

## **Free movement of goods and language from the perspective of the CJEU**

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### **Abstract**

The European Union (EU), as one of the most multilingual organizations in the world, is confronted with a variety of linguistic challenges that impact numerous aspects of its operations on a daily basis. Language functions not only as a tool for communication and dissemination of information but also as an instrument for negotiation and the exercise of soft power in policymaking. The smooth functioning of the EU's internal market enhances its competitiveness in the global arena and constitutes a significant asset in international affairs. The principal aim of this research is to examine the ways in which language features in the case law of the Court of Justice of the European Union (CJEU), with a specific focus on cases concerning the free movement of goods. This is pursued through an investigation conducted via the EUR-Lex platform, employing qualitative analysis and discussion of pertinent cases. The research concludes that linguistic issues arising in the context of the movement of goods do not pose obstacles to either the internal or international market. On the contrary, such challenges are effectively balanced so as to ensure the orderly conduct of trade, to promote multilingualism, and to guarantee enhanced consumer understanding and protection.

### **Introduction**

Languages play a crucial role in the functioning of the internal market of the European Union (EU), influencing everything from legal frameworks and business operations to labor mobility, free movement of goods and international diplomacy. As an economic and political union of 27 countries with 24 official languages and nearly 60 regional and minority languages spoken by 40–50 million people, it had to foresee and protect the rights of its populations, ensure the proper functioning of the internal market and expand its activities worldwide. Thus, it granted the official languages of its Member States a distinct status by including them among its official languages and providing their speakers with a range of privileges in various sections of its policies. Moreover, it worked in collaboration with the Member States to develop policies and initiatives for the promotion, strengthening, and protection of multilingualism and the multiculturalism of its peoples.

From the outset of its operation, it created the appropriate legal foundations to support its linguistic regime and developed a language policy based on respect for and the promotion of multilingualism and cultural diversity through intercultural dialogue, aiming at the full utilization of these elements in the economic, social, and political development of the EU. As such, the EU operates on a regime of multilingualism, which

is both a reflection of its cultural diversity and a practical necessity for maintaining transparency, inclusiveness, and legal clarity across Member States.

The EU's internal market constitutes one of the most significant achievements of European integration, serving as a cornerstone for economic cohesion and political unity among Member States. By enabling the free movement of goods, services, capital, and persons, the internal market fosters increased competition, innovation, and efficiency, thereby enhancing the EU's global economic competitiveness. Beyond its function in the context of the EU, the internal market plays a pivotal role in shaping the EU's external relations. As a unified economic entity, the EU is better positioned to negotiate trade agreements, assert regulatory standards, and promote its values on the international stage. This correlation between the internal market and international relations underscores the EU's ability to leverage its economic integration as a tool of soft power, reinforcing its strategic autonomy and global influence. In this way, the internal market not only facilitates prosperity within the Union but also strengthens the EU's standing as a coherent and influential actor in global affairs.

### **1. Foundations of multilingualism**

Concerning primary law, the fundamental foundations on which the Union bases its multilingualism policy are its democratic nature<sup>1</sup>, which is grounded in, the principle of equality, respect for linguistic and cultural pluralism and national identity, and the principle of non-discrimination. The EU's obligation to respect linguistic and cultural diversity is also laid out in Article 22 of the Charter of Fundamental Rights of the European Union (CFREU), which states that “*The Union shall respect cultural, religious, and linguistic diversity*”.

More significant - since it is not a general directive but calls on the Union to take action (even though it allows for comparatively limited intervention on its part<sup>2</sup>) - is the reference to respect for multilingualism through Article 165 of the Treaty on the Functioning of the European Union (TFEU), which addresses education. Specifically, “*The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity*”<sup>3</sup>. Furthermore, “*Union action shall be aimed at*

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<sup>1</sup> R. Geiger, Article 2 TEU, in R. Geiger, D. E. Khan & M. Kotzur (eds.), European Union Treaties. A commentary. Treaty on the European Union. Treaty on the Functioning of the European Union. Charter of Fundamental Rights of the European Union., C.H. Beck-Hart, USA 2015, pp. 15-17; J. Molinier, Les principes fondateurs de l'Union européenne, Toulouse, Mission de recherche Droit et Justice de l'Université de Toulouse, 2004, pp. 130-136; A. Von Bogdandy, Founding principles of EU law: a theoretical and doctrinal sketch, European Law Journal, Vol. 16, No. 2, March 2010, pp. 95-111

