

Regulatory Linguistic Requirements for Product Labelling in the Internal Market of the European Union

How the curious Case of the Irish Dog demonstrates the Need for a more coherent EU Language Policy

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Abstract: The free movement of goods is one of the four core freedoms in the EU internal market. In that regard, the linguistic diversity of the EU can form an obstacle to the achievement of that aim, when on a national or even subnational level specific regulatory linguistic requirements are imposed on the labelling of products. The tension between market integration and economic efficiency on the one hand and linguistic diversity, on the other, has been dealt with in a wide array of linguistic arrangements laid down in various EU regulations and directives. However, rather than tackling this issue in a general and uniform way, EU legislation proceeds on a case-to-case basis. The lack of a global and coherent policy in this regard has resulted in heterogeneous linguistic arrangements, which are inconsistent as to the distribution of power between the EU and its Member States, and create some degree of legal uncertainty. It is argued in this article that more coherence is needed on the basis of clear and transparent general criteria such as product hazards, public health and consumer protection. As a general rule, a better balance should be struck between the essential principles underlying any linguistic regulatory provision, namely the freedom of language (for manufacturers, importers and distributors) to market their products in the EU internal market on the one hand, and the territoriality principle on the other, according to which EU Member States may determine the use of languages on their territory in order to protect end-users and consumers.

Keywords: European Union – Free Movement of Goods – Linguistic Requirements for Labelling – Freedom of Language – Territoriality

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1. Introduction

¹ *Court of Justice of the EU and Vrije Universiteit Brussel (mail: Stefaan.van.der.jeught@vub.be)*. The views and opinions expressed in this article are solely my own and do not reflect the position of the Court of Justice. Part of the research for this article is based on the PhD thesis I defended at the *Vrije Universiteit Brussel* in 2015 (*Conflicting Language Policies in the EU and its Member States*, published as: S. VAN DER JEUGHT, *EU Language Law*, Groningen, 2015). For the purposes of this article, the research on this particular aspect of EU law has been updated and broadened.

Recently, in 2020, a linguistic labelling issue jeopardised the supply of veterinary medicines in Ireland. An Irish dog owner from the the Irish-speaking region *Gaeltacht* objected to the fact that such medicines were labelled in English only and not in Irish, while under the applicable European Union (EU) legislation the use of the “*official languages of the country of marketing*” was compulsory (i.e. English and Irish in Ireland). The case made its way up to the European Court of Justice, which confirmed (in March 2021) the enforceability of the linguistic arrangements as stipulated by EU law.

Other issues with regard to linguistic requirements and product labelling have already been raised before the Court of Justice in the past. In his opinion in one of these cases, advocate general Cosmas remarked in a forthright way that “*the policy of the Community institutions in this area is characterised by the lack of any systematic and coherent view.*”² In addition, he pointed to the fact that no conclusion could be drawn “*as to the reasons which guided the Community institutions each time they opted for one or other form of words*”.

Against that backdrop, also taking into account that this opinion was given more than two decades ago, it seemed relevant to assess current EU legislation laying down regulatory linguistic requirements for product labelling in the internal market. For that purpose, I have identified 27 relevant EU regulations and directives in this field and analysed them in a systematic way, so as to determine differences in wording and legal effects on product labelling. The results of this survey are discussed under 3.³

It would indeed seem that the EU still does not tackle this issue in a general and uniform way, but proceeds rather on a case-to-case basis. The lack of a global and coherent policy in this regard has resulted in heterogeneous linguistic arrangements. These are inconsistent as to the distribution of power between the EU and its Member States and create some degree of legal uncertainty as regards the protection of consumers. To give just one example of such inconsistencies, why do more stringent linguistic arrangements in EU law apply to the labelling of textiles than to detergents or explosives for civil use?

It is argued that a more coherent EU language policy should be based on clear and transparent general criteria such as product hazards, public health and consumer protection and that, as a general rule, products should be labelled in the local language(s), as determined by the EU Member States. Some suggestions will be made in that respect (under 4 and 5). First and foremost (under 2), the general scene of the regulation of language use will be set. In essence, such regulation is the result of the interaction between the principles of territoriality (“*cuius regio eius lingua*”) and linguistic freedom.

2. *The Interaction between Territoriality and Language Freedom*

The interaction between territory bound language policies and the freedom of language is at the core of language law.

In essence, territoriality in language law refers to the general principle according to which national (or subnational authorities as the case may be) establish, on their territory or part thereof, an official language regime and rules on the use of languages.⁴ Under international law, it is indeed generally accepted that, in principle, a State has the right to determine freely which language(s) it grants official status on its territory (or part thereof).⁵

² Opinion of Advocate-General COSMAS of 19 February 1998 in the Goerres case, C-385/96, ECLI:EU:C:1998:72, pt. 56. See also R. CREECH, *op.cit.*, 73.

³ In Annex 1, a table is provided which contains the text of these linguistic provisions.

⁴ See in this sense P. VAN PARIJS, *On linguistic territoriality and Belgium’s linguistic future*, in P. POPELIER, D., SINARDET, J. VELAERS, & B. CANTILLON (Eds.), *België, quo vadis*, Antwerp/Cambridge, 2012.

⁵ See UN Human Rights Committee, *Ballantyne et al. v Canada*, Communication No 359/1989 and 385/1989, views of 31 March 1993, CCPR/C/47/D/359/1989, Office of the United Nations High Commissioner for Human Rights 1993 (hereafter: “HRC Ballantyne, 1993”), pt. 11.4). Very often, territoriality means that on each particular territorial unit (State, region or municipality) only one language has legal and political standing (F. GRIN, *Using territoriality to support genuine linguistic diversity, not to get rid of it. The linguistic territoriality principle: right violation or parity of esteem*, Brussels, 2011; D. ROBICHAUD & H. DE SCHUTTER, *Language is just a tool! On the instrumentalist approach to language*, in B. SPOLSKY (Ed.), *The Cambridge handbook of language policy*, Cambridge, 2012). Yet, a territorial regime does not necessarily protect one single language and may very well

Although language regimes are primarily concerned with language use in the State public domain (by the administration or in the courts and the schools),⁶ they may to some extent also encompass the private domain (for instance the labelling of foodstuffs, medicines and other products, or even the use of languages in the “landscape”, such as private shop signs, etc). At any rate, where the private domain is concerned, individual freedom of language puts essential limits on the territoriality principle and the power to legislate in linguistic matters.

Language freedom is based on the prohibition of discrimination on linguistic grounds,⁷ read together with basic fundamental rights such as the freedom of expression, of assembly and association, of religion, respect for private and family life, as well as educational rights.⁸ Regardless of official language use, residents may therefore in principle freely use the language of their choice in the purely private domain.⁹

However, this individual language freedom does not preclude every State intrusion: for reasons of public health or consumer protection, the mandatory use of the State official language(s) on the labels of products which are available on the territory may be imposed. Under no circumstances, however, such regulatory linguistic requirements may exclude the use of other languages, alongside with the national official language(s). This principle of non-exclusivity is an essential red line not to cross for linguistic regulation in the private domain.

The Ballantyne case offers a good illustration of the interaction and balance between the principles of territoriality and language freedom. The dispute concerned English-speaking shop owners in the province of Quebec (Canada). Local legislation (the Charter of the French Language)¹⁰ mandated the use of French on all commercial shop signs, thus implicitly precluding the use of English. Several shop owners were found to be in breach of the law. One of them, an undertaker, had a company sign reading “*Kelly Funeral Home*”, a name that, incidentally, had been in use for more than 100 years by his family.¹¹ Eventually, the case ended up before the UN Human Rights Committee which referred, in its decision, to the freedom of expression,¹² and held that a “*State may choose one or more official languages, but it may not exclude, outside the spheres of public life, the freedom to express oneself in a language of one's choice.*”¹³ This ruling confirmed a landmark judgment of the Canadian Supreme

establish a multilingual regime (as is, for instance the case in the bilingual Belgian capital, Brussels or in the bilingual province of Bozen/Bolzano) (see, in this regard, P. VAN PARIJS, *Linguistic Justice for Europe and for the World*, Oxford, 2011, 4, 137 and 240).

⁶ A very important exception to State powers in this regard is the protection of historical linguistic minorities. The International Covenant on Civil and Political Rights (ICCPR) provides in its article 27 that persons belonging to such minorities must not be denied the right “to use their own language”. The scope of this provision is, however, under debate (F. DE VARENNES, *Language, minorities and human rights*, Proefschrift Rijksuniversiteit Limburg, 1996, 157-159) and it remains unclear whether this provision imposes a mere passive linguistic tolerance on States or, whether, it contains a positive obligation.

⁷ See art. 21 Charter of Fundamental Rights of the European Union (OJ C 326 of 26.10.2012, 391); art. 14, European Convention for the Protection of Human Rights and Fundamental Freedoms; art. 2, Universal Declaration of Human Rights.

⁸ R. CREECH, *Law and language in the European Union: the paradox of a Babel “United in Diversity”*, Groningen, 2005, 132. Such a language freedom may be explicitly enshrined in a constitutional provision, particularly in multilingual States (for Belgium, see art. 30, Const., see *infra*; see also Switzerland (art. 18, Const.).

⁹ It is important to note that private freedom of language is not limited to the languages of a State, or to minority languages historically present on the territory concerned. Freedom of language therefore allows all residents, immigrant communities included, to freely use their language in associations, private schools, electoral campaigns, shop names or advertising, magazines and books, even using other scripts, such as Arabic or Cyrillic (F. DE VARENNES, *To speak or not to speak – The rights of persons belonging to linguistic minorities, Working Paper prepared for the UN Sub-Committee on the rights of minorities*, 7).

¹⁰ *Charte de la langue française (Québec)*, <http://www.legisquebec.gouv.qc.ca/fr/showdoc/cs/C-11> (last visited 11.09.2021).

¹¹ HRC Ballantyne, pts. 2.2 and 2.3.

¹² Art. 19 International Covenant on Civil and Political Rights, 16 December 1966, *United Nations Treaty Series*, vol. 999 (1976), no. 14668, 171.

¹³ HRC Ballantyne, pt. 11.4.

Court.¹⁴ As a result of this, the Charter of the French language was adapted and currently no longer precludes the use of other languages than French, but only requires signs to be in *at least* the French language.

