body of law in two languages, concerns two regions: the Alto Adige/South Tyrol and the Valle d'Aosta.

The South Tyrol (of which the Autonomous Province of Bolzano forms part) was ceded to Italy in 1920. After an early period in which Italian was imposed as the official language even on the German-speaking minority, owing to the well-known aversion of the Fascist party towards language minorities, the Degasperi- Gruber pact led to the signing, in Paris, of a treaty protecting the region. The treaty introduced equality as regards the use of Italian and German by the public administration and in official documents.

Parity of both languages was officially established under the statute of autonomy [28] , article 99 of which sets out that " the German language has parity with Italian, the official language of the State". Finally, Presidential Decree no. 574 of 15 July 1988 (the law implementing the special statute for the Trentino-South Tyrol region concerning the German language and Ladin in citizens' dealings with the public administration and judicial proceedings) put in place the obligation to draft the laws in both languages.

The legislative procedure for the laws in the Province of Bolzano and the South Tyrol Region is therefore a bilingual, Italian/German one; Ladin does not enjoy the special status reserved for the German language, and therefore the obligation to draft the Provincial and Regional laws in that language is confined to those acts which are of relevance to the Ladin community [29] .

The Autonomous Region of Valle d'Aosta had its origins in 1945, at the end of the Second World War, as the "*circoscrizione autonoma*" (autonomous administrative area) of the Kingdom of Italy [30] . The Autonomous Region was established three years later, based on the Statute granting autonomous status, approved by a constitutional law of the Italian Republic [31] .

The bilingual history of the Valle d'Aosta originated in the forced introduction of the Italian language, following the unification of Italy, to impede the use of French and Franco-Provençal. This was done with a view to achieving one of the fundamental objectives of a unified State, namely to produce linguistic unification [32] .

Under article 38 of the Statute, French has parity with Italian.

Public acts may be drafted in either language, with the exception of provisions relating to the judicial authority, which are drafted in Italian. This provision gives rise to an obligation to transcribe all acts –including normative acts–in the Official Gazette, in French as well as Italian.

Article 39 (1) which follows, adds that "In all types and grades of schools the same number of hours per week as are dedicated to the teaching of the Italian language shall be dedicated to the teaching of French"

Thus a principle of constitutional importance is set out, which modern scholars define

as perfect, complete or total bilingualism, and which the Constitutional Court calls "full bilingualism" [33] .

It has been asserted that complete bilingualism as in Valle d'Aosta is not to be found in the other areas with autonomous status, such as the autonomous Province of Bolzano. Here, conversely, we must refer to linguistic separateness: German and Italian, with an obligation to adopt either one or the other language [34] . In Valle d'Aosta, on the other hand, full bilingualism has come to mean that any individual, public or private body, active within the territory, can use the official language of the Republic or French, as they see fit, since it has been accorded parity with Italian.

In both Regions, the drafting process regarding bilingual laws involves institutions and experts who can guarantee the quality of the drafting, the translation and the correspondence of legal terminology adopted in both languages.

So far as the legislative procedure is concerned, the texts of laws and regulations in Valle d'Aosta are drafted predominantly in Italian and subsequently translated by translators working within the *Service de promotion de la langue française* [35] .

In the South Tyrol, a key role in the legislative procedure is assigned to the *Ufficio Questioni Linguistiche* of the Province of Bolzano (Provincial office for languages), which represents an important step in the legislative process: this office not only deals with the translation of texts into German or Italian – in the past the majority of acts were drafted in Italian and then translated, but nowadays the two languages are used in the draft – but also of the legal/linguistic correspondence between the two texts. Transaltion take places before transmission to the *Consiglio Provinciale*, which has the competence to approve and enact statutes. The translation process is difficult and causes significant delay in the legislative process. Also because of these difficulties the *Ufficio Questioni Linguistiche* works in close cooperation with the *Commissione Paritetica di Terminologia* (Terminology Commission), set up under article 6 of Presidential Decree no. 574 of 1988 [36] .