<sup>2</sup> A. Skoulikis, Article 165, in V. Christianos (Ed.), Treaty on the European Union and on the Functioning of the European Union: A commentary. (Συνθήκη ΕΕ και ΣΛΕΕ: Κατ' άρθρο ερμηνεία) (pp. 819–827). Nomiki Vivliothiki, p. 821; E. Mouameletzi, Article 149 E.C., in V. Skouris (Ed.), A commentary on European Union and European Community Treaties (Ερμηνεία Συνθηκών για την ΕΕ και την ΕΚ) (pp. 1059–1073). Sakkoulas Publications, p. 1069

<sup>3</sup> Article 165, para. 1, TFEU

*developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States”<sup>4</sup>.*

Finally, the prohibition of discrimination is one of the Union’s core principles<sup>5</sup> and is enshrined as a right in Article 21 CFREU. It is closely linked to many other articles, governs both European and international law, and frequently appears in legal rulings. During its early years, the European Community (EC) limited the prohibition of discrimination to grounds of sex and nationality, but over time, the need arose to address additional criteria. Thus, according to Article 21 CFREU, “*any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, [...] shall be prohibited*”. Despite the fact that specific grounds are listed, the use of the phrase “*such as*” indicates that the list is illustrative rather than exhaustive<sup>6</sup>. In particular, the prohibition of discrimination, combined with respect for linguistic diversity<sup>7</sup>, can support the demands of citizens belonging to minorities and those who use languages other than the dominant ones, calling for positive measures to enable them to exercise their rights.

In conclusion, a combined reading of the provisions of the Treaties and the Charter reveals two ways in which the Union addresses language: on the one hand, through the obligation to respect linguistic diversity, and on the other, through the promotion and establishment of positive measures to support various languages. Considering the articles of the Treaties and the Charter aforementioned, it is evident that language, while connected to other elements, has always held a place - albeit not a central one - in the Union’s primary law.

## **2. The internal market**

The internal market refers to the single market existing within the EU’s territory with the aim of having an area without internal frontiers or regulatory obstacles in which the free movement of goods, persons, services and capital is ensured in accordance with the articles of the Treaties. The economic integration of the Member States has been among the immediate objectives of the Community since its creation and achieving this required the functioning of a common market.

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<sup>4</sup> Article 165, para. 2, TFEU

<sup>5</sup> As provided by Article 2, TEU: “*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.*”, as well as Article 10, TFEU: “*In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.*”

<sup>6</sup> M. Perakis, Judicial protection of fundamental rights in the EU: Charter of Fundamental Rights, relationship with the ECHR, interpretation of individual rights, legal remedies. (Η δικαστική προστασία των θεμελιωδών δικαιωμάτων στην ΕΕ: Χάρτης Θεμελιωδών Δικαιωμάτων, σχέσεις με ΕΣΔΑ, ερμηνεία επιμέρους δικαιωμάτων, διαδικασία με ένδικο μέσο). Nomiki Vivliothiki, 2015, p. 235

<sup>7</sup> Art. 22, CFREU

It constitutes an area falling under shared competences<sup>8</sup>; therefore, the Member States are required to achieve common objectives and are, in principle, responsible for taking action<sup>9</sup>. In its operation, it covers the economic aspects of free movement and plays a significant role in citizens' professional lives. It allows workers to seek employment or provide services and to settle in the countries they deem to offer suitable conditions. It allows traders to consider the entire EU territory as their potential market and enables manufacturers to set up companies or factories in any Member State they choose and to transfer capital to and from it. Within the framework of the internal market, actions extend across many sectors and let us not forget the European Economic Area (EEA) through which trade and economic relations are even more extended and strengthened.