Case law in Belgium points in the same direction. The backbone of the Belgian language regime is indeed the interaction between the principles of territoriality and individual language freedom. The federal State of Belgium comprises a Dutch-speaking, a French-speaking and a German-speaking region, as well as a bilingual region (Brussels-Capital).¹⁵ The official language use in every region is strictly regulated and clearly reflects the territoriality principle. By contrast, the language freedom which is enshrined in the Constitution,¹⁶ sets clear restrictions for lawmakers in the private domain, where individuals are free to use any language they wish.¹⁷ In that regard, the Council of State has held that the preclusion of using a certain language in the labelling of foodstuffs and medicines is incompatible with the freedom of language.¹⁸ However, some degree of regulation of private language use may be allowed, for instance, when consumer rights or public health is at risk. The obligation for a tanning salon to use at least the language of the region was, for instance, held compatible with the freedom of language, as long as the use of other languages was not precluded.¹⁹

A case in point of far-reaching regulation of language use is the so-called Toubon Law in France.²⁰ As to the labelling of products, for instance, the use of French is mandatory in all acts and documents linked to the sale and the promotion of such goods. This includes instructions for use, warranty certificates, bills and receipts, as well as labels, prospectuses, catalogues, brochures and other informative documents. Instructions programmed into computer software programs and games, which are displayed on screens or other audio announcements, are also considered to be instructions for use. Exception is made, however, for slogans that form typically part of a trademark, such as for instance “Nike Just Do It”.²¹ Also exempted are names of typical products and specialties of foreign origin known by the general public. Examples are chorizo, cookie, couscous, gin, hot dog, jeans, paella, pizza, sandwich, etc., as well as foreign names protected in France pursuant to international agreements (such as gorgonzola, scotch whisky, etc.).²² Engraved or woven mentions such as “on/off”, “made in...” or “copyright” are also admissible. In line with case law of the *French Conseil Constitutionnel*, the use of other languages is, however, never precluded.²³

Regulatory linguistic requirements may also derive from regional legislation. Under the Consumer Code of Catalonia, labelling of products in Catalan is compulsory in Catalonia.²⁴ According to this code, consumers have the right to receive, in Catalan, “*the information necessary for the proper consumption,*

¹⁴ Supreme Court of Canada, *Devine v Québec* (Attorney General), 15 December 1988, 2 S.C.R. 790.

¹⁵ Art. 4 Const. of Belgium.

¹⁶ Art. 30 Const. states that: “*The use of languages spoken in Belgium is optional; only the law can rule on this matter, and only for acts of the public authorities and for judicial affairs.*” (English translation available at https://www.dekamer.be/kvocr/pdf_sections/publications/constitution/GrondwetUK.pdf, last visited 5.9.2021).

¹⁷ N. BONBLED & S. WEERTS, *La liberté linguistique*, in M. VERDUSSEN & N. BONBLED (Eds.), *Les droits constitutionnels en Belgique*, Brussels, 2011, 1097–1147.

¹⁸ Council of State (Belgium), opinion of 12 July 1990, *Doc. Parl. Chambre*, 1989-90, nb. 1086/2.

¹⁹ Council of State, opinion of 12 March 2002, M.B./B.S. of 1.8.2002, 33741. Weerts & Bonbled provide for a similar example regarding the obligation to use at least Dutch and French on safety signboards on a construction site (N. BONBLED & S. WEERTS, *op. cit.*, 1121).

²⁰ *Loi no 94-665 relative à l’emploi de la langue française*, 4 August 1994, JORF of 5 August 1994, 11392. named after the Minister of Culture at the time,

²¹ N. MC CARTHY & H. MERCER, *Language as a Barrier to Trade: The Loi Toubon*, in *European Competition Law Review*, vol. 5, 1996, 310.

²² In the past, French courts are reported to have held that terms such as cheeseburger and hamburger were not commonly understood (N. MC CARTHY & H. MERCER, *op. cit.*, 310, referring to a judgment of the Court of Appeal of Versailles of 24 June 1984).

²³ *Conseil constitutionnel* (France), *Décision no 94-345*, 1994, JORF of 2.8.1994, 11240.

²⁴ Act 22/2010 of 20 July on the Consumer Code of Catalonia, Official Journal of the Generalitat of Catalonia (no. 5677); see Spanish version: Boletín oficial del Estado, 13 August 2010, 196/ 71949.

use and handling of goods [...], in particular, the mandatory data directly related to the safeguarding of the health and safety".²⁵ The Spanish constitutional Court upheld this linguistic requirement.²⁶

There seems therefore to be a large consensus on this point in international and constitutional law: the private use of a language cannot be precluded, although a positive obligation to use at least and non-exclusively the local official language(s) may be permissible in certain circumstances.

3. The Free Movement of Goods and Regulatory Linguistic Requirements

The free movement of goods is one of the four core freedoms within the EU internal market.²⁷ In essence, this freedom entails that quantitative restrictions on imports between Member States are prohibited, as well as "*all measures having equivalent effect*".²⁸ A regulatory linguistic requirement does, in principle, fall within the ambit of this prohibition. The EU is indeed a patchwork of linguistic areas, the borders of which almost invariably coincide with those of the national States composing the EU. Hence, when specific national regulatory linguistic requirements are imposed on the labelling of products, these may form barriers to the free movement of goods. Producers, importers and distributors will in that case have to adapt the labelling of their products for the different national (or even regional) markets.

The prohibition is, however, not absolute as restrictions or equivalent measures may be justified for reasons explicitly laid down in the Treaty²⁹ or on other grounds on the basis of a "rule of reason" that has been established by the European Court of Justice. In its case law regarding the freedom of goods, the Court has held that the protection of public health and the rights of consumers are legitimate justifications for linguistic requirements.³⁰ In addition, however, the Court performs a proportionality scrutiny in this respect. Accordingly, even when a legitimate justification is provided, linguistic or other obstacles may still be disproportioned and therefore incompatible with EU law.

What is more, even when linguistic requirements are laid down in the EU legislation itself, the Court of Justice may verify the validity thereof. A case in point is the *Meyhui* judgment, in which the Court upheld an obligation to inform consumers in the Member State of marketing in the language(s) of that country, as an appropriate means of protection.³¹ The issue was raised in a dispute between *Schott Zwiesel Glaswerke* (Germany), a crystal glass producer, and *Meyhui* (Belgium), a company which imported *Schott's* products, regarding *Schott's* refusal to affix to its products their description in the

²⁵ Art. 128(2)(b) Consumer Code of Catalonia, see Generalitat de Catalunya, FAQ on the Consumer Code of Catalonia, http://preproduccio.consum.gencat.cat/empreses/et_formem/index_en.html (last visited: 11.9.2021). In Spanish the provision reads as follows: "2. Las personas consumidoras, sin perjuicio del respeto pleno al deber de disponibilidad lingüística, tienen derecho a recibir en catalán: (...) b) Las informaciones necesarias para el consumo, uso y manejo adecuados de los bienes y servicios, de acuerdo con sus características, con independencia del medio, formato o soporte utilizado, y, especialmente, los datos obligatorios relacionados directamente con la salvaguardia de la salud y la seguridad."

²⁶ Spanish Constitutional Court, judgment of 4 July 2017, 88/2017, BOE 171 of 19 July 2017, ECLI:ES:TC:2017/88 and judgment of 25 January 2018, 7/2018, BOE 46, 21 February 2018, ECLI:ES:TC:2018:7.

²⁷ Along with the free movement of persons, services and capital (see Titles II and IV of the Treaty on the Functioning of the European Union (TFEU), consolidated version, OJ C 326, 26.10.2012, 47).

²⁸ Art. 34 TFEU. It should be noted that the freedom of goods applies to "(...) products originating in Member States and to products coming from third countries which are in free circulation in Member States." (art. 28(2) TFEU).

²⁹ See art. 36 TFEU which provides that are not precluded, prohibitions or restrictions on imports, exports or goods in transit "justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States."

³⁰ See, for instance, ECJ, judgment of 17 December 2020, A.M, case C-667/19. ECLI:EU:C:2020:1039, pt. 47.

³¹ ECJ judgment of 9 August 1994, *Meyhui NV v Schott Zwiesel Glaswerke AG*, case C-51/93, ECLI:EU:C:1994:312 (hereafter referred to as "ECJ *Meyhui* judgment").

languages of the Member State in which they were marketed, in this instance Belgium.³² The argument that such a linguistic obligation caused additional packaging costs was discarded and the linguistic obligations imposed by the EU legislator were considered proportionate.³³

In sum, the aim of market integration, whereby national regulatory requirements for product labelling are seen as restrictions to trade, shows friction with (sub)national territory bound language policy, the compatibility of which with EU law may always come under scrutiny.

Against the backdrop of these general principles, the EU legislator has explicitly provided for language arrangements regarding the free movement of goods in the EU, at least with regard to harmonised mandatory particulars. The legal solutions which have been chosen in the broad array of EU regulations and directives in this field are quite varied and range on a scale from “territoriality” to “freedom of language”. In this regard, history partly explains these variations in the legal framework, as the EU initially focused on market integration, favouring the language freedom of producers when exporting goods. It was only at a later stage that consumer protection (i.e. the obligation to use at least the languages of the country of marketing, i.e. territoriality) was channelled into the existing legal framework.³⁴

Accordingly, applying a stringent territoriality principle, the EU regulation or directive may stipulate that the official language(s) of the EU Member State of marketing must be used for the purposes of product labelling. In a less stringent form, this obligation would be “conditional” upon the existence of national regulatory linguistic requirements. Moving further on the scale towards freedom of language, EU legislation may provide that products may be marketed throughout the EU territory when labelled in a “language easily understood”, with pictograms, or other EU languages, thus in effect limiting national jurisdiction to require the use of the national official language(s).

It should be noted that EU linguistic arrangements are limited to compulsory particulars on the labelling of products. When language requirements are not harmonised, the EU Member States remain, in principle, free to provide for language arrangements, although their competence is not unlimited in that case either as the freedom of language may come into play again. This was shown in the *Colim* case, which was initiated by *Colruyt N.V.*, a company of which *Colim* is a subsidiary, against the *Bigg's* store in Kuringen-Hasselt in the Flemish Region of Belgium, where products were sold which did not carry, on the packaging or labelling, any particulars in Dutch, the language of the region.³⁵ The Court confirmed that in the absence of full harmonisation of language requirements, the Member States may adopt national measures requiring such information to be given in the language of the area in which the products are sold or in another language which may be readily understood by consumers in that area. Such national measures must, in any event, apply without distinction to all national and imported products and be proportionate to the objective of consumer protection which they pursue. They must, in particular, be restricted to information which the EU Member State concerned makes mandatory and which cannot be appropriately conveyed to consumers by means other than translation (by designs, symbols or pictograms).

