

## The European Union and minority languages: Evolution, achievements and contradictions in the light of the Treaty of Lisbon

LORENZO PICCOLI

Graduate student at the School of International Studies of Trento. He also studied at Trinity College, Dublin, and at the University of Victoria, Canada



*I am grateful to Luisa Antonioli, Marco Brunazzo and Jens Woelk, who have given me many useful insights on the topic. I also thank Catherine Riley and the two anonymous referees who reviewed earlier drafts of this paper. However, any error of fact or judgment is exclusively my own.*

### Abstract

*The issue of minorities has long been perceived as an obstacle to European integration. This paper seeks to unravel the complex nature of minority language (ML) policy in the European Union (EU), arguing that a long way has been travelled since 1981. From that moment onwards, the European Parliament (EP) began dealing with minority issues starting from the functional area of minority languages (MLs). This has led to two outcomes: on the one hand, with the Treaty of Lisbon (ToL) the EU has finally adopted a more embracing notion of minority rights, recognizing linguistic diversity and the protection of the persons belonging to minorities as part of its fundamental values; on the other hand, the European Commission is increasingly active in supporting the promotion of ML through financial programmes. This is evidence that ML policy at the European level, complementary to those of the single Member States, is very fragmented and barely structured, but still effective in so far as it legally protects and financially supports ML.*

### Introduction

Some authors suggest that in 2007 the EU did not yet have an efficient minority language (ML) policy (Van Bossuyt, 2007; Urrutia and Lasagabaster, 2007). In this article I argue instead that, even though minority languages (MLs) have long been perceived as an obstacle to European integration, they are now protected by the treaties and in some ways even promoted by the Commission. Therefore, my argument is that the EU has experienced a gradual awareness of MLs, firstly, and then also of a broader notion of the protection of minorities' in general. This main contention is therefore discussed by analyzing over time the activity of the main EU institutions. Of course, such policy is still far from being unquestionable; but, however fragmented and to a great extent merely complementary to that of member States, it does protect and promote ML in many ways.

By means of qualitative analysis, I focus on the single

case-study of the EU and its institutions. The research question revolves around ML policy in the EU: historical development and the state of the art. Accordingly, this paper describes how such policy has been constructed, discussing a set of hypotheses: the first is that the EP played a crucial role in starting and addressing this policy. The second is that, MLs constituted a functional area for the development of a more embracing notion of minority rights. As a matter of fact, with the Treaty of Lisbon the EU has finally recognized linguistic diversity and the protection of the persons belonging to minorities as part of the EU's fundamental values. The third hypothesis is that the European Commission is increasingly active in supporting the promotion of MLs through financial programmes – particularly those targeting to education and regional development – thus becoming the most important European actor with regard to MLs. Discussing these three hypotheses, rather than providing a cost-effectiveness

analysis of ML policy, I aim to describe its progressive development over the last thirty years, as well as its present features.

There are different approaches to tackling ML issues. I discuss minority claims starting from the literature on regionalism in Europe (Keating, 1998; Loughlin, 1996; Fitjard, 2010). Accordingly, I consider ML policy as part of the broader protection of minority rights. For this purpose, I particularly rely on the work of Ó Riagáin (2002), Palermo and Woelk (2005), Toggenburg (2000, 2005, 2006, 2008), and Elias (2009). Overall, this paper has an essentially descriptive purpose, mainly based on secondary sources such as scholarly texts, papers and legal documents which are all analyzed through a legalistic approach. Moreover, the research design is limited to a specific time span, that is to say from 1980 up to the Treaty of Lisbon (2009), when the major improvements in this area of policy were made.

Accordingly, I try to highlight the separation between the level of political protection provided and the degree of financial promotion available. After a brief overview of the European framework for minorities and MLs, where I seek to introduce the main arguments, as well as the concept of ML itself, I discuss the development of the idea that MLs must be protected starting from 1981, when the EP decided to promote linguistic and cultural rights for minorities rather than rights for ethnic minorities *per se* (see: Ó Riagáin, 2002). In this section, I put the activity of the EP under scrutiny. In particular, I maintain that it was the Parliament that, actually, had the merit of raising awareness of the issue of MLs in Europe. Its approach, however, has been characterized by a narrower focus on the pursuit of ML rights rather than broader minority rights. Nonetheless, EP activity, although not binding, has been crucial in the political protection of regional languages. The pioneering work of the EP was subsequently endorsed - somewhat timidly- by the European Court of Justice (ECJ), even if it mainly focused on ML rights within the context of the free movement of workers. These initial efforts, however, were almost totally lacking in any binding value. A first step in that direction was the path that led to the 2004 enlargement, when minority rights were included as a precondition for EU accession. As a consequence, the European Council was actively involved in minority protection issues. Furthermore, the principle of conditionality inaugurated a shift towards a more embracing policy - that is to say from ML protection to the protection of minorities in general. This move was fi-

nally legally entrenched in the Treaty of Lisbon (ToL), which included the recognition of minorities into the EU primary law. Before 2009, no single reference to the existence of minorities were ever made in the EU primary legislation.