In the internal market, multilingualism ensures that EU legislation is accessible to all citizens and businesses in their native languages. This legal and linguistic equality enhances trust in the EU institutions and allows businesses to operate with legal certainty. For instance, companies from any Member State can trade goods and services across borders, knowing that contracts, consumer rights, and regulatory documents are available in their own language. This reduces barriers to entry, particularly for small and medium-sized enterprises (SMEs), and supports economic integration. However, its realization presupposes the application of certain rules and requirements, which stem from national provisions or the EU legislation itself. This may slow down the exercise of the four fundamental freedoms and lead to cases in which the Court's intervention is required.

The issue that arises and which forms the main research question of this article is the position of language in the EU secondary law, and more specifically, in the case-law of the Court of Justice of the European Union (CJEU), related to the free movement of goods, in the context of the internal market. To answer this, the research examines how language appears in the related cases and how it is treated through the CJEU's decisions over time.

### **3. Methodology**

In order to answer the main research question of this study, the EUR-Lex platform was primarily used, which serves as the online gateway to access EU law. A search was conducted within the case-law of the CJEU, specifically in the judgments, using the keyword *language* both in the title and in the text. The results that emerged were 8.327, and therefore, the search was ultimately limited to the keyword *language* only in the title. This search led to 85 results, which, after being reviewed, were limited only to those related to the free movement of goods.

The objective of the present study is to examine and elucidate the ways in which language manifests within the case-law concerning the free movement of goods, its interrelation with other legal issues, and the manner in which such matters are addressed by the CJEU. It is not intended to provide an exhaustive enumeration of all cases that

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<sup>8</sup> Article 4, TFEU

<sup>9</sup> Article 2 para.2, TFEU

are directly or indirectly related to linguistic issues in the internal market, which also underlies the decision to restrict the search to a single keyword.

#### **4. Free movement of goods**

A significant number of cases brought before the CJEU demonstrate a connection between language and the free movement of goods within the framework of the internal market. The free movement of goods constitutes an essential component for the realization of the internal market, that is, the creation of an area without internal borders, in which goods may circulate as freely as they would within a single national market. Pursuant to Article 28 of the Treaty on the Functioning of the European Union (TFEU), this objective is achieved through the elimination of customs duties and quantitative restrictions, as well as measures having equivalent effect. Accordingly, customs duties between Member States are abolished, while a Common External Tariff is adopted and the principle of fiscal neutrality is applied.

The Treaty refers to goods originating in the Member States and to products from third countries that are in free circulation within the Union<sup>10</sup>, as well as to agricultural products<sup>11</sup>; however, it does not provide a precise definition of the term "goods." This legislative gap was addressed through the jurisprudence of the Court in *Case C-7/68 Commission v. Italy*<sup>12</sup>, where it was established that "goods" should be understood as products that can be valued in money and are capable, as such, of forming the subject of commercial transactions.

Labeling of products constitutes a crucial mechanism for ensuring the effective functioning of the market, fostering consumer trust in its regulatory mechanisms, and promoting enhanced transparency and access to information<sup>13</sup>. The Commission encourages multilingual labeling and the use of language that is easily comprehensible to the average consumer<sup>14</sup>, a position that has been echoed by the CJEU in its case law. Specifically, the Court has held that national legislation may not impose “*the exclusive use of a specific language for the labelling of foodstuffs, without allowing for the possibility of using another language easily understood by purchasers*”<sup>15</sup>, nor may it require “*the use of a language which is that most widely spoken in the area in which the product is offered for sale, even if the use at the same time of another language is not excluded*”<sup>16</sup>. The reference to an “easily intelligible language” serves the aim of ensuring adequate consumer information, without mandating the use of a specific

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<sup>10</sup> Article 26, para. 2, TFEU

<sup>11</sup> Article 38, para. 1, TFEU

<sup>12</sup> Court of Justice of the European Communities (CJEC), Judgment of 10<sup>th</sup> December 1968, Case C-7/68, *Commission v. Italy*, EU:C:1968:51

<sup>13</sup> Council of the European Union, Council Resolution of 5 April 1993 on future action on the labelling of products in the interest of the consumer, C 110/1 (20.4.93)

<sup>14</sup> Communication from the Commission to the Council and the European Parliament of 10 November 1993, concerning language use in the information of consumers in the Community, COM (93) 456 final

<sup>15</sup> CJEC, Judgment of 18<sup>th</sup> June 1991, Case C-369/89, *Piageme*, EU:C:1991:256, para. 17

<sup>16</sup> CJEC, Judgment of 12<sup>th</sup> October 1995, Case C-85/94, *Piageme and others v. Peeters*, EU:C:1995:312, para. 21

language - be it the official language of the Member State or the dominant regional language<sup>17</sup>.

