

# On the Role of English in the post-Brexit European Union

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## Abstract

This paper examines the role of English in the post-Brexit EU through three lenses. From a *legal perspective*, the role of English has not been changed by Brexit. English remains one of the 24 Treaty languages, official languages and working languages in the EU. The removal of English, which could only be decided unanimously by the Council of the EU, has never been seriously considered. From an *empirical perspective*, there is evidence that English is the dominant working language in the EU institutions. In this respect, there are no indications of any change after Brexit, even if some call for a reduction in its primacy. From a *moral perspective*, Brexit should strengthen the role of English at the levels of working languages and transnational communication for two reasons: first, because English is an almost neutral language after Brexit, which significantly reduces injustices associated with its use during the UK's EU membership, and second, because it can be expected that “Euro-English” will become even more autonomous and can be regarded as the Europeans' own language.

## Keywords

Brexit, European Union, language policy, lingua franca, EU language regime

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## 1. Introduction

Since the United Kingdom (UK)'s accession to the European Union (EU) in 1973, English has been a Treaty language, official language and working language of the EU. English is also an official language in Ireland and Malta, which joined the EU in 2004. However, the two countries have opted to use Irish and Maltese respectively at the EU level. Therefore, with Brexit – the UK's 2020 departure from the EU – no EU member state stands behind the use of English. Against this background, this paper aims to answer three questions regarding the future of English in the EU: 1) Did Brexit change the legal status of English (*legal perspective*)? 2) Will Brexit change the role of English as the main working language (*empirical perspective*)? 3) Should Brexit strengthen or weaken the role of English (*moral perspective*)?

With regard to the first question, the EU's language regime is first briefly presented (see 2.1. below), before examining whether there have been any changes as a result of Brexit (see 2.2. below). As for the second question, evidence that English has become the main working language in the EU (see 3.1. below) is set out, before asking whether this has been, or is likely to be, changed by Brexit (see 3.2. below). In the context of the third question, reference is first made to the numerous positions that make proposals for a fair EU language policy, especially with regard to the role of English (see 4.1. below). This is followed by an examination of whether Brexit should lead to a reassessment of the position of English in the EU (see 4.2. below). Finally, some conclusions are drawn (see section 5 below). Methodologically, the paper is based on relevant legal sources, the case law of the European Court of Justice (ECJ), relevant statistics and, above all, a discussion and analysis of the relevant literature.

## 2. Legal Perspective

### 2.1. The EU Language Regime

EU law distinguishes between Treaty languages, official languages and working languages. Treaty languages are those in which the two Treaties constituting the primary law of the EU – the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) – are authentically valid. Art. 55 (1) TEU currently provides that the TEU is drawn up and equally authentic in 24 languages.<sup>1</sup> Art. 358 TFEU stipulates that the provisions of Art. 55 TEU shall also apply to the TFEU.

The official languages and the working languages are determined – on the basis of the authorisation in Art. 342 TFEU – unanimously by the Council, pursuant to Council

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<sup>1</sup> Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish, Swedish.

Regulation No 1/1958 determining the languages to be used by the European Economic Community. According to Art. 1 Regulation No 1/1958, they correspond to the 24 Treaty languages. After the establishment of the European Economic Community in 1958, Art. 1 Regulation No 1/1958 enumerated the four languages spoken in the founding Member States, namely Dutch, French, German and Italian. With each accession of a new Member State, Art. 1 Regulation No 1/1958 was amended and the respective language was added. An exception was Irish, which became a Treaty language after Ireland's accession in 1973, but was not granted official and working language status until 2005.

The terms “official languages” and “working languages” are not defined in Regulation No 1/1958. However, the provisions of the Regulation indicate that the official languages concern the external communication of the EU institutions, while the working languages refer to the internal communication within and among the EU institutions (Ammon, 2012: 575–576; Somssich, 2016: 105; Skorupa-Wulczyńska, 2022: 81–82). As far as the external communication is concerned, Regulation No 1/1958 stipulates that all official languages may be used in communication between the EU institutions and Member States or citizens (Art. 2 and Art. 3), that legal acts are drafted in all official languages (Art. 4) and that the Official Journal is published in all official languages (Art. 5). In principle, all 24 working languages are also used in internal communication, but Art. 6 contains an authorisation that the EU institutions “may stipulate in their rules of procedure which of the languages are to be used in specific cases”. On the basis of this authorisation, only a few languages are usually used as working languages, which will be discussed later (see 3.1. below). However, the distinction between official languages and working languages is not clear-cut, as the EU institutions sometimes only use a few working languages in external communication as well, e. g. on websites, in publications and in dealings with the media. Van der Jeught (2015: 117) distinguishes therefore between full language regimes (= use of all official EU languages) and restricted language regimes (= use of only some official EU languages).

