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MULTILINGUALISM IN THE EU AND CONSISTENCY OF PRIVATE ENFORCEMENT OF COMPETITION LAW: TWO EXAMPLES FROM CEE COUNTRIES

Abstract. This paper attempts to address the question of how multilingualism in the EU might affect the consistency of private enforcement of competition law. In the literature, there have been concerns raised about the consistency of public enforcement of competition law, so in this paper attention has shifted to concerns about consistency of private enforcement. For the purposes of this paper, a distinction is drawn between rule-making and the application of competition law. The latter falls outside the scope of this paper. The article starts by going straight into aspects of public versus private enforcement of EU competition law and consistency of private enforcement of competition law. Next, by looking at examples of national rules implementing the EU Damages Directive, the author is going to discern what challenges for consistency of private enforcement of competition law are associated with the multilingualism in the EU.

Keywords: multilingualism, European Union, consistency, competition law, private enforcement, public enforcement, Damages Directive, application of law, rule-making.

Public versus (and?) Private Enforcement of Competition Law in the EU

The enforcement of EU competition rules, more precisely Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), performed by public enforcers, i.e. the European Commission (hereinafter also referred to as the Commission) and national competition authorities – that at the same time are responsible for the application of national competition laws – is called public enforcement of EU competition law. On the other hand, private enforcement is understood as taking legal measures by private parties, as a rule before national courts. While the basic function of public enforcement of competition law is deterrence from infringements thereof, the main focus of private enforcement is on compensation comple-

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mented by other functions, including (as the case may be) inter alia restitution and/or deterrence. M. Strand – the author of a recent book regarding damages and restitution under EU law – rightly suggests that where public enforcement serves to deter sufficiently from infringements, it is not necessary to design private enforcement mechanisms so that they safeguard the interest of deterrence (Strand, 2017: 418–419).

While public enforcement of EU competition law has traditionally persisted in the dominant position, its private enforcement has not yet played an expected complementary role in the overall enforcement strategy in place in the EU. In 2013, an initiative by the European Commission was launched to boost the status of private enforcement of EU competition law and induce the Member States to base their systems of competition law enforcement more on private enforcement. The Commission adopted a package of measures, in particular:

- a Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (COM (2013) 404 final, 11.06.2013), hereinafter: Directive or Damages Directive, accompanied by the Impact Assessment and its Executive Summary,
- a non-binding Communication from the Commission on quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union (OJ C 167, 13.06.2013),
- a Commission Staff Working Document – Practical guide "Quantifying harm in actions for damages based on breaches of Article 101 or 102 of the Treaty on the Functioning of the European Union" (C (2013) 3440, 11.06.2013), as well as
- a horizontal Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union Law (OJ L 201, 26.07.2013).

The Damages Directive was officially signed into law on 26 November 2014 as Directive 2014/104/EU of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union (OJ L 349, 5.12.2014). The scope of the Directive is, firstly, limited to infringements of Article 101 or 102 TFEU, or of provisions of national competition law that predominantly pursue the same objective as Articles 101 and 102 TFEU and that are applied

to the same case and in parallel to EU competition law (infringements with EU effect).

Secondly, it is argued that rules of the Directive will not necessarily be applicable to numerous private remedies (even if a robust private enforcement system could be developed as a result of the Directive), since its scope is generally limited to actions for damages. (See Piszcz, 2015: 83–92; Strand, 2016: 283–284; Petr, 2017). Pursuant to Recital 5 of the Preamble to the Directive, "[a]ctions for damages are only one element of an effective system of private enforcement". What are the other elements that are beyond the scope of the Directive? These are claims for declaratory relief and injunctions, claims for the skimming-off of profits (ill-gotten gains) and the return of unjust enrichment, restitution of undue payment, etc.

Member States were obliged to transpose the Directive into their national laws by 27 December 2016 (Article 21 para. 1 sentence 1 of the Directive). According to the European Commission, by 14 June 2017 the Directive had been fully transposed by 20 out of 28 EU Member States, including seven out of 11 countries of Central and Eastern Europe, namely Estonia, Hungary, Lithuania, Poland, Romania, Slovakia and Slovenia (European Commission, 2017[1]). Firstly, all 11 CEE countries chose to broaden the scope of the implementation going beyond only infringements of competition law with EU effect (Piszcz, 2017: 298); this is because it would not be reasonable for the Member States to have double standards with respect to the two different types of infringements – prohibited practices with and without an EU dimension. And, secondly, all CEE countries, except for Hungary, are going to apply the harmonised rules only to claims for damages and not to other civil claims (Petr, 2017).