Nevertheless, certain regulatory frameworks explicitly require the use of the official language(s) of the Member State in which the product is marketed. This is particularly evident in areas such as pharmaceutical labeling and patient information leaflets for medicinal products intended for human use<sup>18</sup> and in veterinary medicinal products<sup>19</sup>. More specifically, in the latest case where the package leaflet was exclusively in the English and not in the Irish language, the Court found that the Member State has failed “to fulfil its obligation to transpose correctly Directive [...] relating to veterinary medicinal products”<sup>20</sup> even if it may be considered that the “transposition is purportedly disproportionate as it might prove costly or serve no purpose on account of the forthcoming application of a regulation intended to replace that directive”<sup>21</sup>. The CJEU’s approach remains consistent even in cases involving e-commerce and information society services<sup>22</sup>. Member States are not prevented from enforcing their own labelling rules on products sold in their territory even if they are marketed online by companies established in other countries, as the Directive on electronic commerce “must be interpreted as meaning that the concept of ‘coordinated field’ does not include requirements concerning the labelling of products promoted and sold on the website of an information society service provider imposed by the Member State in whose territory the consumers targeted by those online marketing measures are located”<sup>23</sup>. Over time, the Court has prioritized a high level of consumer protection - especially in matters concerning public health - by upholding requirements for labeling and product information to be provided in a language that is comprehensible to the target audience<sup>24</sup>.

It follows that while Member States may adopt measures requiring the use of the regional language or another easily understood language on product labels, such measures must apply equally to both domestic and imported goods and must be proportionate to their objective, and namely, the protection of consumers<sup>25</sup>. The principle of proportionality was similarly examined in the *New Valmar* case<sup>26</sup>, where the Belgian government defended legislation mandating the use of the official language for the drafting of invoices related to cross-border transactions. This measure aimed to

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<sup>17</sup> *Piageme*, para. 13-14

<sup>18</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, Article 63

<sup>19</sup> Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products and repealing Directive 2001/82/EC, Article 7

<sup>20</sup> CJEU, Judgment of 17<sup>th</sup> March 2021, Case C-64/20, *UH v. An tAire Talmhaíochta Bia agus Mara, Éire agus an tArd-Aighne*, EU:C:2021:207

<sup>21</sup> *Id.* para. 37

<sup>22</sup> CJEU, Judgment of 19<sup>th</sup> September 2024, Case C-88/23, *Parfümerie Akzente GmbH*, EU:C:2024:765

<sup>23</sup> *Id.* para. 47

<sup>24</sup> CJEC, Judgment of 13<sup>th</sup> September 2001, Case C-169/99, *Schwarzkopf*, EU:C:2001:439; CJEC, Judgment of 3<sup>rd</sup> June 1999, Case C-33/97, *Colim NV v Bigg's Continent Noord NV*, EU:C:1999:274; CJEU, Judgment of 17<sup>th</sup> December 2020, Case C-667/19, *A.M. v. E.M.*, EU:C:2020:1039

<sup>25</sup> *Colim*, para. 44

<sup>26</sup> CJEU, Judgment of 21<sup>st</sup> June 2016, Case C-15/15, *New Valmar*, EU:C:2016:464

promote the use of the official language in the Dutch-speaking region and to ensure the effectiveness of VAT-related administrative controls. However, the Court held that such legislation contravened Article 35 TFEU, ruling that the measure could not be considered proportionate to the stated objectives, as it rendered the exercise of economic freedoms less attractive. In contrast, in the *BASF* case<sup>27</sup>, the Court had to decide if the translation requirement in the case of patents is an obstacle to the free movement of goods. It did not consider that the requirement to translate a patent into the official language of the Member State constituted a measure capable of hindering trade between Member States, as “*even supposing that in some circumstances the division of the internal market may have restrictive effects on the free movement of goods, those repercussions are too uncertain and too indirect to be considered to be an obstacle within the meaning of Article 30 of the Treaty*”<sup>28</sup>