Finally, the third part focuses on the financial promotion fostered by the European Commission. Although it has no direct legal competence on minority issues and language protection, the Commission makes a difference in the promotion of ML, financing studies and programmes in the critical domain of education from which MLs largely benefit. In this sense, the European ML policy forms part of a “polycentric diffusion which characterizes an increasingly large share of public tasks and functions” (Palermo and Woelk, 2005: 6–7).

## 1. Minority languages: a functional area for minorities

That of minorities is a fundamental political issue of our times. Even though the EU has tried to engage in debates on the protection and the promotion of minorities, this area remains largely within the remit of the single Member States. However, there is one field within the broader area of minorities where the EU has been able to step in and to develop its own policy, complementary to that of member states: that of MLs.

### 1.1 The EU and minority protection

In the recent years, protection of minorities has become one of the most sensitive scholarly discussions, with particular regard to the EU. One way of looking at it is that of regionalism, as the revival of regions as a counterbalance to the homogenous centralization of politics and identity brought about by nation states (Loughlin, 1996; Keating, 1998; Fitjar, 2010). Indeed, European states are far less homogenous than it is often thought: Europe is a continent built on diversity, where differences go beyond the national borders and involve internal differences. a wide range of regions and groups. Culturally, regions can be defined as “territories marked by the presence of human societies sharing histories and cultural/linguistic features that are different from that of the dominant culture of the nation-state in which they find themselves” (Loughlin, 1996: 147). Such societies, or groups, are often referred to as minorities. As such, they need special arrangements to be protected from the centralizing pressures coming from the state. According to the literature on regionalism, the EU constitutes a source of potential opportunities for the mobilization of ethnic and re-

gional minorities (Loughlin, 1996; Keating, 1998). Indeed, "Looking at the present situation in Europe, the law of minorities is constituted by large variety of instruments of protection, different sources and inter-related levels as well as determined by a great number of different actors" (Palermo and Woelk, 2005: 6). However, in reality minority protection is relatively neglected by the EU. As a matter of fact, the EU has traditionally relied on the work of international and regional organizations, such as the Council of Europe, the United Nations and its associated agencies in these matters. The direct involvement of the EU is very limited; in fact, today there is no charter specifically related to minorities in the EU legal framework, nor a defined understanding of who can be considered a member of a minority. According to De Witte, "the emerging EU minority protection system rests largely on principles that are implicit rather than explicit" (2004: 107).

In spite of lack of legal recognition, repeated references to the value of diversity, however broad and vague ("highly ambivalent", to use Toggenburg's words, 2005: 735), have raised awareness of the protection of national minorities. At the same time, there is strong resistance from Member States against the development of an effective minority policy at the European level. A symptomatic example is that of Copenhagen 1993, when the protection of national minorities was included among the criteria for accession: this particular criterion, unlike the others, did not acquire legally binding value in EU primary law until the ToL. Accordingly, Toggenburg describes the EU approach towards minorities as a merely "growing legal reality without adding any self standing policy instruments or clarifications in order to put these legal principles into daily practice" (2006: 10).

Nevertheless, this article discusses one specific (or functional) field within minority protection where the EU has been seriously engaged, working over time towards the creation of an efficient policy: this is the case of ML policy.

### 1.2 The importance of MLs in Europe

The shared definition of MLs is that of languages "spoken as a mother tongue by a small number of speakers relative to the population of a region or a country as a whole which has a different language as its national language" (Llomas et al. 2007: 222). In the European context, MLs are defined by the Council of Europe's Charter on Regional and Minority Languages of 1992 as "languages traditionally used within a given terri-

tory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and different from the official language(s) of that State" (art. 1). This definition excludes dialects of the official language(s), and the languages used by recent immigrants from other states. As a matter of fact, it only applies to languages traditionally used by the nationals of the State Parties: these languages may be specific to a region such as Catalan, Basque, Breton, Welsh, Sardinian, or they may be languages spoken by a minority in one state but which are official languages in another EU country, such as Hungarian in Slovakia, German in southern Denmark (see: European Commission, Booklet, *Many Tongues, One Family: Languages in the European Union*, 2004).

The concept of MLs is particularly sensitive, since "debates over regional languages are never just debates over language" (Kymlicka and Patten 2003: 5). The fact itself that the official EU terminology interchangeably uses a wide variety of synonyms for MLs, such as "lesser used language", "lesser taught language", "less widespread language", "regional languages", "threatened languages", is a sign of the sensitivity of the debate revolving around such a concept. In fact, Europe is a place where a variety of MLs have developed over time as a result of the revolutions of nineteenth century, treaties and migrations: linguistic identity is a key factor in the European context (see also: Toso, 2004). Today, from Breton to Sámi, Yiddish, Romansch and Welsh, there are more than sixty ML in the EU. Moreover, it is estimated that almost 55 million of Europe's 500 million citizens speak a ML other than the majority language of the state in which they live (data from Mercator European Research Centre, 2010; see also: European Commission, *Many Tongues, One Family: Languages in the European Union*, 2004; EU Commissioner for Education, Culture and Multilingualism, website, 2006; and Toso, 2004). MLs are spoken in all EU countries; and in some cases, they count even more speakers than some EU national languages. For example, Catalan counts approximately 6 million speakers, whereas Finnish and Danish have 5 million each (*Network for Multilingualism and Diversity in Europe*, 2006). All in all, ML represent an extremely significant issue in the European context.