Likewise, in the older *Fietje* case, the compatibility of the Dutch “*Likeurbesluit*” with the free movement of goods was called into question, as it required the use of the word “*Likeur*” (Liquor) on labelling.³⁶ A German product did not have that indication, and had, accordingly, to be relabelled before

³² ECJ Meyhui judgment, pt. 2. The case concerned more in particular the obligation to use the language(s) of the country of marketing, as provided for by the EU legislation which was applicable at that time (Council Directive 69/493/EEC of 15 December 1969 on the approximation of the laws of the Member States relating to crystal glass, *OJ L* 326/36 of 29.12.1969, English special edition: Series I Volume 1969(II), 599).

³³ ECJ Meyhui judgment, pts. 13 and 20.

³⁴ European Commission, *Studies on Translation and Multilingualism, Language and Translation in International Law and EU Law*, issues 6, Luxembourg, 2012, https://termcoord.eu/wp-content/uploads/2013/08/Study_on_language_and_translation_EU.pdf (last visited: 11/9/2021) (hereafter: “*Studies on Translation and Multilingualism 2012*”).

https://termcoord.eu/wp-content/uploads/2013/08/Study_on_language_and_translation_EU.pdf, 7.

³⁵ ECJ judgment of 3 June 1999, *Colim NV v Bigg's Continent Noord NV*, case C-33/97, ECLI:EU:C:1999:274, pt. 10.

³⁶ ECJ judgment of 16 December 1980, Criminal proceedings against Anton Adriaan Fietje, case 27/80, CLI:EU:C:1980:293. See also infringement proceedings against Italy about the use of the term “*aceto*” (vinegar)

being allowed on the Dutch market. The Court emphasized that, in the absence of common rules relating to the production and marketing of alcohol (at that time), it was, in principle, for the Member States to regulate all matters relating to the marketing of alcoholic beverages on their own territory, including the description and labelling. The Court held, however, that the national provision at issue was equivalent to a prohibited quantitative restriction. The national judge had to assess whether the details given on the original label (in German) supplied the consumer with information on the nature of the product, equivalent to that in the description prescribed by Dutch law.

3.1. Stringent Territoriality: the Official Language(s) of the EU Member State of Marketing

For a series of products, the EU regulations or directives explicitly provide for a stringent territoriality principle concerning language arrangements as to labelling and packaging. This is, for instance, the case for medicines for human use,³⁷ as well as veterinary medicinal products,³⁸ animal feed,³⁹ dangerous preparations,⁴⁰ tobacco products,⁴¹ textile products,⁴² and single-use plastic products⁴³. However, while the common denominator of these arrangements is that information should be given in the official language(s) of the Member State of marketing, the wordings used are astoundingly diverse.

A first variation in wording and scope concerns multilingual Member States: may they impose the use of more than one official language? This seems to be the case as to veterinary medicines,⁴⁴ dangerous preparations,⁴⁵ textile products⁴⁶, tobacco,⁴⁷ and animal feed, since the plural term “languages” is used.⁴⁸ Similar arrangements have been made as to medicines for human use, with the

for vinegar which is not based on wine (ECJ judgment of 9 December 1981, *Commission v Italian Republic*, case 193/80, ECLI:EU:C:1981:298).

³⁷ Art. 63(1) and (2), 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, OJ L 311/67 of 28.11.2001.

³⁸ Art. 59(3) and art. 61(1), Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, OJ L 311/1 of 28.11.2001.

³⁹ Art. 14(1), Regulation (EC) No 767/2009 of the European Parliament and the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC, OJ L 229/1 of 1.9.2009.

⁴⁰ Art. 17(2), Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006, OJ L 353/1 of 31.12.2008.

⁴¹ Art. 8(1), Directive 2014/40/EU of the European Parliament and the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, OJ L 127/1 of 29.4.2014.

⁴² Art. 16(3), Regulation (EU) No 1007/2011 of the European Parliament and Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council, OJ L 272/1 of 18.10.2011.

⁴³ Art. 3, Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment, OJ L 428/57 of 18.12.2020.

⁴⁴ Art. 58(4) and 59(3), Directive 2001/82/EC.

⁴⁵ Art. 17(2), Regulation (EC) No 1272/2008.

⁴⁶ Art. 16(3) Directive 1007/2011.

⁴⁷ See art. 11 and art. 12, Directive 2014/40/EU. Specific rules are laid down as to the size of multilingual warnings regarding those EU Member States having more than one official language.

⁴⁸ Sometimes worded as “*the language or languages*”, sometimes “*in the official language(s)*”.

extra specification, furthermore that those languages may be determined by the Member State concerned.⁴⁹

By contrast, however, as to animal feed, the reference to “language” is singular: animal feed may be marketed “*in the official language or at least one of the official languages of the Member State or region in which it is placed on the market*”. The reference to the language of a region is unique: it is the only example that can be discerned in the array of regulations and directives at issue. The inconsistent wording of the provision is not unproblematic. It implies that EU Member States having more than one official language which may be used throughout their territory, such as Ireland, Malta or Luxembourg may only require the use of one of their official languages. For a State such as Belgium, which is organised on a territorial (linguistic) basis, the reference to the language of a region, seems to allow adapted language regulation for the monolingual regions, yet makes it impossible to impose the use of both French and Dutch in the bilingual region of Brussels.

A second noteworthy variation in the wording of the linguistic arrangements in some of the regulations or directives concerns the explicit permission to Member States to deviate from the language arrangements, in other words grant a sort of waiver for the use of one or more of its official languages. This is the case for dangerous preparations⁵⁰ and textiles⁵¹. In the same vein, as to medicines for human use, where the medicine is not intended to be delivered directly to the patient, or where there are severe problems in respect of the availability of the medicinal product, the competent authorities may grant an exemption to the obligation to use the official language(s).⁵²

The explicit wording of an exemption possibility seems to imply that, *a contrario*, without such explicit discretionary power for the Member States, the use of all their official languages is obligatory. This is not just a theoretical question. A case in point is Ireland, where veterinary medicinal products were being marketed exclusively in English.⁵³ An Irish-speaking dog owner, originating from the Irish-speaking *Gaeltacht* brought a case before an Irish judge. He argued that the applicable EU directive (2001/82) imposed the use of the official languages of the country of marketing, and that accordingly, both English and Irish should be used. The Irish judge followed his reasoning, yet had questions concerning the legal remedies. The judge had doubts as to whether he was obliged to declare that, as Directive 2001/82 had been incorrectly transposed into Irish law, Ireland was under an obligation to amend its national legislation to impose labelling in both English and Irish. The judge wished to ascertain if he had the discretionary power *not* to grant the remedy sought. He took into consideration in that regard that an obligation of bilingual labelling could lead to suppliers and distributors of veterinary medicinal products to withdraw from the Irish market, which would have serious consequences for animal health and on economic and social circumstances. Furthermore, the benefit that the applicant could derive from the requested measures was very limited owing to the imminent applicability of a new Regulation (2019/6) replacing Directive 2001/82. The new linguistic provisions regarding veterinary medicinal products permit the Member States to determine other language arrangements.⁵⁴ The case was brought before the Court of Justice, which, in essence, confirmed the enforceability under national rules of the linguistic requirements under EU law enshrined in the

⁴⁹ Art. 63(1), Directive 2001/83/EC.

⁵⁰ “(...) *The label shall be written in the official language(s) of the Member State(s) where the substance or mixture is placed on the market, unless the Member State(s) concerned provide(s) otherwise*” (art. 17(2), Regulation (EC) No 1272/2008).

⁵¹ Art. 16(3) Directive 1007/2011.

⁵² Art. 63(3) Directive 2001/83.

⁵³ The Irish law, which had transposed the EU Directive 2001/82, stipulated that the information had to be given in English or Irish.

⁵⁴ Art. 7(1) 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 (OJ L 4/43 of 7.1.2019) reads as follows: “*The language or languages of the summary of the product characteristics and the information on the labelling and on the package leaflet shall, unless the Member State determines otherwise, be an official language or languages of the Member State where the veterinary medicinal product is made available on the market.*” Art. 160 of the Regulation stipulates that it applies as from 28 January 2022.

veterinary medicinal products directive (2001/82) which was applicable at the time.⁵⁵ Going against the opinion of the advocate general, the Court held that the incorrect transposition of the provisions of the directive (the linguistic requirements, as determined by the national Irish judge) should warrant the available national measures (i.e. the obligation for bilingual labelling). It confirmed there was no discretion in that regard by the national judge, regardless of the imminent applicability of new provisions.

3.2 Conditional Territoriality: EU Member States are entitled to impose Language Requirements

In some regulations and directives, albeit again in inconsistent wordings, the EU legislation does not impose the use of the language of the State of marketing, but grants permission to EU Member States to do so. This is the case for cosmetics,⁵⁶ detergents,⁵⁷ as well as in vitro diagnostic medical devices.⁵⁸

Again, as was discussed *supra*, the use of the singular term “language” in the wording may give rise to problems. Indeed, the Cosmetics Regulation stipulates that the “*language of the information (...) shall be determined by the law of the Member States in which the product is made available to the end user.*” It should be noted that in the previously applicable provision (of the Cosmetics Directive), the plural “*national language(s)*” was used.⁵⁹ As was explained *supra*, the fact that only one official language may be required is problematic for Member States having more than one official language.

Arguably, such a literal interpretation would be contrary to the aim and scope of the legislation (the protection consumers and public health). In that regard, reference may be made to the Polish Cosmetics case which was brought before the Court of Justice.⁶⁰ The Polish owner of a beauty salon (A.M.) had bought cosmetic products (creams, masks and powders) from an American manufacturer. The packaging of the products contained information in English only, but a pictogram (representing a hand with an open book) referred to a general product catalogue, in which information was provided in Polish. According to A.M. (who wished to terminate the contract of sale), the labelling of the products did not comply with Polish legislation, which requires the compulsory information to be provided in Polish, on the packaging itself (on the basis of the EU Cosmetics Regulation). The Court ruled in favour of the protection of consumers and public health. It implicitly accepted the territoriality principle, holding that consumers must be informed about the use, function and ingredients of cosmetics in the language of the country where the product is marketed. The distributor cannot escape his obligation by citing translation costs or organisational problems (relabelling or even repackaging). A mere reference by means of a pictogram to a detailed product catalogue (replacing the indications on the label) is not sufficient in that regard.⁶¹ Indeed, as the Court clearly states in its judgment, “*(...) The protection of human health cannot be comprehensively ensured unless consumers are fully informed about and understand, inter alia, the information about the function of the cosmetic product concerned and the*

⁵⁵ ECJ, judgment of 17 March 2021, C-64/20, An tAire Talmhaíochta Bia agus Mara, Éire agus an tArd-Aighne, ECLI:EU:C:2021:207.