For the purposes of this paper, a distinction is drawn between rule-making and the application of competition law. This paper is not intended to analyse the consistency of the application of competition law, already analysed in literature. (See e.g. Simonsson, 2010: 10–17). Instead, this paper is focused on the consistency of rule-making by Member States in the area of private enforcement of competition law. By looking at examples of national rules implementing the Damages Directive, the author is going to discern what challenges for consistency of private enforcement of EU competition law are associated with multilingualism in the EU.

The point of the analysis is both normative and descriptive. A comparative method (Tokarczyk, 2008) is employed to some extent, as the topic can benefit from being examined in the light of evidence predicated on comparison of data sets drawn from several CEE jurisdictions.

Consistency of Private Enforcement of Competition Law

Consistency can be desirable for undertakings because it can reduce their costs for operation on transnational markets (Simonsson, 2010: 15). The Damages Directive refers several times to consistency. However, it mentions the consistency of the application of rules. Firstly, the Directive refers to consistency of the application of Articles 101 and 102 TFEU by the Commission and the national competition authorities (Recital 21, 34 and 54 of the Preamble). A common approach across the Union on the effect of national competition authorities' final infringement decisions on subsequent actions for damages and the disclosure of evidence that is included in the file of a competition authority is required, Recitals 21 and 34 of the Preamble state, due to the effectiveness and consistency of the application of Articles 101 and 102 TFEU by the Commission and the national competition authorities. Secondly, the Directive mentions "the interest of consistency between judgments" (Recital 44 of the Preamble).

Consistency in enforcement – in this case, private enforcement of EU competition law – must be based on and follow from consistent law as a starting point. (See also Simonsson, 2010: 111). At the point of departure, the EU law should not contain any inconsistencies. However, if the EU law has the form of a directive, it requires implementation and adaptation of the laws of the Member States. Even in the case of an internally-consistent directive, there may exist inconsistencies in the manner in which the Member States apply their discretion during the implementation process.

Another source of inconsistencies may arise from multilingualism in the EU. EEC Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958) sets out the EU linguistic regime. It requires making legal texts in all 24 official languages of the EU, including 11 CEE languages, namely Bulgarian, Croatian, Czech, Estonian, Hungarian, Latvian, Lithuanian, Polish, Romanian, Slovakian and Slovenian. Each language version is authentic; all of them have the same legal authority and legal value.[2] Therefore, it is important to ensure that EU law itself remains coherent and consistent regardless of the language version.

However, the flood of new legal EU provisions drawn up in official languages in the form of official versions, is not free of errors and ambiguities caused by quick and careless translations. (See also Piszcz, 2013: 170). According to the Head of the Polish Unit of the Language Service of the EU Council General Secretariat,[3] many authentic (at least Polish) texts of EU documents are produced by translations, usually from English.[4] Some

errors can easily be corrected by means of interpretation, but some are more serious, because they are more likely to be misleading and have consequences for the addressees of law who may identify the scope of their rights and/or duties – substantive or procedural – on the basis of the most readily available text (i.e. in their national language). (See also Piszcz, 2013: 166). In such cases the burden of interpretation lies with the interested parties. For many of them, in particular consumers, there is little easily accessible information about the interpretation of EU law. The coherency and consistency of language versions of EU laws is crucial, since it is necessary to ensure equality of rights and duties (Robertson, 2013: 16).

National drafters of laws frequently use a version of a directive written in their own language as the point of departure for the implementation of directives and do not compare it to other language versions. In the case of translations, they do not even assess the fidelity of the translation, i.e. its equivalence between a source text (usually English) and a target text. And in practice, there may exist some divergences between respective language versions of a directive.