Consequently, ML policy is aimed at the preservation and the promotion of cultural and linguistic plurality with particular regard to ML groups. In fact, it is one specific field of language policy, which is defined as "a systematic, rational, theory-based effort at the societal

level to modify the linguistic environment with a view to increasing aggregate welfare" (Grin and Kuzmany, 2000: 7). Accordingly, the purpose of the EU's ML policy is to guarantee to all the European citizens that "they could speak and act together at European level and thus achieve results, which individually would have remained beyond their capabilities" (Ó Riagáin, 2002: 7). This concern was very much present also in the foundations of the European Community: not by chance, as noted by Elias, the drafters of the Treaty of Rome "were acutely aware of the need to preserve some semblance of linguistic parity, and therefore political parity, when they conferred equal status on all national languages of the EU member states (with the exception of Irish and Luxembourgian) as working languages" (2009: 269).

Despite such fundamental preoccupations with linguistic identity, European institutions did not directly address concerns about ML rights until the beginning of the 1980s. Indeed, at the very beginning of the common market, MLs were perceived as an obstacle to the free movement of goods and people. It was only with the initial efforts of the European Parliament, in the 1980s, followed by the other institutions, that a ML policy was made possible. In fact, "a unified European approach to minority language rights has only emerged recently, during the last twenty years" (Elias, 2009: 269).

## 2. The struggle for recognition: political protection for minority languages

I begin this section of the paper discussing my first hypothesis: the EP as the institution which has contributed the most to raising awareness on the issue of ML at the European level. Its pioneering work between 1981 and 1994 shaped the debate and led the EU towards an embryonic ML policy. It also established a *path dependency*, so that MLs came to be considered a functional area for the broader protection of minorities as such. To put it in Ó Riagáin's words, "the support for lesser used languages, emanating from the institutions of the European Community during the 80s and the first half of the 90s, raised, not only the morale of those working to conserve and promote lesser used languages, but also their hopes and expectations" (2002: 7). This narrative was embraced also by the ECJ, which timidly endorsed the development of a ML policy. However, while the work of the EP consisted of soft-law resolutions, the European Council had an opportunity to develop hard-law instruments, binding

acceding members to "respect for and protection of minorities", as established at the Copenhagen meeting of 1993 (Copenhagen Council Conclusions). These criteria were applied in general through the principle of conditionality during the process for enlargement of 2004. Building on these developments, the ToL finally included the respect of minorities among the fundamental values on which the EU is founded, thus translating this issue into the primary law of the EU. Accordingly, not only does the ToL contribute to the development of ML protection, but it also embraces a more inclusive approach to minority rights, as the result of a functional approach which started from the specific area of ML. This is the second hypothesis I discuss in the concluding part of this section.

### 2.1 The pioneering work of the Parliament

So far, the EP has adopted four major resolutions on the ML of the EU (which, until 1992, was still the EC): those of Arfé (1981 and 1983), Kuijpers (1987) and Killilea (1994). Within the EP, a significant role in dealing with the issue of ML has been played by two collective actors. The first is the Intergroup for Minority Languages (IML), which is one of the longest standing Intergroups committees within the EP since it was officially recognized in 1983. The second actor is the Committee on Culture and Education (CULT), which is responsible, among other things, for "the protection and promotion of cultural and linguistic diversity" (CULT's website, 2010). All the resolutions concerning MLs were, in fact, inspired by reports and recommendations either by the IML or by the CCT. However, it is worth remembering that resolutions are soft law sources: they are not legally binding.

The EP first addressed the topic of MLs at the beginning of the 1980s, issuing two resolutions based on two reports tabled by the Italian MEP Gaetano Arfé. The 1981 "Resolution on a Community Charter of regional languages and cultures and on a charter of rights of ethnic minorities" first urged the right to use MLs in dealings with official bodies and Courts; it also proposed to promote teaching in MLs and to ensure MLs access to local media. This resolution is fundamental, since it shaped the EU's minority policy for the following 20 years. As noted by Ó Riagáin (2002: 4-5), during the preparation of the motion for the resolution a fundamental debate took place, revolving around the best approach for addressing the needs of MLs. It put a trade-off between rights for ethnic minorities per se or solely linguistic and cultural approach. In the

end, this debate pitched those in favour of the rights of ethnic minorities per se against those prepared to adopt a solely linguistic and cultural approach. From that moment on, the EU pursued ML rights rather than broader minority rights. Such an approach was, in fact, followed by the Arfè “Resolution on measures in favor of minority languages and cultures” of 1983, which led to the opening of a budgetary line for MLs, and the 1987 “Resolution on the languages and cultures of regional and ethnic minorities”. These three resolutions, while broad in their terms and lacking binding force, set the stage for the innovations contained in the Treaty reform of 1992, which in fact recognized for the very first time European “cultural and linguistic diversity” (art. 126 TEU). The Killilea resolution of 1994 acknowledged this progress and urged EU Member States to take the ML issue more seriously, calling for a ratification of the European Charter of Minority Languages.