According to its own internal regulations (art.1) the Commission has a duty to establish, in binding form, German equivalents for legal, administrative and technical terminology of every kind, where it already exists in Italian, as well as defining, in the case of adoption of new terms, the corresponding expressions in both languages.

The Commission therefore has a double function; on the one had it fixes "in binding form" [37] the corresponding German terminology for Italian legal, administrative and technical terms. On the other hand, its work involves the creation of neologisms.

In both cases it substantially involves guaranteeing the reliability of the translation. Lawmakers can impose a new concept through a neologism, without having to develop a definition setting out all aspects of the type; at the same time, it is in a position to guarantee that the legal sense of the two terms is equivalent, leaving aside their correspondence from a linguistic point of view [38] .

In coining neologisms, the Commission adopts two techniques: forming calques and making paraphrases. The first involves creating a calque from a term in the original language, translating a simple lexical item literally or a phrase formulated originally in Italian. For instance, the term "*decreto ministeriale*" (ministerial decree) was translated as "*Miniserialdekret*". It is interesting to note that the creation of neologisms is often preferred

to using a corresponding concept which already exists in the German, Austrian or Swiss German variants of specialized legal language. This is the case with the Italian expression "*decorrenza del termine*", which is translated with the neologism "*Ablauf del First*", despite the fact that German civil law has the concept of "*Firstablauf*". Conversely paraphrases involve composing a new term using several words: an example would be the translation of the Italian expression "*atto conservativo*" as "*Rechtshandlung der Wahrung*" [39] .

This method of drafting law in the South Tyrol often results in the creation of a neologism in German, in order to transpose concepts belonging to the Italian legal tradition into German. In this way a South Tyrol–German legal language is created, which is partially different to the other systems using the German language (Germany, Austria, Switzerland).

The South Tyrolean legal terminology is collected in a specific database, BISTRO http://www.eurac.edu/en/research/projects/ProjectDetails.html?pid=1757 established at EURAC the European Academy of Bolzano/Bozen http://www.eurac.edu/en/eurac/welcome/default.html , working in close collaboration with the Terminology Commission (Commissione Paritetica di Terminologia). EURAC develops tables of legal terminology– http://dev.eurac.edu:8080/index/31_TerKom_en.html

Neologisms and interpretation of bi-lingual and multi-lingual law

It is acknowledged in the legal field that neologisms have given rise to novel linguistic development, to specialized legal meta-language [40] . The clearest example is provided by the language of the European Union [41] , where specialized legal language has been developed for every language, differing from and independent of the ones existing in each national legal system [42] . This has been created in order to express the concepts under the new legal order of the European Union within the Member States [43] .

Neologisms involve a translation technique which resolves *a priori* one of the most important issues in legal translation: the lack of equivalence (in linguistic terms) and concepts (in legal terms). As is well-known, the mere linguistic transposition of a legal concept from one language to another does not guarantee the equivalence of the concept in legal terms nor, consequently, that the same legal effects will result [44] . The impossibility of assigning from the outset a common, absolute meaning to legal terms is resolved at the institutional European level through a "closed solution" by giving an unambiguous meaning to the new concepts created in the two languages. This institutional mechanism allows the principle difficulty in legal translation [45] to be circumvented, namely guaranteeing the application of the legal rules and consequently their functional equivalence [46] , and, at the same time, the way the rule is expressed, bearing in mind the achievement of formal linguistic equivalence [47] . In general, in legal translation both components – the content of the rule and its expression–should be preserved, since "only a harmonious fusion of content and the vehicle expressing it can produce the desired equivalence" [48] . The use of neologisms permits the difficulty to be overcome, by denominating a new institution with a new term, which should produce the same legal effects regardless of its denomination in Italian/German.

The outcome of this translating technique should be a merger with the official language of the law in which norms are drafted [49] , both language versions of which, under DPR 574, are authentic.

From the viewpoint of formulation, bilingual or multilingual specialized language is based on a theoretical assumption that every act is drafted in the official languages on a collective basis: the resulting act is therefore supposed to be the result of cooperative drafting, and not the 'traditional' translation which follows an original first version [50] . This is the drafting method which is claimed as justifying the assumption of authenticity of all the language versions, with the consequence that the translation of the act is formally completely cancelled; as has been noted, the practical reality is based on the enormous amount of work involved in such an enterprise [51] .