Therefore, there may appear inconsistent national laws implementing the same directive. Domestic courts will interpret and apply those laws. As a result, inconsistencies in the application of "harmonised" rules will appear. In some instances, they will be found by the Court of Justice of the EU which supervises national courts as regards the meaning to be drawn from EU legal texts. Due to national courts being under a duty in cases of doubt to refer a preliminary reference to the Court of Justice of the EU, the Court can ensure the consistency of EU law throughout the Member States (Conway, 2015: 165).

Example of the Impact of Inconsistencies on Follow-on Private Enforcement

As observed in section 10 of the Executive Summary of the Damages Directive, a private action can be brought before a court without a prior decision (stand-alone action) adopted by a competition authority, or once a competition authority has found an infringement of EU competition rules (follow-on action) which, in practice, is more frequent. While the first category of private enforcement actions requires evidence that an infringement of competition rules has occurred, the second category, in some instances provided for in the Damages Directive, does not.

The Directive refers to follow-on actions in particular in Article 9. Para. 1 of this article obliges the Member States to ensure that an infringe-

ment of competition law found by a final decision of a national competition authority or by a review court is deemed to be irrefutably established for the purposes of an action for damages brought before their national courts under Article 101 or 102 TFEU or under national competition law.[5]

Para. 2, regarding the so-called cross-border effect of decisions (Piszcz, 2016: 60–63), is of a different nature. It obliges the Member States to ensure that where a final decision is taken in another Member State, that final decision may, in accordance with national law, be presented before their national courts as at least prima facie evidence that an infringement of competition law has occurred and, as appropriate, may be assessed along with any other evidence adduced by the parties. The adopted minimum harmonisation clause may provoke forum shopping, whereas maximum (full) harmonisation clauses are undeniably the way to avoid forum shopping.[6] However, attention should be drawn to potential problems generated not by the minimum harmonisation clause, but by multilingualism; to some extent they were found by the latest research into the implementation of the Directive in CEE countries (Piszcz & Wolski, 2017: 227–228).

In table 1, there are eleven translations of the English phrase "prima facie evidence".

Table 1

English phrase "prima facie evidence" translated into CEE languages

No.	Language	Translation
1	Bulgarian	*prima facie* доказателство
2	Croatian	dokaz *prima facie*
3	Czech	důkaz *prima facie*
4	Estonian	*prima facie* tõendina
5	Hungarian	*prima facie* bizonyítékára
6	Latvian	pirmšķietamu pierādījumu
7	Lithuanian	*prima facie* įrodymas
8	Polish	domniemanie faktyczne
9	Romanian	probă *prima facie*
10	Slovakian	dôkaz *prima facie*
11	Slovenian	dokaz *prima facie*

Source: own study based on the Damages Directive (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0104)

Analysing the above table, we find that in almost all CEE official versions of the Directive, except for the Latvian and Polish ones, national equivalents of English "prima facie evidence" were created by linking Latin words "*prima facie*" with national equivalents of the word "evidence". As suggested elsewhere (Piszcz, 2013: 171), translators who deal with legal concepts foreign to the national legal system – where there are no functional equivalents in the target language – should consider maximising linguistic purity rather than using "borrowing" techniques which can produce translations quickly, but to the detriment of purity.

However, in this case, compliance with this approach seems to have far-reaching consequences for Poland. Certainly, prima facie evidence is a concept foreign to the legal systems of CEE countries; it is widely used in Anglo-Saxon systems. For those legal systems in which such a category of evidence is not regulated, the minimal solution in the form of prima facie evidence means, in practice, that when implementing the Directive they need to introduce a higher standard solution (Pais & Piszcz, 2014: 233). In the majority of CEE countries rebuttable presumption has been chosen in order to implement Article 9 para. 2 of the Directive (Piszcz, 2017: 304). Polish translators decided, however, that "prima facie evidence" should be translated into Polish as *domniemanie faktyczne* (factual presumption or *de facto* presumption). The Polish implementing act was signed into law on 21 April 2017 as the Act on Claims for Damages for Infringements of Competition Law (ustawa z 21 kwietnia 2017 r. o roszczeniach o naprawienie szkody wyrządzonej przez naruszenie prawa konkurencji (Dz.U. z 2017 r., poz. 1132)), hereinafter: ACD, and came into force on 27 June 2017. With regard to the implementation of Article 9 para. 2 of the Directive, the legislature decided not to change Polish procedural rules at all, as envisaged by governmental drafters of the ACD. They believe that the minimal solution is already part of Polish procedural law regarding all civil cases, enshrined in Article 231 of the Civil Procedure Code (ustawa z 17 listopada 1964 r. – Kodeks postępowania cywilnego (tekst jedn. Dz.U. z 2016 r., poz. 1822, z późn. zm.)) in the form of *domniemanie faktyczne* (factual presumption or *de facto* presumption). According to this provision, courts may consider facts essential for the resolution of the case as established based on other established facts (evidence by inference from other established facts). It seems believed by drafters of the ACD that the concept of a factual presumption is equal to prima facie evidence within the meaning of Article 9 para. 2 of the Directive.