Meanwhile, in 1993, the European Council held in Copenhagen established that “respect for and protection of minorities” was one of the compulsory criteria for accession (Copenhagen Council Conclusions). Such a criterion became fundamental ten years later, when the European Council used it for the actual implementation of the protection of minorities, as explained in section 2.3.

### 2.2 The timid endorsement of the European Court of Justice

According to Elias (2009: 297-298), the ECJ is part of the development of a ML policy in so far it shifted advancing from toleration-oriented language rights (rights that are protections individuals have against government interference with their private language choices) to promotion-oriented language rights (rights that individuals have to the use of a particular language in public institutions — in the courts, the legislature, public schools, the delivery of public services, etc). Such a distinction, proposed by Kloss (1971, pp. 259–262), suggests that the ECJ embraced over time a perspective which contributed to giving strength to the resolutions of the EP and to creating the basis for subsequent developments.

As stressed by Palermo, “The phenomenon of massive intervention of the ECJ in shaping the concrete contents of European law is well known, being part of the overall expansive tendency of the role of courts in modern societies (judicial creativity, or judicial activism). This is even more evident when examining the

tendency of the ECJ to include fields within the scope of the Treaty that were originally excluded from it: a phenomenon that can be called ‘judicial spill-over’” (2006: 22). However, until the ToL there was no legally binding reference to minorities in the EU framework: therefore, the ECJ never had the chance to deal with minorities. The lack of Community competence in this field prevented the ECJ to rule on substantial issues related to minority protection. The only exception was, in fact, the matter of linguistic rights (Van Bossuyt, 2006: 4): in contrast to the rights of minorities in general, “the ECJ has left its marks on the language rights of minorities within the European Union. It should, however, be noted that these judgments have been pronounced in the framework of the free movement of persons and the freedom to provide services” (Van Bossuyt, 2006: 9 – 10).

This was evident already in *Mutsch* (1985), when the ECJ had to rule for the first time on the use of languages before national courts. After that, the ECJ ruled again on issues concerning MLs in three other key cases: *Groener* (1989), *Bickel & Franz* (1998) and *Angonese* (2000).<sup>1</sup> However important for the protection of linguistic rights, these rulings never clarified the concept of MLs, not least because the ECJ focused on the importance of the protection of linguistic rights in the context of the free movement of workers rather than on the protection of ML as such. Accordingly, Palermo stresses that “if member states want to effectively protect their special legislation on linguistic/cultural diversity, and therefore to affirm their internal pluralism, they must provide the EU with at least some competence in this regard. By doing so, they will enable the ECJ to take into consideration and to balance not only economic freedoms, but also the protection of diversity as an European value” (2006: 25). This arguments makes the developments brought about by the ToL particularly relevant, as it will be discussed in section 2.4.

### 2.3 Enlargement as an opportunity for the European Council

The enlargement of 2004 meant a shift in the narrative of ML protection in the EU. It implied some major innovations, starting from the fact that the main institutional actor involved in ML protection became

<sup>1</sup> I do not intend to go into the details of each single ruling here. For those interested, both Van Bossuyt (2006) and Elias (2009) provide more accurate reflections on all these decisions of the ECJ.

the European Council, through its exercise of the principle of conditionality vis-a-vis new Members. More precisely, cooperation with acceding countries implied the “respect for and protection of minorities” as established at the Copenhagen meeting of the European Council (Copenhagen Council Conclusions). More specifically, acceding countries from Western Balkan states were bound by some provisions which stressed the “[r]ight to establish and maintain [...] [a] dequate opportunities for [...] minorities to use their own language before courts and public authorities” (Luxembourg Council Conclusions, 1997: annex III, quoted in Toggenburg, 2008: 6). In some cases, “promoting language training [...] in particular for resident persons belonging to minorities” was considered a binding element (see: Lithuanian agreement art. 78, quoted in Toggenburg, 2008: 6). This created a double-standard: while the European Council was able to bind acceding members, the EU had limited authority in cultural matters towards those which are already Member States. In fact, while Lithuania was obliged to protect its Russian speaking minority to gain access to the EU, no enforceable instruments were used to bind France, Italy or Belgium to respect their ML communities. However, even though these provisions did not apply to Member States, they made clear that minority rights are a binding precondition for the eligibility for the Council assistance.

Consequently, the instruments used in this phase of European integration were no longer soft resolutions, but hard law obligations for acceding countries. Furthermore, this development also reflected a shift in the European perspective over MLs. According to Toggenburg (2008), the EU’s emphasis shifted from a cultural perspective to a broader perspective including the issue of the political participation of minorities. This development anticipated the innovations of the ToL, which finally embraced a broader concept of minorities, going beyond the (undeniably hegemonic) narrow focus on ML groups. In this sense, the 2004 enlargement was a means to further develop the EU’s minority policy and anticipate some of the developments which would have later been recognized by the ToL.

