



# EULawInEN

EU LAW TRAINING IN ENGLISH LANGUAGE:  
BLENDED AND INTEGRATED CONTENT AND LANGUAGE TRAINING  
FOR EUROPEAN NOTARIES AND JUDGES



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## EU legal language

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International  
Association of  
Judges

promoting an independent judiciary worldwide

# Multilingualism

**Art. 342 of the Treaty on the Functioning of the European Union (TFEU).**

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



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# Multilingualism

Regulation n. 1 dated 15 April 1958 establishing the European Economic Community's linguistic system, O.J. n. 17 6 October 1958.

## *Article 1*

The official languages and the working languages of the institutions of the Union shall be Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish.



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# Multilingualism

Regulation n. 1 dated 15 April 1958 establishing the European Economic Community's linguistic system, O.J. n. 17 6 October 1958.

## *Article 4*

Regulations and other documents of general application shall be drafted in the official languages.



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# CJEU and EU terminology

- Indirect/direct definitions of EU notions.
- Independent/Autonomous/National concepts.
- Language divergencies.
- Consolidation of Eu terminology.



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# The Court of Justice of the European Union (CJEU)

## Article 267

(ex Article 234 TEC)

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

(a) the interpretation of the Treaties;

(b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;

*omissis*



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# Independent EU concepts

Case 327/82, Ekro BV Vee- en Vleeshandel contro Produktschap voor Vee en Vlees, 18 January 1984.

*The need for a uniform application of Community law and the principle of equality require that the terms of a provision of Community law which makes no express reference to the law of the Member States for the purpose of determining its meaning and scope must normally be given an independent and uniform interpretation throughout the Community; that interpretation must take into account the context of the provision and the purpose of the relevant regulations.*



# Autonomous Eu concepts

Case C-467/08 Judgment of the Court (Third Chamber) of 21 October 2010. Padawan SL v Sociedad General de Autores y Editores de España (SGAE).

a concept.....which appears in a provision of a directive which does not contain any reference to national laws must be regarded as an autonomous concept of European Union law and interpreted uniformly throughout the European Union.



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# EU concepts v. national concepts

Case C-467/08 Judgment of the Court (Third Chamber) of 21 October 2010.  
Padawan SL v Sociedad General de Autores y Editores de España (SGAE).

The Court must take account, under the division of jurisdiction between the courts of the European Union and the national courts, of the factual and legislative context, as described in the order for reference.



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# EU concepts in Reg. 650/12

Interpretation of the concept

«Heir»:

European or national?



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# EU concepts in Reg. 650/12

Interpretation of the concept

“Habitual residence”

European or national?



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# Translation errors

Annexes III and IV of the Brussels Regulations II bis (RBII bis)<sup>20</sup> (certificate concerning judgments on rights of access (art. 41(1)) (certificate concerning the return of the child (art. 42(1)).

English version: 'Is the judgment enforceable in the Member State of origin?'

Spanish version: '¿Es recurrible la resolución conforme al Derecho del Estado miembro de origen?'

Amended Spanish version: '¿Es ejecutoria la resolución en el Estado miembro de origen?'



# Language discrepancies

Case 283/81. Judgment of the Court of 6 October 1982. - Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health.

....THE DIFFERENT LANGUAGE VERSIONS ARE ALL EQUALLY AUTHENTIC . AN INTERPRETATION OF A PROVISION OF COMMUNITY LAW THUS INVOLVES A COMPARISON OF THE DIFFERENT LANGUAGE VERSIONS .

LEGAL CONCEPTS DO NOT NECESSARILY HAVE THE SAME MEANING IN COMMUNITY LAW AND IN THE LAW OF THE VARIOUS MEMBER STATES .

.....MUST BE PLACED IN ITS CONTEXT AND INTERPRETED IN THE LIGHT OF THE PROVISIONS OF COMMUNITY LAW AS A WHOLE , REGARD BEING HAD TO THE OBJECTIVES THEREOF AND TO ITS STATE OF EVOLUTION AT THE DATE ON WHICH THE PROVISION IN QUESTION IS TO BE APPLIED .



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# Language discrepancies

Case 29-69. Judgment of the Court of 12 November 1969. - Erich Stauder v City of Ulm - Sozialamt.