Choosing a factual presumption raises doubts. Firstly, the Supreme Court said in the context of the factual presumption that a party can-

not challenge the fact that a court does not apply it, because the court is not obliged to apply factual presumptions, adding that the application of the factual presumption could be challenged if the court, thereby, infringed the principles of logic and life experience (judgment of the Supreme Court of Poland of 22 July 2008, II PK 360/07, published in Lex No. 500212). It must be noted that this does not seem like the kind of solution preferred by the authors of the Directive, especially if we put emphasis on the aim underpinning the Directive, which is to ensure effective private enforcement actions under civil law (Piszcz & Wolski, 2017: 228). To the contrary, it seems to be a solution below the minimum standard set by Article 9 para. 2 of the Directive. Secondly, translators and drafters did not take one very important issue into account. Legal concepts should be used consistently across the whole Directive. The concept of "prima facie evidence" appears twice in the Directive. For the second time, it can be found in Recital 41 sentences 4–6 of the Preamble related to passing-on of overcharges. They stipulate as follows: "(...) where the existence of a claim for damages or the amount of damages to be awarded depends on whether or to what degree an overcharge paid by a direct purchaser from the infringer has been passed on to an indirect purchaser, the latter is regarded as having proven that an overcharge paid by that direct purchaser has been passed on to its level where it is able **to show prima facie** that such passing-on has occurred. **This rebuttable presumption** applies unless the infringer can credibly demonstrate to the satisfaction of the court that the actual loss has not or not entirely been passed on to the indirect purchaser. It is furthermore appropriate to define under what conditions the indirect purchaser is to be regarded as having established **such prima facie proof**".[7] Even here phrases "to show prima facie" and "to establish prima facie proof" are translated into Polish as *przedstawić domniemanie faktyczne* (show/present factual presumption) which does not make too much sense in legal Polish.

Instead, in this particular case, translators should have thought about more "literal" translation, even though contrary to the characteristics of the traditional Polish language of law and its vocabulary, and drafters of the ACD should have chosen the higher standard solution in the form of a rebuttable presumption (like e.g. Latvian drafters[8]). What has been done resulted in the cross-border effect of decisions in follow-on private enforcement before Polish courts weaker than their effect in other Member States. It also raises concerns about whether the Polish legislature implemented Article 9 para. 2 of the Directive correctly.

Example of the Impact of Inconsistencies on "Private Private Enforcement"

The above-mentioned Recital 5 of the Preamble to the Damages Directive adds little to the understanding of the concept of a "private antitrust enforcement system", since it states that actions for damages, as "only one element of an effective system of private enforcement", are complemented by "alternative avenues of redress, such as consensual dispute resolution and public enforcement decisions that give parties an incentive to provide compensation". It may be argued that the latter "avenue of redress" is not an element of the private enforcement system at all, even though it gives an incentive to provide compensation (Piszcz, 2015: 85). On the other hand, consensual dispute resolution may be considered an element of the private enforcement system. In fact, it is "private private enforcement". The first adjective "private" means that parties elect an alternative method to the state judiciary in order to solve a dispute (Almăşan, 2017: 143).

Consensual dispute resolution receives a great deal of emphasis in the Directive in general. It has the potential to be a significant alternative to dispute resolution before state courts, quicker, easier and less costly for parties than the latter. Article 2(21) of the Directive contains the definition of consensual dispute resolution in the light of which it is any mechanism enabling parties to reach out-of-court resolution of a dispute concerning a claim for damages. Recital 48 sentence 2 of the Preamble significantly expands understanding of this definition, proposing to include therein a range of mechanisms such as arbitration and mediation but also conciliation and out-of-court settlements (including those where a judge can declare a settlement binding).