#### 2.4 The Treaty of Lisbon: achieving a more encompassing policy

Of course, the EP continued to play a role shifting its focus from MLs to minorities in a more inclusive light. After a 2003 resolution “with recommendations to the Commission on European regional and lesser-used

languages — the languages of minorities in the EU — in the context of enlargement and cultural diversity” based on the report tabled by Italian MEP Michl Ebner, in 2005 the EP put forward a resolution “on the protection of minorities and anti-discrimination policies in an enlarged Europe”. Together with a 2006 resolution, sponsored by the Latvian MEP Tatjana Zdanoka, on “non-discrimination and equal opportunities for all – a framework strategy”, these developments did not, for the very first time, directly target MLs, as they took into account ethnic minorities, as well as new minorities such as the Roma.

The ToL builds on these developments, strengthening the EU legal framework for minorities in general and, more specifically, for ML. Consequently, its most important feature is the legal recognition of minorities: the ToL refers to the “respect for the rights of persons belonging to minorities” (art. 2 TEU). Therefore, the ToL not only recognizes the existence of persons belonging to minorities, but it goes further, establishing respect for them as one of the values on which the EU is founded. A more specific provision for the protection of MLs is to be found, instead, in the Charter of Fundamental Rights, which is annexed to the ToL and thus legally binding under the framework of the EU primary law. The Charter “prohibits any discrimination on any ground such as [...] language [...] membership of a national minority” (art 21.1). Such a provision reflects article 3 TEU (formerly art. 126), which contains a legal duty to respect the European “rich cultural and linguistic diversity”. All in all, the ToL is an important step forward, since it brings in a number of provisions which were not officially recognized before.

As stated by Toggenburg, “this might not be all too astonishing and most probably does not add much to the general principle law of equality under current EU law” (2008: 13). Certainly, it does not add much to the field of ML policy. In fact, it disappoints for its weakness, lacking both an indication on self-standing policy instruments and clarity that would help putting principles into practice. For instance, the Charter of Fundamental Rights insists on the non discrimination for linguistic diversity, but it does not specify what kind of linguistic diversity should be respected. However, it would be misleading to dismiss the ToL as a failure. While MLs have long been perceived as a threat vis-a-vis the European project of integration (see, for instance, Toso, 2006: 51) and an obstacle to the achievement of the internal market, the ToL finally affirms that the EU is based on values such as the

“rights of persons belonging to minorities” (art. 2 TEU) and on its “rich linguistic and cultural diversity” (art. 3.3 TEU).

The main strength of the ToL is, in fact, symbolic: the recognition of the value of minorities within the EU legal framework reflects a very strong pro-minority message. To put it in Shuibhne’s words, “If asked ‘Have recent times produced key European Union (EU) developments for the status of minority languages?’ an observer’s instinctive answer would most probably be abrupt, quite simple, ‘No’. On reflection, however, more has been going on than might at first be presumed, but with somewhat mixed results” (2008: 123). Toggenburg himself admits that, despite being weak, the ToL represents “a major shift”, since the term “national minority” itself enters into EU’s primary law (2008: 13). Moreover, this development is likely to give strength to organizations and actors lobbying for a stronger ML policy. Accordingly, the symbolic force of the ToL could create the basis for further developments.

This fundamental development coincides with a significant stretching of the concept of minorities. The ToL officially recognizes minorities as not merely linked to language. Rather, it introduces a much broader understanding, which is not directly linked to any particular marker, such as language, territory of ethnic belonging. This might constitute a weaknesses in that it is generic; at the same time, all the minority groups (and not only linguistic groups) are potentially capable of being affected. This constitutes a shift from the initial narrow focus on MLs adopted by the EP, when in 1981 it began dealing with minorities. Such an approach has been followed for a long time due to a path dependency: MLs were naturally considered the way to deal with minorities in general. Functionally, MLs have proved to be an effective starting point towards a more embracing notion of minorities: the EU now recognizes in its primary law the fundamental values of minorities as such, without a specific connection with language or any other specific marker of identity.

### 3. The means for promotion: financial means for minority languages

The Commission is the most important actor in the financial promotion of ML, particularly in the critical domain of education. As a matter of fact, from 2004 the European Commissioner for Education and Culture portfolio included an explicit reference to languages, thus becoming European Commissioner for

Education, Training, Culture and Multilingualism; the name was changed in 2007 (European Commissioner for Multilingualism), and again in 2010, finally becoming Commissioner for Education, Culture, Multilingualism and Youth. European Commissioners have often always shown a clear willingness to mainstream ML policy into the work of the EU; in 2002, Viviane Reding, then Commissioner for Education and Culture, stressed that “the European Union should build on the structures, networks, projects, initiatives, know-how and good will generated by the year to develop a coherent long-term strategy for linguistic diversity and language learning” (The future of regional and minority languages in the European Union, conference, Helsinki, 11 October 2002).

However, the Commission can function only in the fields where it has competence in the scope of the Treaties; and, in fact, it does not have direct legal competence in the field of the protection of language minorities. Therefore, the Commission can influence ML only indirectly, through functional intervention based on a variety of sources: the chapter on ‘Culture’ in the Maastricht Treaty; the Copenhagen membership criteria; the anti-discrimination Article 13 of the Amsterdam Treaty; and, finally, the programmes for regional development or cross-border cooperation. In this way, even if not explicitly invested of such competence in the Treaties, the Commission actively promotes MLs in the field of education, through study programmes and specific researches.