The decision regarding which languages are chosen is taken unanimously by the Member States: as far as the Treaty languages are concerned, an amendment of the TEU and the TFEU requires their ratification by all Member States; the official languages and the working languages are determined unanimously by means of regulations by the Council (Art. 342 TFEU). In practical terms, this means that a candidate country declares to the EU which of its official languages is to acquire EU language status, to which the Member States must agree. In this respect, it is to be assumed that only languages that are used as official languages at the national level, and not only at the regional or local level, can be selected (van der Jeught 2015: 110). Under this condition, it would also be possible for more than one of the official languages of a country to be given the status of an EU language, although this has yet to occur.

The principle that all official languages must be used in external communication does not apply universally. In addition to the above-mentioned cases where the institutions

use only some languages in external communication, the EU has established specific restricted language regimes for proceedings before the EU Intellectual Property Office and before the European Patent Office regarding the unitary patent.

The EU Intellectual Property Office uses a five-language regime: English, French, German, Italian and Spanish (Art. 119 (2) Council Regulation (EC) No 207/2009). In proceedings before the Office, one can obtain EU-wide protection of trade marks and designs. The applications for an EU trade mark and a community design can be filed in any of the EU official languages. The applicants must indicate a second language, which must be one of the five languages of the Office and which they accept as a possible language of proceedings for opposition or cancellation. The proceedings are mainly conducted in the second language when the first language is not an official language of the Office. In the *Kik* case, the ECJ regarded this regime as being in accordance with EU law arguing that there is no general principle of EU law “that confers a right on every citizen to have a version of anything that might affect his interests drawn up in his language in all circumstances” and that it is appropriate and proportionate to use only the most widely known languages (judgment of 9 September 2003, C-361/01 - *Kik*).

The unitary patent grants a uniform protection of technical inventions in the EU. The relevant legal acts were enacted in 2012 and 2013<sup>2</sup>, but did not enter into force until 1 June 2023, in 17 Member States so far (eight additional Member States are expected to participate in the future; Croatia and Spain do not participate). The unitary patent is granted by the European Patent Office which, while not an EU organisation, is an authority of the European Patent Organisation. The languages of the proceedings before the European Patent Office are English, French and German (Art. 14 (3) European Patent Convention). An application for the unitary patent must be filed in, or subsequently translated into, one of these languages. The patent description need only be published in the procedural language chosen by the applicant, while the patent claim must be translated into the other two official languages. Further translations are only required in exceptional cases.<sup>3</sup>

## 2.2. The Situation After Brexit

Brexit has not automatically changed the fact that English is an EU Treaty language, official language and working language. The TEU, the TFEU and Regulation No 1/1958 do

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<sup>2</sup> Regulation (EU) No 1257/2012 of the European Parliament and the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection; Council Regulation (EU) No 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements; Agreement on a Unified Patent Court of 19 February 2013.

<sup>3</sup> Spain sued against the unitary patent before the ECJ, claiming, amongst other things, a violation of the principle of non-discrimination by the restriction to English, French and German. The ECJ dismissed Spain's actions: judgments of 5 May 2015, C-146/13 – *Spain v. Parliament and Council* – and C-147/13 – *Spain v. Council*.

not contain any provisions according to which withdrawal from the EU leads to the loss of the status of a Treaty language, official language and working language. A change of this status requires a unanimous decision of the Member States: in order to change the status of a Treaty language, the relevant provisions, Art. 55 TEU and Art. 358 TFEU, would have to be amended, which requires ratification by all Member States. In order to change the status of an official language and working language, Art. 1 Regulation No 1/1958 would have to be amended, which requires a unanimous decision of the Council according to Art. 342 TFEU. Neither has occurred, nor is this expected. According to Skorupa-Wulczyńska (2022: 86), Brexit requires an amendment of Regulation No 1/1958: “English may lose its official status if no steps are taken by the EU institutions and relevant Member States. From the formal point of view, the maintenance of English as an official language would require notification by another interested Member State whose state language is English.” Other authors also argue that an amendment of Regulation No 1/1958 is necessary in order to preserve the status of English as an official language of the EU (Ginsburgh, Moreno-Ternero & Weber, 2017: 147–148; Ginsburgh & Moreno-Ternero, 2019: 4–5; Hocaoğlu Bahadır, 2020: 303–304). In fact, it is the converse: as long as there is no amendment of Regulation No 1/1958, the status quo will remain.