⁵⁶ Art. 19(5), Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342/59 of 22.12.2009.

⁵⁷ Art. 11(5), Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, OJ L 104/1 of 8.4.2004.

⁵⁸ Art. 4(4), Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices, OJ L 331/1 of 7.12.1998.

⁵⁹ Art. 7(2), Directive 76/768/EEC of the Council of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products, OJ L 262/169 of 27.9.1976.

⁶⁰ ECJ, judgment of 17 December 2020, A.M., case C-667/19, ECLI:EU:C:2020:1039.

⁶¹ The EU Cosmetics Regulation (Article 19(2)) does indeed allow information to be given “*on an enclosed or attached leaflet, label, tape, tag or card*” but only if it is impossible in practice to give the information on the label itself. However, the Court points out that this exception applies only to particulars concerning the special precautions for use of the product and its ingredients (article 19(1)(d) and (g)), and not to those concerning the product's function (Article 19(1)(f)). Information on the function must therefore always appear on the label itself.

particular precautions to be observed in use. (...).⁶² Following through on the Court's reasoning, it may be argued that information in one language only in a State having more than one official language may not be sufficient.

Yet another wording has been chosen as to in vitro diagnostic medical devices. EU Member States may require the use of their official language(s) when the product reaches the end-consumer, but it is explicitly provided that, in doing so, Member States must take into account the principle of proportionality and, in particular, whether the information can be supplied by harmonised symbols, recognised codes or other measures as well as the type of user anticipated for the device.⁶³ This precision seems to reinforce potential judicial scrutiny of language requirements.

As to detergents,⁶⁴ national law may determine the language arrangements regarding instructions for use and special precautions, yet the wording is again different. The relevant provision reads as follows: "*In cases where a Member State has a national requirement to label in the national language(s), the manufacturer and distributor shall comply with that requirement*". At least in this wording it is clear that the use of more than one language may be imposed and that the national legislator is under no obligation to act (which is however regrettable from the point of view of the consumer).

3.3 Mitigated Territoriality: EU Member States must allow for the Use of a Language Easily Understood or Pictograms

At the outset of the internal market, the concept of a language "*easily understood*" was quite common in legislation concerning the free movement of goods. Admittedly, from a perspective of market integration, using such a concept, which allows for greater language freedom, presents clear advantages compared to a territorial policy which systematically imposes, either directly or through national laws, the use of the official language(s) of each and every Member State. However, the concept is undefined and unclear: which language is "*easily understood*" by consumers and end-users of various products? Are English and other widely spoken languages such as French, German, or even Italian and Spanish easily understandable throughout the EU? Does this vary from one Member State to another? How should this be assessed and by whom? Unsurprisingly, the application of the concept led to legal uncertainty and controversy and the European Court of Justice was called upon to clarify the issue, with regard to foodstuffs.⁶⁵

Several cases were brought before the Court by national judges through preliminary proceedings. The first case (Piageme/Peeters I),⁶⁶ in 1989, concerned the import of mineral water in Belgium. *Évian*, *Appolinaris*, *Vittel* and importers of mineral water complained that, whereas they respected local linguistic requirements, one of their competitors, a certain Peeters, did not. Peeters allegedly sold

⁶² Pt. 47 of the judgment. The Court essentially confirmed its decision in the Schwarzkopf case (ECJ, judgment of 13 September 2001, Schwarzkopf, C-169/99, ECLI:EU:C:2001:4392001). That case concerned hair care products intended for hairdressers and other professionals, not for ordinary consumers (as in the Polish case). The mandatory information was not on the packaging (in German), but referred to a leaflet (specific to the product, by contrast to the general catalogue in the Polish case).

⁶³ Art. 4(4), Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices, OJ L 331/1 of 7.12.1998.

⁶⁴ Art. 11(5), Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, OJ L 104/1 of 8.4.2004.

⁶⁵ In its version of 1979, the Foodstuffs Directive on labelling of consumer products required that a language should be used "*which the consumer can easily understand, unless he or she is sufficiently informed otherwise about the characteristics of the product.*" (art. 14, Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended by Commission Directive 93/102/EC of 16 November 1993, OJ L 33/1 of 8.2.1979 (hereafter referred to as the "Foodstuffs Directive 1979").

⁶⁶ ECJ, judgment of 18 June 1991, Piageme/Peeters, C-369/89, 1991, ECLI:EU:C:1991:256

mineral waters in the Dutch-speaking Region of Belgium (Flanders),⁶⁷ in French or German only, and not in the language of the linguistic Region concerned, i.e. Dutch. In his defence, Peeters argued that both French and German were easily understandable languages in Flanders and that his labelling was in line with the European directive. In its judgment, the Court clearly referred to the market integration aim of the directive, which “*seeks in particular to eliminate the differences which exist between national provisions and which hinder the free movement of goods.*”⁶⁸ The Court ruled that, from that harmonisation goal ensued that EU Member States could prohibit the sale of products whose labelling was not easily understood by the purchaser, yet not require the use of a particular language.

Needless to say that in Belgium, with its fragile and delicate linguistic balance, the judgment of the Court came as a bit of a shock. In 1994, a follow-up question was submitted to the Court (Piageme/Peeters II).⁶⁹ In this case, the domestic court made abundantly clear that the Belgian legislation did, in fact, not require the exclusive use of the local language and allowed for the possibility of using other languages as well. The Court of Justice, nevertheless, reiterated its stance and held that the obligation to use a specific language for the labelling of foodstuffs, even without precluding the use of other languages, still constituted a requirement more stringent than the obligation to use a language easily understood, as provided for in the Foodstuffs Directive (1979). The Court left it, however, for the national judge to determine in each individual case whether the compulsory particulars given in a language other than the language mainly used in the Member State or Region concerned could be easily understood by consumers in that State or Region. As to that, it indicated that various factors could be relevant, though not decisive in themselves, such as the possible similarity of words in different languages, the widespread knowledge amongst the population concerned of more than one language, or the existence of special circumstances such as a wide-ranging advertising campaign or widespread distribution of the product.

Both judgments were quite heavily criticised.⁷⁰ A few years later, in the *Goerres* case (2000), regarding products which were commercialised in Germany, in French, English and Italian, but not in German, though mandatory pursuant to national law, the Court did, by contrast with its judgments in Piageme I and II, clearly hold that a Member State may prescribe the use of a specific language for the labelling of foodstuffs, whereby it also permitted, as an alternative, the use of another language easily understood by purchasers.⁷¹

In the same year, the Court ruled in the same sense in the French case *Geffroy*.⁷² In 1996, at an inspection carried out at the *Géant* Hypermarket in Clermont-Ferrand (France), French food inspection officials had found that the labelling on certain drinks, namely bottles of Coca Cola, Merry Down cider and Red Raw ginger ale, was not in French. Geffroy, who acted on behalf of the Hypermarket, was fined according to the provisions applicable at that time but invoked the incompatibility of French rules with EU law (the Foodstuffs Directive 1979 which accepted a language easily understood). The *Cour d’Appel* of Lyon referred questions to the European Court of Justice, which ruled that French linguistic requirements were too strict, as they not only made the use of French mandatory, but also precluded the use of another language easily understood by purchasers. In essence, the exclusiveness of the mandatory use of French posed a problem. The French authorities adapted the legislation in that sense, specifying explicitly that the use of other means to inform the consumer, such as drawings, symbols or pictograms

⁶⁷ It is somewhat unfortunate, particularly in a language related case, that the incorrect term “*the Flemishspeaking region of that country*” or “*la région linguistique flamande*” is used in both ECJ Piageme I (pt. 3) as ECJ Piageme II (pt. 2). The Dutch version is correct (“*in het Nederlandse taalgebied*”).

⁶⁸ ECJ Piageme I, pt. 15.

⁶⁹ ECJ, judgment of 12 October 1995, Piageme/Peeters, C-85/94, 1995, ECLI:EU:C:1995:312.

⁷⁰ Creech argues that in its vagueness the Court seems to rival the oracle of Delphi in the cases concerning language requirements and free movement in general (R. CREECH, *op. cit.*, 72). Schilling asserts the Court’s findings were based on erroneous assessment (T. SCHILLING, *The labelling of foodstuffs in a language easily understood by purchasers*, *European food law review*, 1996/1, 59).

⁷¹ ECJ judgment of 14 July 1998, Goerres, case C-385/96, ECLI:EU:C:1998:356, pt. 21.

⁷² ECJ judgment of 12 September 2000, Yannick Geffroy, case C-366/98, ECLI:EU:C:2000:430.

were not precluded.⁷³ The Commission was nevertheless not satisfied with the amendments and started infringement proceedings against France, urging that Member State to formally adapt its legislation to the ruling of the Court.⁷⁴ In its opinion, the Commission used chicken wings as an example: the Foodstuffs Directive would allow a carton of chicken wings sold in a fast food restaurant in France to refer to the product concerned in a language other than French, such as the term chicken wings, provided the carton carried a photo clearly depicting its contents.⁷⁵ As a result, new legislation was adopted allowing for the additional use of other languages than French.⁷⁶

In the light of the case law of the Court of Justice, the European Commission issued an interpretative communication regarding the concept of a language easily understood.⁷⁷ According to the Commission, the Member States are allowed “*considerable scope*” for interpreting that concept. Generally speaking, a language easily understood is the official language(s) of the country of marketing.⁷⁸ Nevertheless, a number of terms and expressions in a language foreign to the ultimate consumer will be familiar, such as “*made in . . .*” or terms and expressions which differ from the same words in the official language(s) of the Member State of marketing only in their spelling.⁷⁹

In a reaction, the European Parliament has considered, in any case, that information should be available in the official language(s) of the country of marketing.⁸⁰

In the current state of affairs, the concept is still used in several regulations and directives, albeit in a mitigated form and in very heterogenous wordings. The result is, yet again, a patchwork of regulatory linguistic arrangements.

A first option is the one that has been chosen for foodstuffs. The currently applicable Foodstuffs Regulation (1169/2011) still stipulates that mandatory food information must appear in a language easily understood by the consumers of the Member States where a food is marketed.⁸¹ There is no

⁷³ *Circulaire relative à l'application de l'article 2 de la loi du 4 août 1994 relative à l'emploi de la langue française*, JORF of 27.10.2001, 16969. This circular letter is interpretative only and does not change the text of the law. It was drafted immediately after the Geffroy judgment.