This aspect is shared by all the legal systems analyzed in this paper. However, the ways of resolving the most substantial problem faced by multilingual systems–application and interpretation of the law by the courts–are rather different. As is well-known, the application and interpretation of the law by the courts is one of weak links – if not the main one – in the process of harmonizing the law of the European Union.

Courts must apply European Law, as expressed in the official legal language and which becomes the subject-matter of the interpretive process. So far as the national courts are concerned, the language of the law is viewed in isolation, with the result that to a certain extent the court takes a leap in the dark, since contextual referents for the interpretation of the terminology are lacking: legal language is inserted into a system of references and referents, which are recognizable by the legal community which the specialized language serves [52] . The legal language of the European Union has a new lexis, still at the formation stage and unconsolidated. In a context which is both linguistic [53] as well as legal [54] lies a recognized truth, that the European Union is preparing the way for a new language, a specialized legal meta-language, which is not the expression of a pre-existing, common European legal culture. National courts cannot therefore rely on a legal cultural context for reference purposes and will therefore tend to refer to their own national context as a result. It is not always the case that the nature of the national legal languages in which the European concepts have to product legal effects, permit the courts "to be ventriloquists for lawmakers who have concealed, or do not even possess, a line of reasoning" [55] .

This is not the appropriate place to confront such a vast topic. This is chiefly a cultural problem, whose solution is to be found in different contexts, first and foremost in the development by European legal scholars of transnational concepts and organizational categories [56] .

The context in which the Italian courts operate, where legal bilingualism applies, is a quite different one.

In the first place, in the South Tyrol as well as the Valle d'Aosta, bilingual drafting concerns institutions – and therefore concepts – of Italian law, which will be applied within one single legal system, namely the Italian one, and are merely expressed in legal language which is not only Italian, but German and French respectively.

In addition, the issue of divergent interpretation between the two language versions in the South Tyrol has been addressed at the legal level. Art. 99 provides that the Italian text prevails over the German one. That is, in case of doubt over interpretation, the Italian text is the authentic one. Art. 76, Abs Gemeindeordnung, provides an example, where the term "*legge provinciale*" (Provincial Law) has been translated using the German term

"Regionalgestetz" (Regional Law) [57] .

Conversely in the Valle d'Aosta, the original, authentic text is the one in which the law was drafted, and this is the language version to which the court must refer for the purposes of interpretation.

In the South Tyrol as well as the Valle d'Aosta, differently from what happens for example in Canada [58] , there is no legal norm imposing to the court to take into account both the linguistic versions for interpretation. The meaning of the norm doesn't have to be discovered on the basis of both languages and as a consequence it will not necessary coincide with the "common meaning" of the two versions; as a consequence, in Valle d'Aosta the court will be inclined to consider one version the original text and the other one a simple translation, and to think that the first one would reflect more precisely the legislator's line of reasoning.

In South Tyrol despite the recent shift from Italian also to German as a drafting language, Italian remains dominant. A hierarchy between the two versions is provide by the law, as being Italian the only authentic text for interpretation. When the terminology in the two languages diverges, the Italian version prevails. The provision concerning interpretation in South Tyrol is certainly consistent with the fact that provisions are expressed also in German, but are part of the Italian legal system. As a consequence, in general, the "other version" is not taken into consideration, but the judge will refer to it for example in case of doubt, as in most part of the cases the second version will confirms the meaning of the norm based on the Italian text.

As a conclusion, it is interesting to underline that drafting and interpretation of bilingual law in Italy is a rather unexplored research field. Particularly, the praxis and the reality of the law in action in interpretation, the extension and components of these "regional" legal languages – ladin particularly – would probably deserve more attention.

What is certain, is that behind formal provisions on interpretation, in case of doubt or contradictions, courts will search a reasonable solution in their legal cultural background, as well as in the general principles and value which form the Italian normative system.

Despite the text is drafted in two languages, judges in Valle d'Aosta and South Tyrol will do exactly what courts do in the rest of Italy, where law is drafted in one language [59] .