Shortly after the Brexit decision in 2016, some politicians called for English to be removed from the list of EU languages. Among them was Danuta Hübner, the head of the European Parliament’s Constitutional Affairs Committee, who stated: “English is our official language because it has been notified by the UK. If we don’t have the UK, we don’t have English” (quoted after Guarascio, 2016). However, this view was not widely supported and it is fair to say that removing English from the list of EU languages was never seriously considered. There are three reasons for this:

First is the language situation in Ireland and Malta. English is an official language in both countries. However, since the UK had nominated English as its EU language, they could designate their other official language, Irish and Maltese respectively. Neither country would agree to remove English from the list of EU official languages because they could not function properly in the EU without it (Somssich, 2016: 108; Mac Giolla Chríost & Bonotti, 2018: 19; Leal, 2021: 158). Ireland in particular relies on the use of English at the EU level, as Irish is only spoken by a minority in the country.

Second is that English serves as the lingua franca in Europe. People with different native languages usually use English to communicate with each other. There is evidence that English is the most spoken second language among EU citizens. According to Eurobarometer (European Commission, 2012: 19), 38 % of EU citizens in 2012 indicated that they speak English well enough in order to be able to have a conversation, followed by French (12 %), German (11 %), Spanish (7 %) and Russian (5 %). English is also by far the most widely taught language in education. In 2019 (i.e. before Brexit but after the Brexit decision), 96 % of upper secondary students learnt English as a foreign language, followed by Spanish (26 %), French (22 %), German (20 %) and Italian (3 %) (Eurostat, 2021). As presented below (section 3), English is also the main working language within and

among the EU institutions, therefore also acting as the EU's lingua franca. Since English plays a predominant role compared to the other official EU languages, it would not be politically feasible to deny it the status of an EU official language (Mac Giolla Chríost & Bonotti, 2018: 19). If, for example, Slovenia or Romania had left the EU instead of the UK, there would probably have been a consensus to remove Slovenian or Romanian from the list of EU languages. With regard to English, the situation is different (Leal, 2021: 159).

Third and more generally EU politicians avoid addressing the language issue due to its sensitive nature. Language is a central marker of Member States' national identities, a phenomenon that has often been described: De Swaan (1993: 244) speaks of “the great *non-dit* of European integration”, Pieters (2002: 43) of a “linguistic *laissez-faire*”, van der Jeught (2015: 235) of a “delicate, almost a taboo subject”, Leal (2021: 197) of a “no-policy policy”. Ringe (2022) deals with this problem in detail in his book *The Language(s) of Politics. Multilingual Policy-Making in the European Union* and refers to it as the “depoliticisation” of the language issue. According to Ringe, multilingualism in the EU has depoliticising effects in different ways, only one of them relevant to the present context (Ringe, 2022: chapter 3). He argues that the EU language regime is based on the formal equality of the official languages, but that there in fact exists an “uneven multilingualism”. This means “that certain languages have always been favored over others in the EU's everyday operations, which facilitates efficient communication inside the institutions, limits the cost of multilingualism, and allows EU multilingualism to evolve endogenously to best match the functional needs of different actors across the EU's core institutions” (Ringe, 2022: 110–111). As long as the uneven multilingualism is practiced under the “veil of formal language equality [...] the member states are willing to accept de facto language inequality in EU politics” (Ringe, 2022: 111). This scheme ensures “an equilibrium that the member states have little incentive to try to change” (Ringe, 2022: 82) and “defuses ‘the language question’ in the EU as a potentially highly volatile and contested political issue” (Ringe, 2022: 9). EU policymakers have consequently remained largely silent on this issue in relation to Brexit, with the exception of a few isolated statements. Although an official statement confirming the continued status of English as an official language would have been appropriate, as well as the rationale underlying such a decision, neither was provided by the EU (Leal, 2021: 187).

The restricted language regimes of the EU Intellectual Property Office and of the European Patent Office regarding the unitary patent remain unchanged after Brexit. English is still an official language in both offices. If the EU introduces further restricted language regimes in the future, it will be interesting to see whether English is considered (Somssich, 2016: 114). Assuming that this does occur, the EU will have to officially explain its reasoning.