⁷⁴ See Commission Press Release IP/02/1155 of 25 July 2002, Free movement of goods: infringement proceedings against France, Belgium and Austria, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/02/1155&format=HTML&aged=1&language=EN&guiLanguage=en> (last visited: 11.9.2021). Already in 1996, the Commission had been examining the trade restrictions the Toubon law entailed (see reply of commissioner Monti to question E-2833/95 of 18 October 1995 by Gerhard Schmid, “Law on the Use of the French Language (Toubon Law) and Free Competition in the Internal Market”, OJ C 56/45 of 26 February 1996), but it took action only after the ECJ judgment in 2000.

⁷⁵ Commission Press Release IP/02/1155.

⁷⁶ See art. 1, *Décret no 2002-1025, modifiant les dispositions du code de la consommation relatives à l'étiquetage des denrées alimentaires*, 1 August 2002, JORF of 2.8.2002, 13161.

⁷⁷ European Commission, Interpretative communication concerning the use of languages in the marketing of foodstuffs in the light of the judgment in the Peeters case, COM/93/532 final of 10.11.1993, pt. 20.

⁷⁸ Interpretative communication, pt. 23 and 30. See the confirmation of this Commission policy in 2016 (Commission Notice, *The 'Blue Guide' on the implementation of EU products rules 2016*, (2016/C 272/01), OJ C 272/1 of 26.7.2016 (hereafter “Blue Guide 2016”).

⁷⁹ Interpretative communication, pt. 37 and 40. Likewise, there the Blue Guide 2016 (pt. 4.2.2) stipulates that there is “*no obligation to translate into all necessary languages the words 'manufactured by', 'imported by' or 'represented by'. These words are considered to be easily understandable in all official EU languages*”.

⁸⁰ Resolution of 22 April 1994 on the interpretative Commission communication concerning the use of languages in the marketing of foodstuffs in the light of the judgment in the Peeters case, OJ C 128/469 of 9.5.1994, under H to I. In a study assessing whether the current labelling requirements on foodstuffs in the EU result in clearer information to help citizens to better understand the composition and health effects of food, language requirements are, unfortunately, not assessed (EUROPEAN PARLIAMENT, *Food Labelling for Consumers, EU Law, Regulation and Policy Options, Study requested by the PETI committee*, Directorate General for Internal Policies of the Union, Brussels, 2019, https://solidarites-sante.gouv.fr/IMG/pdf/food_labelling_for_consumer_eu.pdf (last visited: 11/9/2021)).

⁸¹ Art. 15(1), Regulation (EU) No 1169/2011 of 25 October 2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European

specification that Member States may determine which languages are easily understood. Alternatively, such mandatory information may also be conveyed by means of pictograms or symbols. It is up to the European Commission to establish the criteria on the basis of which such information may be expressed by pictograms or symbols, “*taking into account evidence of uniform consumer understanding*”.⁸² Yet, within their own territory, the EU Member States in which foodstuffs are marketed may stipulate that the particulars are to be given in one or more languages from among the official languages of the Union.⁸³ The complicated and seemingly contradictory wording of these provisions reflect the historic evolution of linguistic arrangements for labelling in the internal market. Essentially, the current rules imply that, when a Member State does not issue specific linguistic requirements, foodstuffs may be marketed on its territory in a language easily understood or pictograms. Yet also when specific language requirements are issued on a national level, it would seem that products with pictograms or symbols which have been endorsed by the European Commission have to be accepted.

A second option, which is in fact the most common one, is to mitigate the effects of the acceptance of “a language easily understood by the consumer”, by allowing the Member States to determine which language is “understandable”. Among the products to which this variation applies, though the wordings differ, may be cited: appliances burning gaseous fuels,⁸⁴ explosives for civil use,⁸⁵ toys,⁸⁶ lifts,⁸⁷ pyrotechnic articles,⁸⁸ as well as fertilising products⁸⁹. As to toys, all Member States seem to have indicated that their own official language must be used (and only one for the Member States having more than one official language),⁹⁰ with the exception of Belgium, which accepts also toys labelled in English or German in the Dutch-speaking region in certain circumstances.⁹¹

Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, OJ L 304/18 of 22.11.2011 (hereafter referred to as “Foodstuffs Regulation 2011”).

⁸² Art. 9(3), Foodstuffs Regulation 2011. The Commission has to adopt delegated and implementing acts under scrutiny from the European Parliament and the Council.

⁸³ Art. 15(2), Foodstuffs Regulation 2011. This provision essentially repeats the relevant language provisions of Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, OJ L 109/29 of 6.5.2000 (hereafter referred to as “Foodstuffs Directive 2000”). The reference to “languages of the EU” excludes languages which have only a national or regional status (such as Luxembourgish or the Spanish co-official languages).

⁸⁴ Art. 7(7), 9(4) and 10(2) Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC, OJ L 81/99 of 31.3.2016.

⁸⁵ Art. 5(5)b, (6) and art. 7(3)(4) and art. 8(2), Directive 2014/28/EU of 26 February 2014 of the European Parliament and Council on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses, OJ L 96/1 of 29.3.2014.

⁸⁶ Art. 4(7), 6(4), 7(2), 11(3), Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys (OJ L 170/1 of 30.6.2009).

⁸⁷ Art. 7(7), 8(7), 10(4) and 11(2), Directive 2014/33/EU of the European Parliament and Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts, OJ L 96/251 of 29.3.2014. As to the contact details of installers, a language easily understood by end-users is required (but Member States may apparently not determine ‘understandability’, see art. 7(6)).

⁸⁸ Art. 8(7), 10(1), 12(4), Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast), OJ L 178/27 of 28.6.2013.

⁸⁹ Art. 6(7), 8(4) and 9(2), Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003, OJ L 170/1 of 25.6.2019.

⁹⁰ English in Malta and Ireland, and either French, German or Luxembourgish in Luxembourg (European Commission, *Overview of the national language requirements for warnings, information and documentation as foreseen by the Member States’ transposition legislation of Directive 2009/48/EC on the safety of toys*, https://ec.europa.eu/growth/sectors/toys/safety/guidance_en (last visited: 11.9.2021), hereafter: “Overview language requirements toys”).

⁹¹ Art. IX.9 of the Belgian Code of Economic Law requires the use of a language understandable for the consumer, considering the linguistic region where the products are placed on the market. This somewhat more flexible rule

Still many other variations on the same theme may be discerned in the various regulations and directives.

As regards edible caseins and caseinates (milk products), for instance, EU Member States must “prohibit” marketing thereof on their territory if the particulars do not appear in a language easily understood by the purchaser and the information is not given by “other means”.⁹² This oddly formulated provision does, in actual fact, limit national jurisdiction, although its wording seems to imply the contrary. Presumably, the reference to “other means” implies the use of pictograms or symbols. Similar language arrangements are provided for the sale of extraction solvents.⁹³

Still another wording is to be found in the Footwear Directive,⁹⁴ which leaves the manufacturers and their agents the choice between using pictograms or written indications about the material of the footwear. Regarding the linguistic option, the Member States of “consumption” may determine the language(s) to be used “at least”, “in accordance with the Treaty”. Member States “shall ensure that consumers are adequately informed of the meaning of these pictograms, while ensuring that such provisions do not create trade barriers.” Furthermore, definitions and corresponding pictograms or written indications concerning the parts of the footwear are identified in Annex 1 of the directive. Particularly complex solutions have been found in several regulations regarding additives in foodstuffs. In that regard, neither the flavourings Regulation,⁹⁵ the Food Enzymes Regulation,⁹⁶ or the Food Additives Regulation⁹⁷ contain language arrangements protecting the final consumers. They do, however, refer in a general way to “other labelling requirements” in “more detailed or more extensive laws, regulations or administrative provisions”.⁹⁸ The scope of this provision is not entirely clear. Does this mean that other linguistic requirements in, for instance, the Foodstuffs Regulation apply? Oddly enough, the same regulations do contain language arrangements when the products at issue are *not* intended for the final consumer. In that case, a language easily understandable to purchasers is required, yet, within its own territory, the Member State in which the product is marketed may, in accordance with the Treaty, stipulate that the information shall be given in one or more of the official languages of the “Community”, to be determined by that Member State. It is unclear why these arrangements do not simply apply to the final consumers as well.

would allow the use of English for some products, or the use of German - provided it is very close to Dutch - in the Dutch language region for some products. The possibility to make use of this rule depends very much on the actual products and the circumstances (Overview language requirements toys, *loc. cit.*).

⁹² Art. 4(2), Directive (EU) 2015/2203 of the European Parliament and of the Council of 25 November 2015 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC OJ L 314/1 of 1.12.2015.

⁹³ Art. 7(4), Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients, OJ L 141/3 of 6.6.2009.

⁹⁴ Art. 4(2), Directive 94/11/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer, OJ L 100/37 of 19.4.1994.

⁹⁵ Art. 14(1)(2), Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC, OJ L 354/34 of 31.12.2008.

⁹⁶ Art. 10(1)(2), Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97, OJ L 354/7 of 31.12.2008.

⁹⁷ Art. 21(1)(2), Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives, OJ L 354/16 of 31.12.2008.

⁹⁸ See art. 13 Food Enzymes Regulation: “Articles 10 to 12 shall be without prejudice to more detailed or more extensive laws, regulations or administrative provisions regarding weights and measures or applying to the presentation, classification, packaging and labelling of dangerous substances and preparations or applying to the transport of such substances and preparations.” See in the same sense, art. 25, Food Additives Regulation and art. 18, Food Flavourings Regulation.

Finally, hazardous substances in electrical and electronic equipment may be marketed in a language easily understood by consumers and other end-users, without the precision that the Member states may determine it.⁹⁹

3.4 Language Freedom

In 9 out of the 27 regulations and directives regarding free movement of goods which are being discussed in this article,¹⁰⁰ it is explicitly stipulated that Member States must make allowance for labelling particulars in several languages. This is actually a recognition of the principle of language freedom, which is, incidentally, superfluous as it also applies without such specific confirmation.

An isolated example of even greater linguistic freedom (and hence limits to the territoriality principle and the jurisdiction of Member States) is to be found in the Textiles Regulation: individual textile items may be marketed in any of the EU languages.¹⁰¹ Likewise, in the case of certain orphan medicinal products, particulars may, on reasoned request, appear in only one of the EU official languages.¹⁰² It is not clear who has to make the request (the producer?) nor to whom (the national authorities?). An equally obscure wording has been chosen for in vitro diagnostic medical devices: “*Provided that safe and correct use of the device is ensured, Member States may authorise the information referred to in the first subparagraph to be in one or more other official Community language(s).*”¹⁰³ Does this mean that no other languages may be used unless “*safe and correct use is ensured*”? Or, on the contrary, that products labelled in other EU languages may be sold when the “*safe and correct use is ensured*”?