### 3.1 Education: minority languages in schools and universities

An area where the Commission is particularly active is that of training and transnational exchanges. The aim is to promote MLs in the official school curricula through CDs and the internet, alongside projects that raise awareness on MLs. For instance, Comenius, a Commission programme which provides language courses and intercultural education for teachers and other staff, gives priority to those school teachers requesting training in a ML.

Less directly – but not necessarily less effectively – the Commission promotes MLs through mobility, transnational partnerships, youth exchanges, town twinning projects, and the European Voluntary Service. Such programmes can be used for supporting ML communities culturally, socially or economically. Erasmus, for instance, can involve training for MLs, such as Celtic, Catalan or Flemish. Those students going to a country

where MLs are spoken are eligible for an intensive language course before the study period. Moreover, Erasmus raises awareness on ML communities through cultural exchanges of young students. A similar task is carried out by the Study Visit Programme, the European Bureau for Lesser Used Languages (EBLUL)'s programme for the promotion of ML. All in all, these programs are vehicles for facilitating and fostering networking and information exchange.

### 3.2 Scientific research: investigating minority languages

A second field of activity for the Commission is that of financing a dense network of agencies and institutions aimed at studying ML communities in Europe. Such initiatives were proposed by the 1983 Arfé resolution, which called upon the Commission "to continue and intensify its efforts in this area, particularly in relation to establishing pilot projects and studies" (Resolution on measures in favor of minority languages and cultures).

First of these is the EBLUL, that was set up to promote linguistic diversity and languages. It was founded in 1982 and, though independent, it largely relies on funds from the European Commission (together with the Council of Europe and regional institutions). Among its activities are scientific publications, a newsletter (Contact-Bulletin) and promoting the contacts between ML communities and the European institutions. The second institution founded was the Mercator Centre, which was set up in 1988 following the call in the 1987 Resolution on the languages and cultures of regional and ethnic minorities for the Commission "to give the necessary attention to linguistic minorities in the Community's information publications". Mercator is an information and documentation network which aims at improving the exchange and circulation of information on MLs and cultures, providing the general public as well as people with special interests with up to date and reliable information on the situation of the linguistic communities. Together with EBLUL, it seeks to encourage cooperation and networking between institutions and organizations, universities, local, regional and national authorities. Finally, since 1992 the EU has supported a series of studies on MLs, collectively known as Euromosaic. A series of subsequent researches were published in 1995 and then in 2004 and 2009, with the purpose "to find out about the different regional and minority languages in existence and to establish their potential for pro-

duction and reproduction, and the difficulties they encounter in doing so" (Euromosaic Study's website). Through these strategic studies the Commission promotes debate, innovation, and the exchange of good practice.

### 3.3 Regional programmes: investing in culture and customs

A third field of activity for the Commission, already mentioned in the 1987 Resolution on the languages and cultures of regional and ethnic minorities is that of financing the indigenous potential of MLs through structural funds, such as the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

The ERDF supports economically underdeveloped regions; as many ML communities live in such regions, it indirectly protects their diversity. For instance, Interreg III, a programme for promoting cooperation between regions as part of the ERDF, "holds definite potential for ML communities who find themselves in adjoining regions but in different jurisdictions" (Ó Riagáin, 2002: 11). The obvious examples are the Basques and Catalans in Spain; but also the small Greek community in Puglia has availed of the programme in a manner that strengthens its identity and culture.

The other structural fund, ESF, is set up to reduce differences in prosperity and living standards across EU Member States and regions, thus promoting economic and social cohesion. Much of the fund is used to train workers; as the cultural sector has considerable potential in terms of economic development, ML communities can avail of ESF funding to develop their economies in ways that are of benefit to their languages and their attendant cultures (Ó Riagáin, 2002: 11-12). An examples is the case of Sámi language and culture, whose promotion is financed by the EU according to the framework of the European Social Fund, objective 1 (see also: Second Periodical Review of the ECRML: Finland, 2003).

### Conclusions

In this article I have discussed past and present developments of the EU's approach towards MLs, arguing that some European institutions have been more active than others in pushing forward the issue of minority protection (hypothesis 1 and 3). The historical analysis shows that the EP played a pioneering role in the 1980s, raising awareness and setting the agenda for successive developments. Subsequently, the Eu-



European Council exercised an important role when, in 2004, it imposed the principle of conditionality towards acceding countries, with a particular focus on the respect of minorities. While the involvement of the ECJ remained timid – the Court never clarified the concept of MLs, narrowly focusing on the protection of linguistic rights in the context of the free movement of workers – the European Commission has progressively become the most important European institution in this field, financing study programmes and scientific studies.

Moreover, MLs have been significantly developed in the Treaties (hypothesis 2). Accordingly, the ToL represents a fundamental evolution, since it officially recognizes the importance of minorities (art. 2 TEU) and it adds the European “rich linguistic and cultural diversity” (art. 3.3 TEU) among its fundamental values. Such a broad understanding of minorities results from the progressive development of the area which monopolized the issue of European minority protection

from 1981 to the beginning of the 2000s: namely that of MLs. In this sense, ML policy has been functional to the achievement of a more embracing concept of minority protection in the EU’s legal framework. Minorities, in the EU primary law, are not associated with any marker such as language, religion, or ethnic belonging. Such a development marks a shift from the previous common attitude towards minorities, long perceived as an obstacle to European integration.