### 3. Empirical Perspective

#### 3.1. English as the EU's Main Working Language

According to Art. 1 Regulation No 1/1958, all official languages of the EU are also working languages, but Art. 6 Regulation No 1/1958 provides that the institutions “may stipulate in their rules of procedure which of the languages are to be used in specific cases”. The possibility of using only a few languages for internal communication is necessary for pragmatic reasons, because it is impossible to communicate in 24 languages all the time. However, none of the EU institutions made use of this authorisation in their rules of procedures. Nevertheless, it is well known that most institutions use English, French and German as working languages without such a specification, which is another example of the fact that the EU prefers to remain silent on language issues and to practice a “don’t ask, don’t tell policy” (van der Jeught, 2015: 239). In 2007 proceedings before the European Ombudsman however, the Commission did explicitly identify its procedural languages as being English, French and German – a rare instance of such clarification.<sup>4</sup> These languages are also used in the European Council and the Council, as far as working parties and informal meetings are concerned. In formal meetings and public Council meetings relating to legislative deliberations on the other hand, a full language regime is used (van der Jeught, 2015: 135–136; Ringe, 2022: 38–40). The European Parliament also uses a full language regime for reasons of democratic legitimacy, but by default only in the plenary sessions; in the committees and in informal meetings the degree of multilingualism depends on the particular needs of the participating Members of the European Parliament (“controlled multilingualism”); working languages are *de facto* English and French (Lucheroni, 2015: 34–38; van der Jeught, 2015: 133–134; Ringe, 2022: 40–44). Unusual internal language regimes were established by the European Central Bank and the European Court of Justice. English is the only working language of the European Central Bank (Lucheroni, 2015: 41–43, van der Jeught, 2015: 139), whereas in the European Court of Justice – mainly for historical reasons – French is the administrative language and the language for deliberations between judges (van der Jeught, 2015: 188–190; Ringe, 2022: 44–46).

There is abundant evidence that English is by far the dominant working language in the EU institutions, with the exception of the European Court of Justice. As far as can be seen, this fact is not disputed. Over time, it has replaced French, which was originally dominant. German has always played only a subordinate role, even though it is the language with the most native speakers in the EU (about 90 million speakers). The dominance of English can be demonstrated, for example, by the following data:

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<sup>4</sup> European Ombudsman, decision of 22 February 2007 on complaint 3191/2006/(SAB)MHZ against the European Commission, retrieved 28 February 2023, from [ombudsman.europa.eu/de/decision/en/3248](https://ombudsman.europa.eu/de/decision/en/3248).

- The source language of most documents is English: in 2018, 95 % of the 69,000 documents produced by the General Secretariat of the Council had English as the source language, 2 % French and the rest other languages (Lequesne, 2020: 46). In 2019, 85.5 % of the documents issued by the Commission were in English and 3.7 % in French; in 1999, still 34 % of documents had French as the source language. In addition, circular messages in the daily work of the Commission are often sent only in English (Lequesne, 2020: 50).
- English is by far the most important drafting language: it is estimated that 95 % of draft legislation is originally written in English (Leal, 2021: 60, 92; Ringe, 2022: 33).
- English is the most frequently used language for deliberation and negotiation within and among the institutions according to interviews conducted by Ringe (2022: 32) with 92 people from different EU institutions.
- At the staff level, the use of English is predominant in all institutions (van der Jeught, 2015: 134, 136, 138; Leal, 2021: 60, 92).
- In external communication, English is the predominant language on EU websites: “Research shows that in many instances already the homepage is available in some languages only and that, furthermore, the deeper one digs for information and documents, the more only an English version is available” (van der Jeught, 2015: 140–141). The same tendency can be observed in EU social media (Lequesne, 2020: 76). This confirms that the use of working languages is not limited to internal communication (see 2.1. above).

The dominance of English can be attributed to its role as the *lingua franca* in Europe (see 2.2. above). The fact that English is by far the most spoken second language in Europe has also meant that it is the one in which people working in the EU institutions are most proficient, using it to communicate with one another. This situation has been enhanced by the northern and eastern enlargement of the EU since the mid-1990s because among those Scandinavian and eastern European countries that joined, English was much more widely spoken than French.