For aromatised wines, particulars, where expressed in words, must appear “*in at least one of the official languages of the Union.*”¹⁰⁴ Accordingly, it would seem that Member States may not impose the use of their own language. At any rate, certain sales denominations (set out in Annex II of the Regulation and including *Vermouth, Sangria, Glühwein, ...*) are not to be translated on the label.

3.5 Shifts in Linguistic Arrangements

Not only are the language arrangements and their wordings inconsistent, they are also quite frequently amended, without apparent reasons.

As to a shift towards more stringent territoriality, laid down in the EU regulation or directive (i.e. the mandatory use of the language(s) of the Member States of marketing), animal feed, and dangerous preparations may be mentioned. Previously, it was left to the Member States to determine linguistic requirements for these products.¹⁰⁵ The linguistic arrangements on the labelling of cosmetics are another

⁹⁹ Art. 10(a), Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 174/88 of 1.7.2011.

¹⁰⁰ See Annex 1, *infra*.

¹⁰¹ Items such as bobbins, reels, skeins, balls or any other small quantity of sewing, mending and embroidery yarns are meant (art. 16(3), Regulation (EU) No 1007/2011).

¹⁰² Art. 63(1), Medicines for Human Use, Directive 2001/83/EC.

¹⁰³ Art. 4(4), Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices, OJ L 331/1 of 7.12.1998.

¹⁰⁴ Art. 8(1), Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91, OJ L 84/14 of 20.3.2014.

¹⁰⁵ See for the previous arrangements: Council Directive 79/373/EEC of 2 April 1979 on the marketing of compound feedingstuffs, OJ L 86/30 of 6.4.1979, as amended by Council Directive 96/24/EC of 29 April 1996 amending Directive 79/373/EEC on the marketing of compound feedingstuffs, OJ L 125/33 of 23.5.1996 and Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations, OJ L 200/1 of 30.7.1999.

case in point: over the years several changes have been made resulting first in a more lenient system, but eventually in more stringent rules than was initially the case.¹⁰⁶

By contrast, as to veterinary medicinal products, a shift in the opposite direction may be noticed: as of 2022, it is up to the Member States to determine language arrangements, whereas previously EU legislation itself imposed the use of the official languages of the country of marketing.¹⁰⁷ Likewise, more lenient language rules are stipulated for appliances burning gaseous fuels than was the case previously. It is currently sufficient for labelling to be done in a language which can be easily understood, as determined by the Member States, whereas before 2016, instructions and warning notices were required to be in the official language(s) of the EU Member States of destination.¹⁰⁸ More leniency and language freedom may also be noticed as regards aromatised wines. Whereas until 2014 the product particulars had to be given in one or more EU official languages in such a way that the final consumer could readily understand each item (unless purchasers were provided with the information by other means),¹⁰⁹ in the current state of affairs, Member States may no longer impose the use of their own language(s).

4 Towards More Coherence?

Unfortunately, the remarks of advocate general Cosmas, two decades ago, regarding the lack of any systematic and coherent view as to the linguistic labelling arrangements in EU law, still hold true to some extent.¹¹⁰

As the case of the Irish dog owner shows, the lack of coherence may have serious consequences, not least for the supply of products. On a positive note, there is undoubtedly greater awareness of linguistic issues and the need to protect consumers, which seems to be reflected in the new legislative approach, which permits, or even imposes, an obligation on Member States to require the use of the language of the place of marketing on the product labels.

Yet, in the wide array of regulations and directives quite diverse language arrangements are still imposed and it must be conceded that the EU legislator has demonstrated a remarkable legal creativity in rules and wordings. The result is a patchwork of provisions without clear criteria on the basis of which more or less stringent language arrangements have been laid down. The inconsistencies concern the following elements:

¹⁰⁶ See Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products, OJ L 262/169 of 27.9.1976. Pursuant to art. 7 thereof, in its original version, Member States could require that certain particulars be expressed at least in their own national or official language or languages. Art. 7 of Directive 76/768 was, however, amended by Council Directive 93/35/EEC of 14 June 1993 amending for the sixth time Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products, OJ L 151/32 of 23.6.1993. For certain particulars, EU Member States could require the use of at least their own national or official language or languages, for other particulars, they could only require the use of a language easily understood by the consumer (art 7(2), Directive 76/768). As of July 2013, a new regulation has entered into force, which provides that the language in which the particulars must be given, is determined by the law of the Member States in which the product is made available to the end-user (art. 19(5), Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342/59 of 22.12.2009).

¹⁰⁷ Art. 7, 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, OJ L 4/43 of 7.1.2019.

¹⁰⁸ Art. 7(7), 9(4) and 10(2), Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC, OJ L 81/99 of 31.3.2016. In the previous version, of 2009, instructions and warning notices had to be in the official language(s) of the EU Member States of destination (Annex 1, pt. 1(2), Directive 2009/142/EC of the European Parliament and of the Council of 30 November 2009 relating to appliances burning gaseous fuels, OJ L 330/10 of 16.12.2009).

¹⁰⁹ Art. 8(6), Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails, OJ L 149/1 of 14.6.1991.

¹¹⁰ Opinion of Advocate-General COSMAS of 19 February 1998 in the Goerres case, loc. cit..

First, as to national or EU jurisdiction, it remains unclear why, for some products, the EU legislator imposes the use of the official language(s) of the State of marketing in the EU legislation itself, while for other products, that decision is left to the Member States. The solutions seem interchangeable and, furthermore, shifts may be noticed from one to the other system without apparent reasons (animal feed, dangerous products, veterinary medicinal products, ...).

The criterion does not seem to be the hazardous nature of the product either. It is, for instance remarkable that the EU Cosmetics Regulation does not simply impose that certain statements on the labels of cosmetic products must be in the language(s) of the country where they are marketed, but leaves that to the EU Member States.¹¹¹ After all, as the Court has rightly confirmed in a case related to that regulation, consumer protection and public health are at stake. By contrast, such a solution (compulsory use of the language(s) of the Member State) has been adopted in the case of, for example, medicines or tobacco products.

In the same vein, it is unclear why for some products reference is made to a “language easily understood” or pictograms. Why do, for instance, such less stringent linguistic arrangements apply to explosives for civil use, but not to textiles? Are linguistic issues more frequent with animal feed than foodstuffs for humans, warranting thus more stringent linguistic requirements for animal feed? Are veterinary medicinal products more dangerous than appliances burning gaseous fuels?

It is recommended that the EU legislator in future lays down more uniform language arrangements for the labelling of products in the internal market, particularly in relation to consumer and public health protection. According to clear criteria such as the hazards and risks linked to the incorrect use of the product, due to linguistic misunderstandings, the most stringent rules should apply, namely the mandatory use of the languages of the Member State of marketing.

Alternatively, when Member States are granted jurisdiction to stipulate regulatory linguistic requirements, it could be made clear that they are in actual fact obliged to act. Indeed, as the Court clearly states in its judgment related to the Cosmetics Regulation, the “*protection of human health cannot be comprehensively ensured unless consumers are fully informed about and understand, inter alia, the information about the function of the cosmetic product concerned and the particular precautions to be observed in use. (...)*”.¹¹² Arguably, the Court seems to imply that, in the absence of EU provisions, Member States should stipulate language arrangements.¹¹³

Incidentally, the general product safety directive¹¹⁴ provides that, for any product that could pose risks in certain conditions, EU Member States may “*require that it be marked with suitable, clearly worded and easily comprehensible warnings, in the official languages of the Member State in which the product is marketed, on the risks it may present*”. This provision seems to give a general and additional legal basis for Member States to impose language arrangements. It also raises the question whether such a general provision would not be preferable to divergent and often unclear linguistic regulatory provisions in the various regulations and directives.

Second, the European Commission should provide an easily accessible and comprehensive overview, for each and every product, of the regulatory linguistic requirements laid down on the basis of both EU and national legislation in the various Member States.¹¹⁵

Third, the variety in solutions and wordings may lead to legal uncertainty. In this regard, it is sometimes unclear whether more than one language may be made mandatory on product labelling, in

¹¹¹ See *supra* under 3.2.

¹¹² Pt. 47 of the judgment, *loc. cit.*

¹¹³ The use of the term “*shall*” in the relevant provision of the Cosmetics Regulation seems to impose an obligation. By contrast, the French version : « *La langue dans laquelle sont rédigées les informations (...) est déterminée* » seems to be less stringent. Likewise, the Explanatory Guidance Document on the Toys directive explains that “*Member States will determine in their national law the language(s) which they will consider as easily understood by consumers*” (Overview language requirements toys, *loc. cit.*). Arguably, the wording seems to imply an obligation as well.

¹¹⁴ Art. 8(1)(i), Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11/4 of 15.1.2002.

¹¹⁵ The Overview language requirements toys provided by the Commission is very useful in this respect and may serve as an example.

particular when the term “language” is used in the singular (e.g. animal feed¹¹⁶ and cosmetics¹¹⁷). This may lead to problems in Member States having more than one official language. This wording inconsistency is not unproblematic. It implies that EU Member States having more than one official language which may be used throughout their territory, such as Ireland, Malta or Luxembourg, may require the use of only one of their official languages. Likewise, this also raises problems for Belgium, which is organised on a territorial (linguistic) basis (admittedly, the reference to the language of a “region” in the Animal Feed Regulation seems to allow adapted language regulation for the monolingual regions in Belgium, yet makes it impossible to impose the use of both French and Dutch in the bilingual region of Brussels).

Interestingly, in some regulations and directives an “opt-out” has been granted to the Member States using the phrase “*unless otherwise provided*”. This may be useful in order to avoid too rigid linguistic arrangements, such as for instance in the Irish dog case, where Ireland actually allowed market veterinary medicinal products to be marketed in English only, whereas EU legislation made the use of the national languages (English and Irish) compulsory.¹¹⁸

Fourth, in some regulations and directives the choice of languages is limited to those having EU official status (e.g. foodstuffs), in other instances there is no such limitation.¹¹⁹ As this issue is in actual fact within the remit of the Member States, the limitation seems pointless. The EU should leave this issue to be dealt with by the Member States themselves, yet not make it impossible *per se* to make the use of a regional language compulsory. A case in point is the Consumer Code of Catalonia which makes labelling of goods in Catalan compulsory in Catalonia.¹²⁰ The Catalan non-governmental organisation *Plataforma per la Llengua* contacted the company *Lego* to ask them to comply to that obligation. *Lego* declined and referred in its answer to the Toys Directive. In reply to a parliamentary question about this issue,¹²¹ commissioner Breton replied that in Spain, the Toys Directive was transposed by a Spanish law, which provides only for the use of at least Spanish (“*al menos en castellano*”)¹²² for the instructions and safety information on toys. Accordingly, toy manufacturers and distributors in Spain are required by law to label their products at least in Spanish, although this does not prevent them from using other languages, such as Catalan. The Toys Directive does not limit the choice of languages to those which have EU status, so it would seem that Spain could require the use of Catalan as well, for the marketing of toys in Catalonia. At any rate, it is a decision that should be dealt with at a national level, without EU legislation making it impossible *per se*.