Accordingly, the European ML policy involves legal recognition in the treaties, courses of action from the main institutions, and funding priorities for the Commission. MLs are now not only politically protected by the Treaties and endorsed by the EP, the European Council and – less assertively – by the ECJ; but they are also financially promoted by the European Commission. Under this light, the EU has developed over time a more efficient ML policy, which itself has put the basis for the construction of a broader minority protection at the European level.

## BIBLIOGRAPHY

- De Witte, B. (2004), ‘The constitutional resources for an EU minority protection policy’, in Gabriel Toggenburg (ed.), *Minority protection and the enlarged European Union: The way forward*, LGI Books, 107-124.
- Elias, S. B. (2010), ‘Regional Minorities, Immigrants and Migrants: The Reframing of Minority Language Rights in Europe’, *Berkeley Journal of International Law*, 28/1, 261 – 312.
- Fitjar, R. D. (2010), *The Rise of Regionalism. Causes of regional mobilization in Western Europe*, Routledge.
- Grin, F. and B. Kuzmany (2000), ‘Evaluating Policy Measures for Minority Language in Europe: Towards effective, cost-effective and democratic implementation’, *European Centre for Minority Issues*, [http://www.coe.int/t/dg4/education/minlang/publications/ECMIReport6\\_en.pdf](http://www.coe.int/t/dg4/education/minlang/publications/ECMIReport6_en.pdf) (last access: November 2010).
- Keating M. (1998), *The New Regionalism in Western Europe. Territorial Restructuring and Political Change*, Edward Elgar.
- Kloss, H. (1971), ‘Language rights of immigrant groups’, *International Migration Review* 5/ 2, 250–268.
- Kymlicka, W. and Patten A. (2003), ‘Language Rights and Political Theory’, *Annual Review of Applied Linguistics*, 23, 3 – 21.
- Llamas, C., Mullany L., Stockwell P. (2007), *The Routledge Companion to Sociolinguistic*, Routledge.
- Loughlin, J. (1996), ‘“Europe of the Regions” and the Federalization of Europe’, in *Federalism and the European Union*, 26/4, 141 – 162.
- Ò Riagáin, D. (2002), ‘The lesser used languages of Europe & their participation in the programmes of the European Union’, *Europa Diversa: Expert Meeting*, [http://www.europadiversa.org/eng/pdf/donall\\_oriagain\\_eng.doc](http://www.europadiversa.org/eng/pdf/donall_oriagain_eng.doc) (last access: November 2010).
- Palermo, F. and J. Woelk (2005), ‘From Minority Protection to a Law of Diversity? Reflections on the evolution of minority rights’ *European Yearbook of Minority Issues*, 3, 5-13.
- Palermo, F. (2006), ‘Linguistic Diversity within the Integrated Constitutional Space’, *European Diversity and Autonomy Papers*, 2, [http://webfolder.eurac.edu/EURAC/Publications/edap/2006\\_edap02.pdf](http://webfolder.eurac.edu/EURAC/Publications/edap/2006_edap02.pdf) (last access: November 2010).
- Shuibhne N. N. (2008), ‘EC Law and Minority Language Policy: Some Recent Developments’, Xabier Arzoz (ed.), *Respecting Linguistic Diversity in the European Union*, John Benjamins, 123-143.
- Toggenburg, G. (2000), ‘A Rough Orientation Through a Delicate Relationship: The European Union’s

- Endeavors for (its) Minorities', European Integration Online Papers, 16/4, <http://eiop.or.at/eiop/pdf/2000-016.pdf> (last access: November 2010).
- Toggenburg, G. (2004), 'Minority Protection in a Supranational Context: Limits and Opportunities', Gabriel Toggenburg (ed.), *Minority Protection and the enlarged European Union: The way forward*, LGI Books, 1-36.
- Toggenburg, G. (2005), 'Who is Managing Ethnic and Cultural Diversity in the European Condominium? The Moments of Entry, Integration and Preservation', *Journal of Common Market Studies*, 43/4, pp. 717-738, <http://www.eurac.edu/en/research/institutes/imr/Documents/IDP.pdf> (last access: November 2010).
- Toggenburg, G. (2006), 'A Remaining Share or a New Part? The Union's Role vis-à-vis Minorities After the Enlargement Decade', *European University Institute*, 2006/15, pp. 1-27. <http://cadmus.eui.eu/bitstream/handle/1814/4428/LAW%202006.15.pdf?sequence=1> (last access: November 2010)
- Toggenburg, G. (2008), 'The EU's evolving policies vis-à-vis Minorities: A Play in Four Parts and an Open End', *Human and Minority Rights in the Life Cycle of Ethnic Conflicts*, [http://www.eurac.edu/en/research/institutes/imr/Documents/Web\\_del30EUandminorityprotection.pdf](http://www.eurac.edu/en/research/institutes/imr/Documents/Web_del30EUandminorityprotection.pdf) (last access: January 2011).
- Toso, F. (2004), 'Introduzione', *Lingue d'Europa. La pluralità linguistica dei Paesi europei fra passato e presente*, Baldini Castoldi Dalai, 23 – 54.
- Van Bossuyt, A. (2007), 'Fit for Purpose or Faulty Design? Analysis of the Jurisprudence of the European Court of Human Rights and the European Court of Justice on the Legal Protection of Minorities', *Journal of Ethnopolitics and Minority Issues in Europe*, [http://www.ecmi.de/jemie/download/1-2007\\_van\\_Bossuyt.pdf](http://www.ecmi.de/jemie/download/1-2007_van_Bossuyt.pdf) (last access: February 2011).
- Urrutia, I. and I. Lasagabaster (2007), 'Language Rights as a General Principle of Community Law', *German Law Journal*, 8, 479-500.
- Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (2007), Official Journal C 306 of 17 December 2007.
- Charter of Fundamental Rights of the European Union (2007), Official Journal C 83 of 30.3.2010.
- Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union (2007) Official Journal C 83 of 30.3.2010.