In this area, Article 18 para. 1 of the Directive is of particular importance as it grants a suspensive effect to consensual dispute resolution in terms of the limitation period for bringing an action for damages. Member States are obliged to ensure that this limitation period is suspended for the duration of any consensual dispute resolution process. The suspension of the limitation period applies only with regard to those parties that are or that were involved or represented in the consensual dispute resolution. Contrary to the previously discussed Article 9 para. 2, Article 18 para. 1 is not a minimum harmonisation clause.

In table 2, there are eleven translations of the English phrase "of consensual dispute resolution process" taken from the Damages Directive.

Analysing the above table, we find that in a few official versions of the Directive the word "process" has been omitted. In other official versions of

Table 2

English phrase "of consensual dispute resolution process" translated into CEE languages

No.	Language	Translation of:	
		"of consensual dispute resolution **process**"	"consensual dispute resolution"
1	Bulgarian	решаването на спора по взаимно съгласие	решаване на спорове по взаимно съгласие
2	Croatian	**procesa** sporazumnog rješavanja sporova	sporazumno rješavanje sporova
3	Czech	smírného řešení sporu	smírné řešení sporu
4	Estonian	vaidluse konsensusliku lahendamise **menetluse**	vaidluse konsensuslik lahendamine
5	Hungarian	vitarendezési **eljárás**	önkéntes vitarendezés
6	Latvian	**process** strīda izšķiršanai vienošanās ceļā	strīdu izšķiršana vienošanās ceļā
7	Lithuanian	ginčų sprendimo tarpusavio sutarimu **procesas**	ginčų sprendimas tarpusavio sutarimu
8	Polish	**procedury** polubownego rozstrzygania sporów	polubowne rozstrzyganie sporów
9	Romanian	**procesului** de soluţionare consensuală a litigiului	soluţionarea consensuală a litigiilor
10	Slovakian	**procesu** konsenzuálneho riešenia sporov	konsenzuálne riešenie sporov
11	Slovenian	**postopka** sporazumnega reševanja spora	sporazumno reševanje sporov

Source: own study based on the Damages Directive (http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0104)

the Directive national equivalents of the English word "process" have been used (Croatia, Hungary, Latvia, Lithuania, Romania, Slovakia) or words closer to the English word "procedure" (Estonia, Poland, Slovenia).

In Poland, as a result, the legislature decided not to implement Article 18 para. 1 of the Directive at all, as envisaged by governmental drafters of the ACD. The latter interpreted this provision of the Directive in a restrictive manner which faced strong criticism from legal literature (Piszcz & Wolski, 2017: 230–231). It is explained in the draft Explanatory Notes accompanying the ACD that "consensual dispute resolution processes", in the meaning of Article 18(1) of the Directive, include only those ways of out-of-court dispute resolution that are conducted within a certain framework, as procedures.

As a result, the majority of consensual dispute mechanisms will stop the limitation period pursuant to legal rules existing before, i.e., first of all, Article 123 § 1 of the Civil Code (ustawa z 23 kwietnia 1964 r. – Kodeks cywilny (tekst jedn. Dz.U. z 2017 r., poz. 459, z późn. zm.)). These include any activity before the court or other authority entitled to hear cases or enforce claims of a given kind (conciliation) or before the court of arbitration, undertaken directly either to pursue, declare, satisfy or to secure claims, the conclusion of an out-of-court settlement, the initiation of mediation. In addition to them, according to Article 36 of the Act on out-of-court consumer disputes resolution (ustawa z 23 września 2016 r. o pozasądowym rozwiązywaniu sporów konsumenckich (Dz.U. z 2016 r., poz. 1823)), the initiation of proceedings on out-of-court consumer dispute resolution shall stop the limitation period.

However, the very processes leading to the conclusion of out-of-court settlements (other than those concluded before a mediator or arbitrator) will not stop the limitation period. The key argument, apart from the linguistic argument, to justify this position is in general shaped by the desire to avoid difficulties in proceedings. Polish drafters are afraid that in case of processes leading to the conclusion of out-of-court settlements (other than those concluded before a mediator or arbitrator) it would not be possible to establish the time of the initiation and completion of the consensual dispute resolution "process". There are also concerns that this would result in legal uncertainty.