5. Some Concluding Remarks

A multitude of laws in a country is like a great number of physicians, a sign of weakness and malady, Voltaire is believed to have said. Regulatory linguistic arrangements for product labelling have developed over the years and show elements reflecting the aim of market integration (and linguistic freedom) as well as (and increasingly so) territoriality (the mandatory use of the languages of the country of marketing for the sake of consumer protection). A comprehensive overhaul in order to standardize and simplify the existing patchwork of different solutions and wordings would increase both consumer protection and legal certainty for producers, importers and distributors.

The importance of language rights (and their divisive potential) may not be underestimated. EU policy in this field should therefore strike a delicate balance between the preservation of market integration and economic efficiency on the one hand, while protecting European consumers, on the other, yet at the same time leaving sufficient leeway for national and regional language arrangements.

¹¹⁶ See under 3.1.

¹¹⁷ See under 3.2.

¹¹⁸ Malta and Luxembourg may be in the same case.

¹¹⁹ See under 3.3.

¹²⁰ See under 2.

¹²¹ European Parliament, question for written answer E-000723/2021 to the Commission, Jordi Solé (Verts/ALE), Diana Riba i Giner (Verts/ALE), 31 March 2021 and answer given by Mr Breton on behalf of the European Commission, 31.3.2021.

¹²² Art. 5(7), 7(4), 8(2), 12(3) and 14(2) of the *Real Decreto* 1205/2011.

In that regard, the conceptualization along constitutional lines (in terms of freedom of language and territoriality, although this is usually not acknowledged in such terms in EU law), may lead to more coherence in the sharing of powers between the EU and its Member States in the linguistic field. After all, the issues the EU is dealing with are not so different from those in federal States, such as Belgium. In essence, EU law should establish as a general principle that labelling of products must be at least in the local language(s) as determined by the Member States.

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ANNEX: EU REGULATIONS AND DIRECTIVES (regulatory linguistic provisions)

Product	Wording of regulatory linguistic provisions regarding labelling particulars
Stringent Territoriality	
Medicines for human use ¹²³	<p>Art. 63(1) The particulars for labelling listed in Articles 54, 59 and 62 shall appear in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State.</p> <p>The first subparagraph shall not prevent these particulars from being indicated in several languages, provided that the same particulars appear in all the languages used.</p> <p>In the case of certain orphan medicinal products, the particulars listed in Article 54 may, on reasoned request, appear in only one of the official languages of the Community.</p> <p>Art. 63(2) The package leaflet must be written and designed in such a way as to be clear and understandable, enabling users to act appropriately, when necessary with the help of health professionals. The package leaflet must be clearly legible in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State.</p> <p>The first subparagraph shall not prevent the package leaflet from being printed in several languages, provided that the same information is given in all the languages used.</p> <p>Art. 63(3) Where the medicinal product is not intended to be delivered directly to the patient, or where there are severe problems in respect of the availability of the medicinal product, the competent authorities may, subject to measures they consider necessary to safeguard human health, grant an exemption to the obligation that certain particulars should appear on the labelling and in the package leaflet. They may also grant a full or partial exemption to the obligation that the labelling and the package leaflet must be in an official language or official languages of the Member State where the medicinal product is placed on the market, as specified, for the purposes of this Directive, by that Member State.</p>
Veterinary medicinal products ¹²⁴	<p>Art. 59(3) The particulars mentioned in the third and sixth indents of paragraph 1 shall appear on the outer package and on the container of the medicinal products in the language or languages of the country in which they are placed on the market.</p> <p>Art. 61(1) (...) The insert shall be in the official language or languages of the Member State in which the medicinal product is marketed.</p> <p>Art. 7 (1) The language or languages of the summary of the product characteristics and the information on the labelling and on the package leaflet shall, unless the Member State determines otherwise, be an official language or languages of the</p>

¹²³ 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, OJ L 311/67 of 28.11.2001.

¹²⁴ Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, OJ L 311/1 of 28.11.2001.

New rules as of 28.1.2022 ¹²⁵	Member State where the veterinary medicinal product is made available on the market. Art. 7 (2) Veterinary medicinal products may be labelled in several languages.
Animal feed ¹²⁶	Art. 14(1) The mandatory labelling particulars shall be given in their entirety in a prominent place on the packaging, the container, on a label attached thereto or on the accompanying document provided for in Article 11(2), in a conspicuous, clearly legible and indelible manner, in the official language or at least one of the official languages of the Member State or region in which it is placed on the market.
Dangerous preparations ¹²⁷	Art. 17(2) The label shall be written in the official language(s) of the Member State(s) where the substance or mixture is placed on the market, unless the Member State(s) concerned provide(s) otherwise. Suppliers may use more languages on their labels than those required by the Member States, provided that the same details appear in all languages used.
Tobacco products ¹²⁸	Art. 8(1) Each unit packet of a tobacco product and any outside packaging shall carry the health warnings provided for in this Chapter in the official language or languages of the Member State where the product is placed on the market.
Textile products ¹²⁹	Art. 16(3) The labelling or marking shall be provided in the official language or languages of the Member State on the territory of which the textile products are made available to the consumer, unless the Member State concerned provides otherwise. In the case of bobbins, reels, skeins, balls or other small quantities of sewing, mending and embroidery yarns, the first subparagraph shall apply to the inclusive labelling referred to in Article 17(3). Whenever these products are individually sold, they may be labelled or marked in any of the official languages of the institutions of the Union, provided they are also inclusively labelled.
Single-use plastic products ¹³⁰	Art. 3 The information text of the marking shall be written in the official language or languages of the Member State(s) where the single-use plastic product is placed on the market.
Conditional Territoriality	

¹²⁵ 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, OJ L 4/43 of 7.1.2019.

¹²⁶ Regulation (EC) No 767/2009 of the European Parliament and the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC, OJ L 229/1 of 1.9.2009.

¹²⁷ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006, OJ L 353/1 of 31.12.2008.

¹²⁸ Directive 2014/40/EU of the European Parliament and the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, OJ L 127/1 of 29.4.2014.

¹²⁹ Regulation (EU) No 1007/2011 of the European Parliament and Council of 27 September 2011 on textile fibre names and related labelling and marking of the fibre composition of textile products and repealing Council Directive 73/44/EEC and Directives 96/73/EC and 2008/121/EC of the European Parliament and of the Council, OJ L 272/1 of 18.10.2011.

¹³⁰ Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment, OJ L 428/57 of 18.12.2020.

Cosmetics ¹³¹	Art. 19(5) The language of the information mentioned in points (b), (c), (d) and (f) of paragraph 1 and in paragraphs (2), (3) and (4) shall be determined by the law of the Member States in which the product is made available to the end user.
Detergents ¹³²	Art. 11(5) In cases where a Member State has a national requirement to label in the national language(s), the manufacturer and distributor shall comply with that requirement for the information specified in paragraphs 3 and 4.
In vitro diagnostic medical devices ¹³³	Art. 4(4) Member States may require the information to be supplied pursuant to Annex I, part B, section 8 to be in their official language(s) when a device reaches the final user. Provided that safe and correct use of the device is ensured, Member States may authorise the information referred to in the first subparagraph to be in one or more other official Community language(s). In the application of this provision, Member States shall take into account the principle of proportionality and, in particular: (a) whether the information can be supplied by harmonised symbols or recognised codes or other measures; (b) the type of user anticipated for the device.
Mitigated territoriality	
Foodstuffs ¹³⁴	Art. 9(3) Where the Commission adopts delegated and implementing acts referred to in this Article, the particulars referred to in paragraph 1 may alternatively be expressed by means of pictograms or symbols instead of words or numbers. (...) In order to ensure that consumers benefit from other means of expression of mandatory food information than words and numbers, and provided that the same level of information as with words and numbers is ensured, the Commission, taking into account evidence of uniform consumer understanding, may establish, by means of delegated acts in accordance with Article 51, the criteria subject to which one or more particulars referred to in paragraph 1 may be expressed by pictograms or symbols instead of words or numbers. Language requirements Art. 15(1) Without prejudice to Article 9(3), mandatory food information shall appear in a language easily understood by the consumers of the Member States where a food is marketed. Art. 15(2) Within their own territory, the Member States in which a food is marketed may stipulate that the particulars shall be given in one or more languages from among the official languages of the Union. Art. 15(3) Paragraphs 1 and 2 shall not preclude the particulars from being indicated in several languages.
Appliances burning	Art. 7(7) Manufacturers shall ensure that the appliance is accompanied by instructions and safety information in accordance with point 1.5 of Annex I, in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.

¹³¹ Regulation 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342/59 of 22.12.2009.

¹³² Regulation (EC) No 648/2004 of the European Parliament and of the Council of 31 March 2004 on detergents, OJ L 104/1 of 8.4.2004.

¹³³ Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices, OJ L 331/1 of 7.12.1998.

¹³⁴ Regulation (EU) No 1169/2011 of 25 October 2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004, OJ L 304/18 of 22.11.2011.

gaseous fuels ¹³⁵	<p>Art. 9(4) Importers shall ensure that the appliance is accompanied by instructions and safety information in accordance with point 1.5 of Annex I, in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.</p> <p>Art. 10(2) Before making an appliance available on the market, distributors shall verify that the appliance bears the CE marking and that it is accompanied by instructions and safety information in accordance with point 1.5 of Annex I, in a language which can be easily understood by consumers and other end-users, as determined by the Member State in which the appliance is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 7(5) and (6) and Article 9(3) respectively.</p>
Explosives for civil use ¹³⁶	<p>Art. 5(6) Manufacturers shall ensure that explosives which they have placed on the market are accompanied by instructions and safety information in a language which can be easily understood by end-users, as determined by the Member State concerned.</p> <p>Art 7(4) Importers shall ensure that the explosive is accompanied by instructions and safety information in a language which can be easily understood by end-users, as determined by the Member State concerned.</p> <p>Art. 8(2) Before making an explosive available on the market distributors shall verify that the explosive bears the CE marking, that it is accompanied by the required documents and by instructions and safety information in a language which can be easily understood by end-users in the Member State in which the explosive is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 5(5) and Article 7(3) respectively.</p>
Toys ¹³⁷	<p>Art. 4(7) Manufacturers shall ensure that the toy is accompanied by instructions and safety information in a language or languages easily understood by consumers, as determined by the Member State concerned.</p> <p>Art. 6(4) Importers shall ensure that the toy is accompanied by instructions and safety information in a language or languages easily understood by consumers, as determined by the Member State concerned.</p> <p>Art. 7(2) Before making a toy available on the market, distributors shall verify that the toy bears the required conformity marking, that it is accompanied by the required documents and by instructions and safety information in a language or languages easily understood by consumers in the Member State in which the toy is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 4(5) and (6) and Article 6(3).</p> <p>Art. 11(3) In accordance with Article 4(7), a Member State may, within its territory, stipulate that those warnings and the safety instructions shall be written in a language or languages easily understood by consumers, as determined by that Member State.</p>
Lifts ¹³⁸	<p>Art. 7(7) Installers shall ensure that the lift is accompanied by the instructions referred to in point 6.2 of Annex I, in a language which can be easily understood by end-users, as determined by the Member State in which the lift is placed on the market.</p>

¹³⁵ Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC, OJ L 81/99 of 31.3.2016.

