INTERPRETING MULTILINGUAL STATUTES:
ARE 23 LANGUAGES BETTER THAN ONE?

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3 Concerns

- Sovereignty and equality. 27 members and 23 official languages. (Sovereignty)

- Judicial interpretation of statutes should result in furthering the legislative goals that led to a statute’s enactment. (Fidelity)

- Economic and administrative feasibility. (Efficiency)
3 Approaches to Legislation in Multilingual EU Setting

1. Official language(s)

2. Working languages + languages involved in dispute

3. All EU languages
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What does the statute say? Generally, the best evidence of legislative intent is the language used in the law itself.

Does applying the plain meaning of the statute appear to undermine the intent of the legislature?

If the statute is vague or ambiguous, are procedures available for resolving the ambiguity in order to reach a decision?

If so, should courts risk compromising the rule of law as reflected in applying the statute as written in order to further the legislative purpose?
Statute governing land use requires filing with Bureau of Land Management “prior to December 31.”

Should a family from Nevada lose their gravel mine when the file on the last day of the year?
Statutory Interpretation in the EU

- Multiple authentic versions of the same law written in the various languages of the EU members
- The versions don’t always say the same thing
- What should ECJ look to when different versions lead to different results?
What the Court Cannot Do

Translation history is not legitimate inquiry because it offends notions of sovereignty and equality.

US-style textualism is unavailable because the dispute involves multiple authoritative texts – not a conflict between the literal meaning of the text and other legal values, such as legislative intent.
Teleological Approach

- Look to the purpose of the law, and interpret the law according to its intended purpose.

- How does the court find that purpose?

- It looks at the policies implicated, and at how the various EU members have stated the law in their own language, searching for what resembles a majority view and teasing out ambiguities and anomalies that arise in a particular language.
Example of Teleological Approach

Should pasteurization of milk count as processing?

The French version distinguishes between milk ‘en l’état’ and ‘produits transformés.’

“Different language versions of a Community text must be given a uniform interpretation and hence, in the case of divergence between the language versions, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms a part.”
The Problem:

How can we be sure that we understand, and therefore obey, the Scriptures, according to the intent of their authors?

The Source of the Problem:

There are two reasons why things written are not understood: they are obscured either by unknown or by ambiguous signs. (On Christian Doctrine, 2.10).
For either a word or an idiom, of which the reader is ignorant, brings him to a stop. Now if these belong to foreign tongues, we must either make inquiry about them from men who speak those tongues, or if we have leisure we must learn the tongues ourselves, or we must consult and compare several translators.
Ambiguity in text may remain unnoticed, especially if it results from bad translation.

Even worse, incorrect translation can lead to mistake as to the actual content of the Divine Scripture.

The surest way to discover such problems is to place competing versions (both in Latin and in predecessor languages) side by side and look for differences.

Ambiguity should be resolved in favor of promoting core religious values, such as charity.
The answer depends on what it is that makes languages the same as each other and what makes languages different from each other.

The more people are designed to form similar concepts given similar experiences, the less it should matter which language they speak and the better multi-lingual legislation can work.
Jerry Fodor on concepts:

We conceptualize a *doorknob* as “the property that our kinds of minds lock to from experience with good examples of doorknobs,” “by virtue of the properties that they have as typical doorknobs.”
Chair

A usu[ally] movable seat that is designed to accommodate one person and typically has four legs and a back and often has arms.

Webster’s Third New International Dictionary
Divergence arises when:

1. People in different cultures speaking different languages have different experiences reflected in words that appear to be translations of each other but really aren’t (consideration/causa); and

2. Languages express concepts differently from each other in small ways that may go unnoticed; and

3. People understand language idiosyncratically even when they share both experiences and cultural norms (linguistic variation – e.g. lying).
When can a local official decide to allow contaminants in water supply in excess of general limits?

“It appears from the different language versions of Article 10(1) that the term ‘emergencies’ must be construed as meaning urgent situations in which the competent authorities are required to cope suddenly with difficulties in the supply of water intended for human consumption.”
An EU directive requires member states to exempt from VAT ‘the provision of medical care in the exercise of medical and paramedical professions …”

The Italian law implementing this directive was worded in such a way to allow for the exemption of veterinarians. A look at other versions showed that the Italian one was an outlier.

(le prestazioni mediche effettuate nell'esercizio delle professioni mediche e paramediche quali sono definiti dagli Stati membri interessati).
An EU regulation protects cherry growers. All versions except the German one refer to sour cherries. The German version refers to sweet cherries – Suesskirschen.
If a British fishing vessel traps fish in its nets outside the EU, but does not take them out of the water until it enters the EU, has it brought into the EU ‘products of sea-fishing and other products taken from the sea … ‘

Most other versions concentrate on catching the fish, rather than taking the fish out of the water (German gefangen). French is ambiguous: extraits de la mer.
Teleological vs. Augustinian Methods (from Jaap Baaij)
Frequency of Use of Methods (from Jaap Baaij)

- **1960-64:** 1 (Literal), 2 (Teleological)
- **1965-69:** 2 (Literal), 4 (Teleological)
- **1970-74:** 4 (Literal), 8 (Teleological)
- **1975-79:** 15 (Literal), 3 (Teleological)
- **1980-84:** 7 (Literal), 11 (Teleological)
- **1985-89:** 4 (Literal), 19 (Teleological)
- **1990-94:** 25 (Literal), 16 (Teleological)
- **1995-99:** 18 (Literal), 19 (Teleological)
- **2000-04:** 19 (Literal), 19 (Teleological)
- **2005-09:** 19 (Literal), 25 (Teleological)
In dispute between US and S. Korea, what does it mean for a government to “direct” a private body to carry out a function ordinarily performed by the government?
In our view, that the private body under paragraph (iv) is directed "to carry out" a function underscores the notion of authority that is included in some of the definitions of the term "direct". This understanding of the term "directs" is reinforced by the Spanish and French versions of the *SCM Agreement*, which use the verbs "ordenar"174 and "ordonner“, respectively. Both of these verbs unambiguously convey a sense of authority exercised over someone.
Both Augustine and the ECJ are essentialists: There is a message that the Scriptures/the European Commission was trying to convey.

Both observe that the message can become garbled because of problems with translating thought into words, and problems of translation from one language to another.

Both advocate looking at various versions of what is supposed to be the same text, and to draw inferences about how to capture the essential message from an analysis of the similarities and differences among them.
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Does multilingualism actually facilitate communication?

Is communication ultimately more precise and less subject to misunderstanding when we multiply the languages in which we communicate?