*WHEN A SINGLE DECISION IS ADDRESSED TO ALL THE MEMBER STATES THE NECESSITY FOR UNIFORM APPLICATION AND ACCORDINGLY FOR UNIFORM INTERPRETATION MAKES IT IMPOSSIBLE TO CONSIDER ONE VERSION OF THE TEXT IN ISOLATION BUT REQUIRES THAT IT BE INTERPRETED ON THE BASIS OF BOTH THE REAL INTENTION OF ITS AUTHOR AND THE AIM HE SEEKS TO ACHIEVE, IN THE LIGHT IN PARTICULAR OF THE VERSIONS IN ALL FOUR LANGUAGES .*



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# CJEU approaches

## **Teleological:**

the interpretation should be guided by the function, purpose, objective of the provision (ratio legis).

## **Literal:**

this method entails comparing the meaning of the different language version.



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# Language discrepancies in P.I.L.

A new generation of EU instrument needs new criteria of interpretation:

Systematic approach/green paper/articles in connection/recitals/national law/ comparative law methodology (see lecture n. 3).



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# Language discrepancies in Reg. 650/12

*Article 69 Effects of the Certificate.* The Certificate shall constitute a valid document for the recording of succession property in the relevant register of a Member State....

*Article 69 Effets du certificat.* Le certificat constitue un document valable pour l'inscription d'un bien successoral dans le registre pertinent d'un État membre....

*Artículo 69. Efectos del certificado* El certificado será un título válido para la inscripción de la adquisición hereditaria en el registro competente de un Estado miembro....



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# Language discrepancies in Reg. 650/12

Italian

Articolo 69

**Effetti del certificato**

Il certificato costituisce **titolo idoneo** per l'iscrizione di beni ereditari nel pertinente registro di uno Stato membro.



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# Language discrepancies in Reg. 650/12

*69. Hungary*

## A bizonyítvány joghatásai

...

A bizonyítvány olyan okirat, amely **érvényes jogcímet** képez – az 1. cikk (2) bekezdése k) és l) pontjának sérelme nélkül – a hagyaték tárgyát képező vagyontárgynak valamely tagállam megfelelő nyilvántartásába való bejegyzéséhez



# Language discrepancies in Reg. 650/12

Bulgary

РЕГЛАМЕНТ (ЕС) № 650/2012 НА ЕВРОПЕЙСКИЯ ПАРЛАМЕНТ И НА СЪВЕТА

Член 69

Правни последици от удостоверението

...

5. Удостоверението представлява действителен документ за вписването на наследственото имущество в съответния регистър на дадена държава членка, без да се засяга член 1, параграф 2, букви к) и л).



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# Language discrepancies in Reg. 650/12

*Article 35.*

## **Public policy (*ordre public*)**

The application of a provision of the law of any State specified by this Regulation may be refused only if such application is manifestly incompatible with the public policy (*ordre public*) of the forum.

*Article 35*

## **Ordre public**

L'application d'une disposition de la loi d'un État désignée par le présent règlement ne peut être écartée que si cette application est manifestement incompatible avec l'ordre public du for.

*Artículo 35*

## **Orden público**

Solo podrá excluirse la aplicación de una disposición de la ley de cualquier Estado designada por el presente Reglamento si esa aplicación es manifiestamente incompatible con el orden público del Estado miembro del foro.



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# Language discrepancies in Reg. 650/12

## *Articolo 35*

### Ordine pubblico

L'applicazione di una disposizione della legge di uno Stato designata dal presente regolamento può essere esclusa solo qualora tale applicazione risulti manifestamente incompatibile con l'ordine pubblico del foro *dell'autorità giurisdizionale o di altra autorità competente che si occupa della successione.*

Reg. Proposal: “Forum”: court having jurisdiction to hear a case or actually hearing it.



# Language discrepancies in Reg. 650/12

Член 35 (*Bulgary*)

Обществен ред (**ordre public**)

Прилагането на разпоредба на правото на държава, определено като приложимо от настоящия регламент, може да бъде отказано само ако това прилагане е явно несъвместимо с обществения ред (*ordre public*) на държавата на сезирания правораздавателен орган.

35. cikk (*Hungary*)

Közrend („**ordre public**”)

Valamely e rendelet által meghatározott állam jogának valamely rendelkezésének alkalmazása csak akkor tagadható meg, ha az alkalmazás nyilvánvalóan összeegyeztethetetlen a fórum közrendjével („*ordre public*”).



# Language inconsistencies

*Art. 23 “The scope of the applicable law”.*

*The law determined pursuant to art. 21 and 22 shall govern the succession as a whole. 2 The law shall govern in particular:*

*g) Liability for the **debts** under the succession.*

*Spanish version: g) la responsabilidad por las **deudas y cargas** de la herencia;*