5. Endnotes

[1] According to a study by A. Castellani, *Quanti erano gl'italofoni nel 1861*? In Studi linguistici italiani, 1982.

[2] See T. De Mauro, *Storia linguistica dell'Italia unita*, Bari, Laterza, 1963.

[3] According to Notiziario ISTAT, in December 2006, 72.8 per cent of the Italian population declared they use only Italian when speaking to people outside the circle of family and friends (*"estranei"*, strangers).

[4] A typical dimension of Italian multilingualism is the presence, simultaneously, of a "dialect continuum" together with a huge number of differences among the dialects of Italy. On the one hand, because the common ancestor of these dialects was Latin, a

language remote in time, they are characterized by notable variations, which can exist even within a space of few kilometers. On the other, the dialects of adjacent localities are usually mutually comprehensible; as a consequence, the greater the distance from a geographical point of view, the greater are the linguistic differences *"to such an extent that between the dialect of Turin in Piedmont and that of Potenza in Basilicata, there is probably less similarity than between Tuscan and Castilian"*: M. Maiden, *The Definition of Multilingualism in Historical Perspective,* in A.L. Lepschy, A. Tosi, *Multilingualism in Italy, Past and Present,* Legenda, European Humanities Research Center of the University of Oxford, 2002, p. 32.

[5] Maiden, The Definition of Multilingualism in Historical Perspective, cit., p. 32.

[6] Italian is linguistically conservative and its standard form became fixed before the other European languages: with regard to its lexicon, with the Vocabolario degli Accademici della Crusca (1612) and in relation to grammar, with Pietro Bembo's Prose della vulgar lingua (1525): G. Lepschy, What is the standard?, in Lepschy, Tosi, Multilingualism in Italy, Past and Present, cit., p. 76.

[7] A long standing debate about whether and which vernacular language had to be generally employed instead of Latin.

[8] Maiden, The Definition of Multilingualism in Historical Perspective, cit., p. 34.

[9] A. Tosi, Language Survival and Language Death in Multilingual Italy, in Encyclopedia of Language and Education, SpringerLink, 2008.

[10] Maiden, The Definition of Multilingualism in Historical Perspective, cit., p. 34.

[11] See the statistic information of M. Payr, The Challenges of Multilingualism Today, in Lepschy, Tosi, Multilingualism in Italy, Past and Present, cit., p. 48.

[12] P. Coluzzi, *Minority language planning and micronationalism in Italy*, Peter Lang, 2007, p. 35.

[13] R. Sacco, *Langue et Droit,* in E. Jayme, *Langue et Droit,* Bruillant, 2000, p. 244.

[14] See M. Maiden, M. Perry, *The Dialects of Italy*, London, Routledge, 1997.

[15] Decree of President of the Italian Republic 2 May 2001 no. 345.

[16] See Coluzzi, *Minority language planning and micronationalism in Italy*, cit., p. 44 ff.

[17] R. Hartmann, F. Stork, *Dictionary of Language and Linguistics*, London, 1972.

[18] Maiden, *The Definition of Multilingualism in Historical Perspective*, cit., p. 33.

[19] Coluzzi, Minority language planning and micronationalism in Italy, cit., p. 177.

[20] See footnote no 22.

[21] The destiny of the Slovenes has been marked by the political events of the World War I and II, since the towns of Trieste and Gorizia were fought over by Italy and Yugoslavia. In particular, the territory of Trieste was divided up between Italy and Yugoslavia in 1954 and a statute on bilingualism was put in place initially under military rules and nowadays by an act of the Italian Parliament no. 38 of 2001 "Regulations for the protection of the Slovene linguistic minority in the Region of Friuli-Venezia Giulia", which extend the protection to the whole Slovene community, included those living in the province of Udine. See, also for further details, Coluzzi, Minority language planning and micronationalism in Italy, Peter Lang, 2007, p. 40.

[22] A. Abel, M. Stuflesser, L. Voltmer (eds.), Aspects of multilingualism in European border

regions: insights and views from Alsace, Eastern Macedonia and Thrace, the Lublin Voivodeship and South Tyrol, Accademia europea (Bolzano, Italy), 2007.