## 2. European Council conclusions

- European Council meeting in Copenhagen, 21-22 June, Presidency Conclusions (1993).
- European Council meeting in Luxembourg, 12-13 December, Presidency Conclusions (1997).

## 3. European Parliament Resolutions

- Resolution on a Community Charter of regional languages and cultures and on a charter of rights of ethnic minorities (1981), Official Journal C 287/1981, p. 106.
- Resolution on measures in favor of minority languages and cultures (1983), Official Journal C 68/1983, p. 103.
- Resolution on the languages and cultures of regional and ethnic minorities (1987), Official Journal C 318/1987, p. 160.
- Resolution on linguistic minorities in the European Community (1994), Official Journal C 61/1994, p. 110.
- Resolution with recommendations to the Commission on European regional and lesser-used languages — the languages of minorities in the EU — in the context of enlargement and cultural diversity (2003), Official Journal C 076 E , 25/03/2004 p. 374 – 381.
- Resolution on a new framework strategy for multilingualism (2006), Official Journal C 314E , 21.12.2006, p. 207–210.
- Resolution on the protection of minorities and anti-discrimination policies in an enlarged Europe (2006), Official Journal 124 E , 25/05/2006 p. 405 – 415.
- Resolution on non-discrimination and equal opportunities for all – a framework strategy (2006), Official Journal C 300E , 9.12.2006, p. 259–265.

## 4. ECJ Cases

- Primary sources**
- 1. Treaties and Charters**
- Treaty on European Union (1992), Official Journal C 191 of 29 July 1992.
- Treaty of Amsterdam (1996), Official Journal C 340 of 10 November 1997.
- Treaty establishing a Constitution for Europe (2004), Official Journal C 310 of 16 December 2004.
- Mutsch, Case C-137/84, (1985) European Court Ruling I-2681, par. 11–17.
- Groener, Case 378/87, (1989) European Court Ruling I-3967, 3967.
- Criminal Proceedings Against Bickel and Franz, Case C-274/96 (1998), European Court Ruling I-7637.

Angonese v. Cassa di Risparmio di Bolzano SpA, Case C-281/98 (2000), European Court Ruling I-4139.

**5. Reports, articles, official speeches  
(last accessed in February 2011)**

EurActive.com, (2009), article: EU urged to use new treaty to support language rights:

<http://www.euractiv.com/en/culture/eu-urged-use-new-treaty-support-language-rights/article-187858>

EurActive.Com, (2010), article: Call for 'civic disobedience' to save minority languages :

<http://www.euractiv.com/en/culture/grassroots-action-key-saving-endangered-languages-news-319508>

European Bureau for Lesser Used Languages, (2002), report: Support for Minority Languages in Europe: <http://ec.europa.eu/education/languages/archive/languages/langmin/files/support.pdf>

European Charter for Regional or Minority Languages (2003), report: Second Periodical Report presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter:

[http://www.coe.int/t/dg4/education/minlang/report/PeriodicalReports/FinlandPR2\\_en.pdf](http://www.coe.int/t/dg4/education/minlang/report/PeriodicalReports/FinlandPR2_en.pdf)

European Commission, (2004), report: Many Tongues, One Family: Languages in the European Union: <http://ec.europa.eu/publications/booklets/move/45/en.pdf>

European Committee for Culture and Training, website: <http://www.europarl.europa.eu/activities/committees/homeCom.do?language=EN&body=CULT>

Euromosaic, website:

[http://ec.europa.eu/education/languages/archive/languages/langmin/euromosaic/index\\_en.html](http://ec.europa.eu/education/languages/archive/languages/langmin/euromosaic/index_en.html)

Mercator European Research Centre, website: <http://www.mercator-research.eu/minority-languages/facts-figures>

Network for Multilingualism and Diversity in Europe (2006), report: Facts about Multilingualism: [http://www.fuen.org/rml2future/pr/20100721\\_info/Info-Fakten-Mehrsprachigkeit-EN.pdf](http://www.fuen.org/rml2future/pr/20100721_info/Info-Fakten-Mehrsprachigkeit-EN.pdf)

Reding, V. (2002), The future of regional and minority languages in the European Union, Conference on creating a common structure for promoting historical linguistic Minorities within the European Union, speech 02/474.