¹³⁶ Directive 2014/28/EU of the European Parliament and Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil uses (recast), OJ L 96/1 of 29.3.2014.

¹³⁷ Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys, OJ L 170/1 of 30.6.2009.

¹³⁸ Directive 2014/33/EU of the European Parliament and Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to lifts and safety components for lifts, OJ L 96/251 of 29.3.2014.

	<p>Art. 8(7) Manufacturers shall ensure that the safety component for lifts is accompanied by the instructions referred to in point 6.1 of Annex I, in a language which can be easily understood by end-users, as determined by the Member State concerned.</p> <p>Art. 10(4.) Importers shall ensure that the safety component for lifts is accompanied by the instructions referred to in point 6.1 of Annex I in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.</p> <p>Art. 11(2) Before making a safety component for lifts available on the market, distributors shall verify that the safety component for lifts bears the CE marking, that it is accompanied by the EU declaration of conformity, by the required documents and by the instructions referred to in point 6.1 of Annex I, in a language which can be easily understood by end-users, as determined by the Member State concerned and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and (6) and Article 10(3), respectively.</p>
Pyrotechnic articles ¹³⁹	<p>Art. 8(7) Manufacturers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.</p> <p>Art. 10(1) Manufacturers shall ensure that pyrotechnic articles other than pyrotechnic articles for vehicles are labelled visibly, legibly and indelibly in the official language(s) of the Member State in which the pyrotechnic article is made available to the consumer.</p> <p>Art. 12(3) Importers shall indicate on the pyrotechnic article their name, registered trade name or registered trade mark and the postal address at which they can be contacted or, where that is not possible, on its packaging or in a document accompanying the pyrotechnic article. The contact details shall be in a language easily understood by end-users and market surveillance authorities.</p> <p>Art. 12(4) Importers shall ensure that the pyrotechnic article is accompanied by instructions and safety information in a language which can be easily understood by consumers and other end-users, as determined by the Member State concerned.</p> <p>Art. 13(2) Before making a pyrotechnic article available on the market distributors shall verify that the pyrotechnic article bears the CE marking, that it is accompanied by the required documents, and by instructions and safety information in a language which can be easily understood by consumers and other end-users in the Member State in which the pyrotechnic article is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 8(5) and (6) and Article 12(3) respectively.</p>
Fertilising products ¹⁴⁰	<p>Art. 6(7) Manufacturers shall ensure that EU fertilising products are accompanied by the information required (...). The information shall be in a language which can be easily understood by end-users, as determined by the Member State concerned, and shall be clear, understandable and intelligible.</p> <p>Art. 8(4) Importers shall ensure that EU fertilising products are accompanied by the information required (...). The information shall be in a language which can be easily understood by end-users, as determined by the Member State concerned.</p> <p>Art. 9(2) Before making an EU fertilising product available on the market distributors shall verify that it is accompanied by the required documents (...), in a language which can be easily understood by end-users in the Member State in which the EU fertilising product is to be made available on the market (...).</p>

¹³⁹ Directive 2013/29/EU of the European Parliament and of the Council of 12 June 2013 on the harmonisation of the laws of the Member States relating to the making available on the market of pyrotechnic articles (recast), OJ L 178/27 of 28.6.2013.

¹⁴⁰ Regulation (EU) 2019/1009 of the European Parliament and of the Council of 5 June 2019 laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003, OJ L 170/1 of 25.6.2019.

Edible caseins and caseinates (milk products) ¹⁴¹	Art. 4(2) A Member State shall prohibit the marketing of milk products defined in points (a), (b) and (c) of Article 2 in its territory if the particulars referred to in the first subparagraph of paragraph 1 of this Article are not marked in a language easily understood by the purchasers of that Member State where those products are marketed, unless such information is provided by the food business operator by other means. Those particulars may be marked in several languages.
Extraction solvents ¹⁴²	Art. 7(4) (...) Each Member State shall, however, ensure that the sale of extraction solvents within its territory is prohibited if the particulars provided for in this Article do not appear in a language easily understood by purchasers, unless other measures have been taken to ensure that the purchaser is informed. This provision shall not prevent such particulars from being indicated in various languages.
Footwear ¹⁴³	Art. 4(2) The information shall be conveyed on the footwear. The manufacturer or his authorized agent established in the Community may choose either pictograms or written indications in at least the language or languages which may be determined by the Member State of consumption in accordance with the Treaty, as defined and illustrated in Annex I. Member States, in their national provisions shall ensure that consumers are adequately informed of the meaning of these pictograms, while ensuring that such provisions do not create trade barriers.
Flavourings ¹⁴⁴	<p>Labelling of flavourings not intended for sale to the final consumer</p> <p>Art. 14(1) Flavourings not intended for sale to the final consumer may only be marketed with the labelling provided for in Articles 15 and 16, which must be easily visible, clearly legible and indelible. The information provided for in Article 15 shall be in a language easily understandable to purchasers.</p> <p>Art. 14(2) Within its own territory, the Member State in which the product is marketed may, in accordance with the Treaty, stipulate that the information provided for in Article 15 shall be given in one or more of the official languages of the Community, to be determined by that Member State. This shall not preclude such information from being indicated in several languages.</p>
Food Enzymes ¹⁴⁵	<p>Labelling of food enzymes and food enzyme preparations not intended for sale to the final consumer</p> <p>Art. 10(1) Food enzymes and food enzyme preparations not intended for sale to the final consumer, whether sold singly or mixed with each other and/or other food ingredients, as defined in Article 6(4) of Directive 2000/13/EC, may only be marketed with the labelling provided for in Article 11 of this Regulation, which must be easily visible, clearly legible and indelible. The information provided for in Article 11 shall be in a language easily understandable to purchasers.</p> <p>Art. 10(2) Within its own territory, the Member State in which the product is marketed may, in accordance with the Treaty, stipulate that the information</p>

¹⁴¹ Directive (EU) 2015/2203 of the European Parliament and of the Council of 25 November 2015 on the approximation of the laws of the Member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC OJ L 314/1 of 1.12.2015.

¹⁴² Directive 2009/32/EC of the European Parliament and of the Council of 23 April 2009 on the approximation of the laws of the Member States on extraction solvents used in the production of foodstuffs and food ingredients, OJ L 141/3 of 6.6.2009.

¹⁴³ Directive 94/11/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to labelling of the materials used in the main components of footwear for sale to the consumer, OJ L 100/37 of 19.4.1994.

¹⁴⁴ Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavouring properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulations (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC, OJ L 354/34 of 31.12.2008.

¹⁴⁵ Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97, OJ L 354/7 of 31.12.2008.



	provided for in Article 11 shall be given in one or more of the official languages of the Community, to be determined by that Member State. This shall not preclude such information from being indicated in several languages.
Food Additives ¹⁴⁶	<p>Labelling of food additives not intended for sale to the final consumer</p> <p>Art. 21(1) Food additives not intended for sale to the final consumer, whether sold singly or mixed with each other and/or with food ingredients, as defined in Article 6(4) of Directive 2000/13/EC, may only be marketed with the labelling provided for in Article 22 of this Regulation, which must be easily visible, clearly legible and indelible. The information shall be in a language easily understandable to purchasers.</p> <p>Art. 21(2) Within its own territory, the Member State in which the product is marketed may, in accordance with the Treaty, stipulate that the information provided for in Article 22 shall be given in one or more of the official languages of the Community, to be determined by that Member State. This shall not preclude such information from being indicated in several languages.</p>
Hazardous substances in electrical and electronic equipment ¹⁴⁷	<p>Art. 10 Member States shall ensure that:</p> <p>(a) when making an EEE available on the market, distributors act with due care in relation to the requirements applicable in particular by verifying that the EEE bears the CE marking, that it is accompanied by the required documents in a language which can be easily understood by consumers and other end-users in the Member State in which the EEE is to be made available on the market (...)</p>
Linguistic Freedom	
Aromatised wine ¹⁴⁸	<p>Use of language in the presentation and labelling of aromatised wine products</p> <p>Art. 8(1) The sales denominations set out in italics in Annex II shall not be translated on the label or in the presentation of aromatised wine products. Additional particulars provided for in this Regulation shall, where expressed in words, appear in at least one of the official languages of the Union.</p> <p>Art. 8(2) The name of the geographical indication protected under this Regulation shall appear on the label in the language or languages in which it is registered, even where the geographical indication replaces the sales denomination in accordance with Article 5(4).</p> <p>Where the name of a geographical indication protected under this Regulation is written in a non-Latin alphabet, it may also appear in one or more of the official languages of the Union.</p>
General product safety ¹⁴⁹	<p>Art. 8(1) For the purposes of this Directive, and in particular of Article 6 thereof, the competent authorities of the Member States shall be entitled to take, inter alia, the measures in (a) and in (b) to (f) below, where appropriate:</p> <p>(...)</p> <p>(b) for any product that could pose risks in certain conditions:</p> <p>(i) to require that it be marked with suitable, clearly worded and easily comprehensible warnings, in the official languages of the Member State in which the product is marketed, on the risks it may present;(..)</p>

¹⁴⁶ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives, OJ L 354/16 of 31.12.2008.

¹⁴⁷ Directive 2011/65/EU of the European Parliament and of the Council of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment, OJ L 174/88 of 1.7.2011.

¹⁴⁸ Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91, OJ L 84/14 of 20.3.2014.

¹⁴⁹ Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety, OJ L 11/4 of 15.1.2002.