[23] Sacco, Langue et Droit, cit., p. 245.

[24] Coluzzi, *Minority language planning and micronationalism in Italy*, cit., p. 219.

[25] Cimbrian was originally spoken in a wide area, placed partly in Trentino Region and partly in Veneto. Nowadays this language is used only in three places and by few people: Luserna (Trentino), where in 2001 Cimbrian was spoken by 220 people out of 359; in Giazza, an area closed to Verona, by circa 20 people out of 90 and in Roana and Mezzaselva, in the neighbourhood of Vicenza (Veneto), where no more than a few dozen people still speak Cimbrian out of 3,400.

[26] With regard to the Cimbrian written language – and differently, for example, from the situation of Ladin– there is a lack of general agreement on the use of a common writing system. See P. Coluzzi, *Language planning for the smallest language minority in Italy: the Cimbrians of Veneto and Trentino-Alto Adige*, in Language Problems and Language Planning, 2005, p. 247ff.

[27] See the web site of the Trento Province, English version, http://www.minoranzelinguistiche.provincia.tn.it/binary/pat_minoranze/banner/EN_BROCHURE_MINORANZE_TN_TESTO_INGLESE.1190110908.pdf

[28] A special statute for the Trentino-South Tyrol region, approved by Presidential Decree no. 670 of 31 August 1972.

[29] Translation is the competence of the *Ufficio Questioni Linguistiche della Provincia di Bolzano* (Provincial office for language). It is interesting to note that Ladin does not possess a legal language of its own: this is formed by the creation of numerous neologisms, which are often calques of Italian. The concepts of "contract" and "regulation", for instance, are translated by "contrat" e "regëlamont". Ladin terminology is collected in the BISTRO data bank (see below, p. 5).

[30] Decreto legislativo luogotenenziale 7 settembre 1945, n. 545, *Ordinamento amministrativo della Valle d'Aosta.* See: V. R. Louvin, *La Valle d'Aosta: Genesi, attualità e prospettive di un ordinamento autonomo*, Aosta 1997.

[31] Constitutional Law (*Legge costituzionale*) no. 4 of 26 February 1948.

[32] Francione, *L'accesso ai pubblici impieghi nel territorio della Valle D'Aosta: dalla conoscenza della lingua francese al riconoscimento del pieno bilinguismo,* cit.

[33] Constitutional Court (*Corte Costituzionale*), judgment no.156 of 22 December 1969.

[34] Francione, *L'accesso ai pubblici impieghi nel territorio della Valle D'Aosta: dalla conoscenza della lingua francese al riconoscimento del pieno bilinguismo,* cit.

[35] Regional Law (*Legge regionale*) no. 62 of 24 August 1982.

[36] Under article 6, the Commission is made up of 6 experts, three are mother-tongue German and two Italian.

[37] The terminology approved by the Commission has the force of law, under art 6 (3) & (37) of DPR 574: "Legal acts must be drafted adopting the terminology set out by the Commission (art. 6); failure to do so constitutes an infringement of law (art. 37)".

[38] R. Sacco, *Introduzione al diritto comparato*, Utet, Torino, 1992, p. 40. The institution of trusts is a well-known example, governed by the 1992 Quebec Civil Code; the bi-lingual

French/English code identifies the institution as "trust" in the English version and "fiducie" in the French version. In the form of legal French used in Quebec, a trust is a "fiducie", despite the fact that the concept "fiducie" in the legal French used in France refers to an institution which is different from a trust.

[39] See for these examples A. Mattuzzi, *Tecnica legislativa: esperienze nazionali e regionali*, Tesi di laurea, Trento, a.a. 2006/2007, p. 43. The author would like to thank Mrs. Mattuzzi for having authorized the citation of the examples.

[40] M. R. Ferrarese, Interpretazione e traduzione: da una cultura giuridica "introversa" ad una cultura giuridica "estroversa" in E. Ioriatti Ferrari (ed.), Interpretazione e traduzione del diritto, Cedam, 2008, p. 13 ff.