### 3.2. The Situation After Brexit

In the aftermath of the Brexit decision, some EU politicians called for a downgrade of English. Most prominent of these was the President of the European Commission, Jean-Claude Juncker, who declared in 2017 that “slowly but surely English is losing importance in Europe” (quoted after Rankin, 2017), and in 2018 that “we are not under the rule of the only *lingua franca*, which is English” (quoted after Stolton, 2018). At that time,



French and German were increasingly used in speeches and press releases (Leal, 2021: 158). In retrospect, however, it was only a flash in the pan, no more than a temporary political signal to the British government following the Brexit decision.

A new attempt to reduce the primacy of English was made by the French Presidency of the Council in the first half of 2022. In the run-up to the Presidency, the French government commissioned a working group led by the political scientist Christian Lequesne to draw up proposals for revitalising multilingualism in the EU and strengthening the French language. A report, “Diversité linguistique et langue française dans les institutions européennes” (Lequesne, 2020), was published as a result. Outlining the quantitative and qualitative studies conducted by the group on language use in the EU institutions, it found a “drop in multilingualism [...] at all levels with an ‘internationalized’ English being used instead”. Nevertheless, the report also “affirm[ed] that it isn’t too late to revive multilingualism in the European institutions” (Lequesne, 2020: 185). The group made 26 practical recommendations for revitalising multilingualism in the EU institutions and improving the multilingual environment in Europe, consistently formulated in all official EU languages. Among other things, it recommended to “make interpretation systematic in Council and Commission working groups”, “[m]ake rapid translation of official documents into all languages systematic”, “write more source documents in French and German”, “set an informal limit at 50 % for source documents written in a single working language”, “make all official languages systematically available for the consultation of European institution websites” and “ensure that all official digital content from the European institutions fulfils a multilingual regulatory requirement” (Lequesne, 2020: 186–187.). The recommendations were addressed to the Member States and the European institutions by the French Presidency of the Council. Additionally, the Conference on Linguistic Diversity and the French language in the European Union was held in Pau in March 2022.

These French initiatives found some resonance in the media but not, as far as can be seen, in EU politics. Consequently, these and further attempts to strengthen multilingualism in the EU institutions and to revive French as a working language are not expected to be successful. This is due to the depoliticisation of the language issue described above (see section 2.2.), but also to the fact that the dominance of English is probably irreversible. It is based on its status as a lingua franca, not on the UK’s membership in the EU. This is also the outcome of the interviews Ringe conducted with 92 people in various EU institutions: “The general consensus among my respondents was that Brexit would have little impact on the dominance of English in EU politics and that English would surely not disappear as an official and main working language of the EU” (Ringe, 2022: 156–157). There is no reason to expect that Brexit will change the dominance of English (Modiano, 2017: 319).

## 4. Moral Perspective

### 4.1. The Moral Evaluation of EU Language Policy

At the political level, there is no broad open discussion of the language issue. In contrast, there is a lively academic discourse on the fairness of the EU language regime. The positions move in the area of tension between the demand for more equality or for more practicability (for a classification of the criticism see Mamadouh, 1999; Pieters, 2002: 36–42; Ringe, 2022: 65). On the side of the critics who plead for more equality in the use of languages, the most far-reaching demand is that, in addition to the 24 official languages, other lesser-used languages spoken in the EU Member States should also be included (e.g. Strubell, 2007; Climent-Ferrando, 2016). Others call for greater equality in the use of the 24 official languages: they criticise that the commitment to multilingualism is mere lip service, while in fact a few languages are favoured as working languages (e.g. Krzyżanowski & Wodak, 2010: “hegemonic multilingualism”). Another idea considers the restriction to a few working languages necessary for reasons of practicability. In this respect, some authors favour the current use of the three working languages – English, French and German (e.g. Ginsburgh & Weber, 2005; Kraus, 2008) – while others want to add Italian and Spanish (e.g. Ammon, 2006) or Polish (e.g. Fidrmuc et al., 2009). Finally, there are supporters of a single working language. In this regard, Latin (e.g. Sturm, 2002: 318–319) and Esperanto (e.g. Christiansen, 2006) were suggested as neutral languages, but both were never seriously considered. The main candidate in this respect is English, which clearly plays the dominant role among the three current working languages (see 3.1. above). The supporters of “English only” (e.g. Cogo & Jenkins, 2010; van Parijs, 2011) justify their view with the argument that the EU should acknowledge the usefulness of its role as a *lingua franca*, which greatly facilitates communication. Beyond the level of official languages and working languages, it is argued that the use of English as a *lingua franca* in the transnational communication of European citizens promotes the formation of a European public sphere and a European identity (e.g. Archibugi, 2005; Habermas, 2006; Rose, 2008; van Parijs, 2011).