Taking the cases mentioned above into consideration, in order to ensure the smooth functioning of the internal market, the European Union promotes the free use of languages in cross-border economic activities. However, national legislation may at times impose restrictions on the exercise of fundamental freedoms. In such instances, the Court of Justice drawing upon the principle of the primacy of EU law, is called upon to uphold the Union’s legal order—unless such restrictions can be justified, typically on grounds of overriding public interest. A notable example is the *UTECA* case<sup>29</sup>, in which the Court recognized as an overriding reason of public interest the objective pursued by a Member State to protect or promote one or more of its official languages. This case is of particular relevance to the broader discussion on multilingualism, not only within the European Union but also within its individual Member States. What renders the case especially significant is the fact that the justification advanced by the Member State was based solely on linguistic grounds, without being accompanied by additional cultural considerations that might otherwise have supported a restriction on one of the fundamental freedoms guaranteed by the Treaties<sup>30</sup>.

The Court’s acceptance of language promotion as an autonomous and legitimate public interest criterion underscores the importance attributed to linguistic diversity within the EU legal order and illustrates the nuanced balance between internal market freedoms and the preservation of national identity through language policy. In doing so, the Court sets clear limits on the regulatory autonomy of the Member States and asserts its jurisdiction over national measures relating to language and culture, with the overarching objective of safeguarding the effective exercise of internal market freedoms<sup>31</sup>.

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<sup>27</sup> CJEU, Judgment of 21<sup>st</sup> September 1999, Case C-44/98, *BASF*, EU:C:1999:440

<sup>28</sup> *Id.* para. 21

<sup>29</sup> CJEU, Judgment of 5<sup>th</sup> March 2009, Case C-222/07, *UTECA*, EU:C:2009:124

<sup>30</sup> *Id.* para. 33

<sup>31</sup> *B. de Witte*, Cultural legitimization: back to the language question, in G. Soledad (eds.), *European identity and the search for legitimacy*, Pinter Publishers, UK 1993, p. 160; *I. Urrutia*, Approach of the European Court of Justice on the accommodation of the European language diversity in the internal market: Overcoming language barriers or fostering linguistic diversity?, *Columbia Journal of European Law*, 18(2), 2012, p. 246-274 and especially p. 252

## Conclusion

The findings of the research highlight the role language plays in the context of the free movement of goods and are primarily centered on matters relating to product labelling. The Court ensures the unrestricted use of various languages in economic activities, with the aim of facilitating the smooth operation of the internal market and strengthening its position within the framework of international trade. However, national legislation may, at times, introduce certain restrictions - typically justified on grounds of public interest - which the CJEU is called upon to assess. In such cases, the Court seeks to balance the protection of consumers with the need to uphold the fundamental principles and legal norms of the European Union.

Nonetheless, even in this context, where no disproportionate measures or discriminatory practices are present, national language policies aimed at the promotion and protection of an official language are not only compatible with the provisions of the Treaties but are also supported by the jurisprudence of the Court. It is therefore incumbent upon the Member States to actively and appropriately promote their national and minority languages within this evolving linguistic market.

Multilingualism also poses challenges. In certain cases, goods have to be relabeled and accompanied by instructions in specific languages, and official documents need to be translated. This might be perceived as an obstacle in cross-border trade, as it may be more costly for traders and consumers may face language barriers. Although linguistic requirements make entry into a market more costly and difficult, and slow down product appearance on the market, they do not lock out new entrants. On the contrary, they enhance transparency and consumer protection and trust while reinforcing EU's core values of democracy, inclusivity, and unity in diversity, ultimately strengthening both its internal cohesion and its role as a global actor. This also proves that the role of language in international trade cannot be neglected. In sum, language is not just a tool of communication in the EU's internal market; it is a strategic asset that shapes economic activity, social integration, and international engagement.

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## **I. CASE LAW**

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*Communication from the Commission to the Council and the European Parliament of 10 November 1993, concerning language use in the information of consumers in the Community, COM (93) 456 final*  
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