[41] J. Boulouis, Quelques réflexions à propos du langue juridique communautaire, in Droits, Revue français de théorie juridique, 1991, p. 101.

[42] For a short, introductory catalogue of the terminological, textual and stylistic differences between legal French and the French legal language adopted in the European Union see P. Berteloot, Legal French in France and in the European Communities, in H. E. S. Mattila, The Development of Legal Language, Kauppakaari, Helsinki, 2002, p. 88 ff.

[43] D. Cosmai, Tradurre per l'Unione europea, Hoeply, 2007, p. 26.

[44] R. Sacco, Introduzione al diritto comparato, Utet, Torino, 1992, p. 33.

[45] For a succinct overview of the factors of indeterminacy in legal translation, see S. Lindroos-Hivinheimo, On the indeterminacy of legal translation, in T. Wilhelmsson, E. Paunio, A. Pohjolainen, Private Law and the Many Cultures of Europe, Kluwer Law International, The Hague, 2007.

[46] In order to achieve a "complete" translation, the translator should in theory take account not only of the letter of the text to be translated, but also the legal effects, which should be equivalent in both (or more) texts: J.C. Gémar, L'interprétation du texte juridique ou le dilemme du traducteur, in R. Sacco (ed.), L'interprétation Des Textes Juridiques Rédigés dans plus d'une langue, Harmattan, 2002, p. 115.

[47] M. Beaupré, La traduction juridique. Introduction, in Les Cahiers de Droit, vol.28, n.4, décembre 1987, p. 735 ff.

[48] J.C. GÉMAR, Le langue du droit au risque de la traduction, in G. Snow, J. Vanderlinden (direzione di) Français juridique et science du droit, Bruyilant Bruxelles, 1995, p. 150.

[49] P.G. Monateri, Strategie e contrasti: diritto, lingua e identità nella crisi europea? In Jacometti, Pozzo (a cura di), Le politiche linguistiche delle istituzioni comunitarie dopo l'allargamento, cit., p. 193.

[50] On the distinction between co-drafting, parallel drafting and bi-lingual drafting, see P. A. Crépeau, *La transposition linguistique*, in G. Snow, G. J. Vanderlinden (ed.) *Français juridique et science de droit*, Bruxelles, Bruylant, 1995.

[51] For a detailed description of the translation practice of the various Community institutions, see: Cosmai, *Tradurre per l'Unione europea*, cit., p. 77 ff.

[52] See G. Ajani, P. Rossi, *Coerenza del diritto privato europeo e multilinguismo*, in Pozzo, Jacometti (eds.), *Le politiche linguistiche delle Istituzioni comunitarie dopo l'allargamento*, cit., p. 132.

[53] See Cosmai , *Tradurre per l'Unione europea,* cit., p. 28.

[54] M. R. Ferrarese, *Interpretazione e traduzione: da una cultura giuridica "introversa" ad una cultura giuridica "estroversa"* in Ioriatti Ferrari (a cura di), *Interpretazione e traduzione del diritto,* cit., p. 13 ss. A. Belvedere, *Linguaggio giuridico,* Digesto IV, vol. XV, Utet, 1994, p. 21.

[55] R. Sacco, *Concepts juridiques er création du droit communautaire par le juge,* in R. Schulze, U. Seif, *Richterrecht und Rechtsfortbildung in der Europäischen Rechtsgemeinschaft,* Mohr Siebeck, 2003, p. 88.

[56] R. Sacco, *Riflessioni di un giurista sulla lingua,* in Riv. dir. civ., 1996, p. 57.

[57] Mattuzzi, Tecnica legislativa: esperienze nazionali e regionali , cit., p. 45.

[58] See P. A. Côté, L'interprétation des teste législatifs bilingue au Canada, in Sacco (ed.), L'inteprétation des texts juridiques rédigés dans plus d'une langue, cit., p. 7 ff.

[59] R. Sacco, L'interpréte et la régle de droit européenne, in Sacco (ed.), L'inteprétation des texts juridiques rédigés dans plus d'une langue, cit., p. 238.

DOI: 10.14762/jll.2012.063