However, there is also vehement criticism against “English only” (e.g. Phillipson, 2003; Longman, 2007; Grin, 2008). Opponents argue that a monolingual regime is incompatible with the idea of multilingualism to which the EU is committed. An “Englishisation” is also regarded as “linguistic imperialism” (Phillipson, 2006, 2016). One criticism is that such an approach by the EU institutions would lead to the linguistic disenfranchisement of many citizens who lack sufficient English proficiency (Gazzola, 2016). Finally, it was objected – before Brexit – that favouring the language of one Member State is unfair because the costs and benefits of language proficiency are unequally distributed between native and non-native speakers (problem of “free riding”) and because there is no equality of esteem between the languages of the Member States (van Parijs, 2011: chapters 2 and 4).

The “English-only” issue is one of the most intensively debated in the context of EU language policy. Rather than evaluate the various positions mentioned, this paper instead investigates whether Brexit should lead to a reassessment of the EU language regime with respect to the role of English.

#### 4.2. The Situation After Brexit

Should English play an even greater role, a lesser role, or no role at all in the EU after Brexit? One could give the radical answer that English should no longer play any role and should be excluded from the list of official languages and working languages, since after Brexit there will no longer be a member state that has designated English as its EU language. However, this position cannot be (and is not) seriously defended. Completely abandoning the use of the EU's *lingua franca* (see 2.2. and 3.1. above) would lead to major practical communication problems – clearly an undesirable outcome.

It raises the question, however, of the basis upon which continued, legitimate English use relies. One could argue that legitimacy is based on the fact that English is an official language in Ireland and Malta. This idea is problematic, however, because Ireland and Malta have not nominated English as their EU language. It seems more convincing to derive legitimacy solely from the fact that English has become the *lingua franca* of the EU, rendering it indispensable. Even if Ireland and Malta were not EU Member States, keeping English on the list of official languages and working languages would remain justified. There is no reason why a neutral language should not be used, if this is the preference of the Member States.

Whether the dominance of English at the level of working languages can still be justified after Brexit, or whether English should be downgraded or even upgraded, are also relevant considerations. Downgrading English because of Brexit would not be justified: the dominant role of English is not based on the UK's membership in the EU. Rather, it is due to the fact that, over the course of a decades-long process, English has become the EU's *lingua franca*. Since this situation was not changed by Brexit, that event cannot be used as an argument for downgrading English. One should instead advance the converse: after Brexit, the dominant role of English in the EU is less problematic for the reason that it is now almost a neutral language. “Neutral” is here not understood in the sense that it is nobody's language, a mere instrument for communication (Lockean notion of language), opposed to the view that a language is a core element of the culture and *weltanschauung* of a nation (Herderian/Humboldtian notion of language).<sup>5</sup> In this sense, English is not a neutral vehicle for communication post-Brexit, because it is the native language of hundreds of millions of people whose collective identities it represents. “Neutral” is used here simply in the sense that English is no longer the language

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<sup>5</sup> For a good discussion of these different notions of language see Leal 2021, chapter 1.

of an EU member state. In this respect it is only “almost” a neutral language, because it is the official language in Ireland and Malta. However, the situation has changed fundamentally after Brexit. It makes a difference whether the lingua franca of the EU is the language of a large and powerful EU Member State with about 67 million inhabitants, or the language of two small countries with a total of only 5.5 million inhabitants.

The fact that it is almost a neutral language makes the dominant role of English in the EU less problematic, because it considerably reduces injustices associated with its use. These have been elaborated by Philippe van Parijs in his theory of linguistic justice (2011: chapter 2), wherein he promotes English as a European and global lingua franca, while also addressing the inherent injustices that result. These include the unfair distribution of costs and benefits between native and non-native speakers of English. Native speakers are “free riders”, in that they benefit from the status of English as a lingua franca in the EU, while non-native speakers bear the cost of language learning (e.g. the staff in the EU institutions). After Brexit, the number of native English speakers in the EU has become small. Only with regard to the nationals of Ireland and Malta does the problem of free-riding persist, thus it has diminished significantly. In this respect, it must also be considered that English in Ireland and Malta is a colonial language that was imposed on both countries by the British Empire. It is true that the Irish and Maltese, like the British, benefit from their native English skills. However, unlike the British, these advantages were not produced by their ancestors: “It was not their ancestors, that is, who contributed to creating the conditions for the present success of English as a lingua franca, by forcefully imposing English upon many non-Anglophone peoples. Therefore, the Irish and Maltese cannot be held responsible for the unjust rise of English as a lingua franca” (Mac Giolla Chríost & Bonotti, 2018: 58–59). Mac Giolla Chríost and Bonotti (2018: 62), drawing attention to this aspect, even argue that the problem of free-riding by Irish and Maltese should not be considered morally problematic, as it is a compensation for the efforts to preserve the Maltese and Irish languages.

It is true that the many millions of native English speakers outside the EU benefit from the status of their language as a European (and global) lingua franca. However, this is irrelevant to the problem addressed here, namely the dominance of English at the level of EU working languages. In this respect, it is only the main language used within the EU institutions and, to a certain extent, in external communication (e.g. on EU websites, see 3.1. above). It is therefore purely an intra-EU issue.

The dominance of English in the EU is also less problematic after Brexit from another point of view. Van Parijs has pointed out that the native language is a central part of collective identity, underpinning individuals’ desire for it to enjoy the same esteem as other languages (van Parijs, 2011: chapter 4). In the EU, however, there is no parity of esteem of languages, as English is superior to the other official languages of the EU. This disparity of esteem is more acceptable after Brexit, as English is now almost a neutral language (Mac Giolla Chríost & Bonotti, 2018: 66–69). The fact that English is the official language in Ireland and Malta should not be a problem in this regard, as “the collective identities of

the Irish and Maltese are generally defined by Irish and Maltese respectively [...] In both Ireland and Malta, English is only granted co-official status, and no *national* importance is assigned to it” (Mac Giolla Chríost & Bonotti, 2018: 67). Or, as van Parijs puts it: “For the Irish and the Maltese, English is just the remnant of a colonized past” (van Parijs, 2022).

There is another aspect that argues for strengthening the role of English in the EU. English is not only an almost neutral language in the sense that it is not the official language of an EU Member State. After Brexit, it can now be considered the Europeans’ own language (van Parijs, 2019, 2022). Almost all people in the EU who speak English now speak it as their second language. Since this happens widely because of English’s function as a lingua franca, it can be said that non-native speakers have taken possession of it and made it their own language. There is evidence that even during the UK’s membership, a particular variety of English developed in the EU institutions (Euro-English). As early as 2001, van Els had noted: “In a sense, the non-natives will gradually begin to take possession of the language, or at least they become co-creators of the specific variant of the working language required in that organisation. The natives are then no longer in possession of their own language” (van Els, 2001: 340). Ringe reports that his interviewees from the EU institutions “already consider EU English to be different from standard British English” (Ringe, 2022: 158).<sup>6</sup>

Nevertheless, the British variety of English was the standard. In a brochure published by the European Court of Auditors in 2013 (2nd edition: 2016), Jeremy Gardner compiled a list of “misused English words and phrases in EU publications” and noted that “over the years, the European institutions have developed a vocabulary that differs from that of any recognised form of English” (Gardner, 2016: 3). The UK was the language guardian of what was considered correct English (Modiano, 2017: 317), but lost this role following Brexit. Some of the EU institution staff interviewed by Ringe shortly before Brexit expected that a “smaller number of native English speakers might [...] result in a strengthening of EU English, since the ratio of speakers of standard English to EU English will change dramatically” (Ringe, 2022: 158). Modiano holds that “[u]nder such conditions, it is highly probable that English will evolve in much the same manner as other second-language varieties, with greater influence from the community of other mother tongues of the peoples of the EU, and over time, with the enlargement and reinforcement of the lexical register that is unique for their English” (Modiano, 2017: 319). There will be still an influence of British English and even more of American English (Modiano, 2017: 320), but it is to be expected that Euro-English will continue to take on a life of its own (De Schutter, 2018). An important aspect in this context is that after Brexit, Euro-English and other national varieties of English in Europe need not be seen as inferior to standard British English, but can be accepted without hierarchies (Mac Giolla Chríost & Bonotti, 2018: 69–74).

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<sup>6</sup> Modiano (2017: 322–323) has compiled a list of the most common grammatical, lexical and phonological characteristics of Euro-English.

According to the preceding arguments, the dominant role of English at the level of EU working languages has greater moral legitimacy after Brexit. However, the further question is then raised as to whether English, as an almost neutral and “Europeanised” language, should be made the sole official language of the EU. Despite insinuations by some authors (Gazzola, 2016; Skorupa-Wulczyńska, 2022: 90–93), such a far-reaching demand has yet to be seriously made, and would not be justified after Brexit. The external communication of the EU institutions with citizens should remain multilingual. Communication only in English would linguistically disenfranchise a large percentage of citizens who have insufficient command of English (Gazzola, 2016).

However, consideration should be given to assigning a special role to English at the level of official languages. So far, EU legal acts are equally authentic in all official languages of the EU. This principle, which is based on the case law of the ECJ<sup>7</sup>, is difficult to handle in practice and leads to problems of interpretation and legal uncertainty (Schilling, 2010: 64–66, van der Jeught, 2015: 132). These problems could be avoided by having one authentic version in English, with those in other languages as official translations. The main drafting language (see 3.1. above) and the language of authenticity with respect to EU legal acts would then correspond. After Brexit, English, as an almost neutral and “Europeanised” language, had a greater legitimacy to be the authentic reference language. The opportunities for realising this idea are admittedly very small due to the depoliticisation of the EU language issue (see 2.2. above).

Beyond the level of official languages and working languages, there is a third area of communication at the European level, namely the transnational communication of European citizens. This plays a prominent role in the formation of a European public sphere and a European identity. The use of a common language in transnational communication considerably facilitates the creation of a European demos. Habermas demanded therefore that English should be the “second first language” of the EU “so that citizens can have an opportunity to relate simultaneously to the same issues in similar terms” (Habermas 2006: 104). The former German Federal President Joachim Gauck expressed this thought in his speech on the prospects of the European idea as follows: “To date, Europe does not have a single European public space which could be compared to what we regard as a public sphere at national level [...] A common language would make it easier to realize my wish for Europe’s future – a European agora, a common forum for discussion to enable us to live together in a democratic order” (Gauck, 2013). He demanded that “we should not simply let things take their course when it comes to linguistic integration”. The legitimacy of promoting English as a common European language has become even greater post-

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<sup>7</sup> ECJ judgment of 12 November 1969 (Erich Stauder v City of Ulm-Sozialamt), case 29-69, ECR 1969, 419; ECJ judgment of 6 October 1982, Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health, case 283/81, ECR 1982, 3415; ECJ judgment of 2 April 1998, The Queen v Commissioners of Customs and Exercise, ex parte EMU Tabac SARL, The Man in Black Ltd., John Cunningham, case C-296/95, ECR 1998, I-1605.

Brexit (van Parijs, 2019). The arguments made in this section with respect to strengthening English as a working language and as an official language of the EU after Brexit also apply to the level of transnational European communication.

## 5. Conclusions

The three questions posed at the beginning of the paper can be answered as follows:

1) *Legal perspective*: Brexit did not change the legal status of English in the EU. English remains an EU Treaty language, official language and working language. A removal of English would presuppose an amendment of Art. 55 TEU and Art. 358 TFEU on the status as a Treaty language and an amendment of Regulation No 1/1958 on the status as an official language and working language. Both amendments would require a unanimous decision of the Member States. No such decision has been taken to date, nor is it expected to be taken in the future. English also remains an official language of the EU Intellectual Property Office and of the European Patent Office regarding the unitary patent.

2) *Empirical perspective*: There is no evidence that Brexit will change the role of English as the EU's main working language. This role was not based on the UK's membership in the EU, but is due to the fact that English is the lingua franca in Europe.

3) *Moral perspective*: As the lingua franca in Europe, English should remain an official language and working language in the EU. Brexit should even strengthen the role of English at the levels of working languages and transnational communication. One reason is that English is an almost neutral language after Brexit, as it is no longer the official language of an EU member state (with the exception of the small Member States Ireland and Malta). This significantly reduces injustices associated with the use of English during the UK's membership and makes the predominance of English over other languages more acceptable. Another reason is that the European variety of English (Euro-English) is likely to become more autonomous post-Brexit and can therefore be regarded as the Europeans' own language. However, English should not be made the sole official language of the EU. In this respect, the principle of multilingualism should be maintained in order to avoid linguistic disenfranchisement of a large part of citizens. Nevertheless, consideration should be given to making English the authentic reference language for EU legal acts and abandoning the principle of equal authenticity in all official languages.

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