It needs to be stressed, however, that the English word "process", translated into the Polish version of Article 18 para. 1 of the Directive as *procedura* ("procedure"), is not necessarily used in this limited meaning in the Directive. (See also Piszcz, 2017a). For example, Recital 45 sentence 2 of the Preamble to the Directive states that "[q]uantifying harm in competition law cases is a very fact-intensive process". According to legal literature, under the Directive consensual dispute resolution should be understood broadly rather than narrowly, allowing for a great variety of consensual dispute resolution mechanisms (Wijckmans, Visser, Jaques & Noël, 2015: 76; Modzelewska de Raad, 2017). Its provisions should be interpreted to cover also negotiations between the parties and/or their lawyers and not only formal mechanisms of dispute resolution, even though in order to rely on the suspensive effects referred to in Article 18 para. 1 of the Directive, evidence should be provided that negotiations are actually taking (or have taken) place.

Interestingly, Slovenia has worked towards the same model.[9] (See Vlahek & Podobnik, 2017: 290–291). Estonia seems not to belong to this group of

countries, as the suspensive effect of negotiations already existed in Estonian civil law, even before the implementation of the Damages Directive (Pärn-Lee, 2017:123). In Slovenia, only the existent formalised types of consensual dispute resolution qualify as consensual dispute resolution that will suspend the limitation period. It could be argued, like in the Polish legislative process, that it would be hard to assess if, and in what period, any informal negotiations between the parties took place (Vlahek & Podobnik, 2017: 291).

The Polish and Slovenian interpretations seem to run counter to the aims of Recital 48 sentence 3 of the Preamble whereby "[t]he provisions in this Directive on consensual dispute resolution are therefore meant to facilitate the use of such mechanisms and increase their effectiveness". At least in the case of Poland, the official version of the Directive drawn up in a national language contributed to moving Polish implementing provisions away from the broader model that benefits injured parties.

Summary

According to Recital 9 of the Damages Directive: "It is necessary, bearing in mind that large-scale infringements of competition law often have a cross-border element, to ensure a more level playing field for undertakings operating in the internal market and to improve the conditions for consumers to exercise the rights that they derive from the internal market. It is appropriate to increase legal certainty and to reduce the differences between the Member States as to the national rules governing actions for damages for infringements of both Union competition law and national competition law where that is applied in parallel with Union competition law. An approximation of those rules will help to prevent the increase of differences between the Member States' rules governing actions for damages in competition cases".

There are a number of factors which may lead to the outcome in terms of inconsistencies in rule-making by the Member States in the area of private enforcement of EU competition law. It is not the intention of this article to suggest that multilingualism in the EU can be regarded as the only such factor. Differences may arise within the framework of legally permissible instruments allowing for diversity in national laws, including minimum harmonisation clauses. However, when they occur as a result of divergent official versions of EU legislation, they should be considered inexpedient. The above two examples show how inconsistencies in rule-making by the Member States in the area of private enforcement of competition law arose

as a result of divergent official versions of the Damages Directive and how the latter ones contributed to differences in the implementation of the Directive by the Member States.

Both examples refer to linguistic inconsistencies leading or contributing to the adoption of solutions in national legislation that are unfavourable to injured parties compared to solutions that could have been adopted and/or to the legal frameworks of other countries. These particular solutions restrict the suspensive effect of consensual dispute resolution for limitation of claims and the probative effect of decisions taken in another Member State. These differences may be perceived as important by litigants in a cross-border context. They may also be liable to undermine the consistent application of the Damages Directive across the EU.

It will certainly be necessary to watch the court practice and judges' efforts, if any, to address discrepancies between the Directive (its English official version) and national laws. Will judges go that far and compare those texts? Will they, as a result, ask preliminary questions to the Court of Justice of the EU? Will they, to the contrary, confine their interpretation of a national statute to its "plain meaning" and ignore room for preliminary references to the Court of Justice of the EU? This remains to be seen in the light of future research which will, first of all, show whether any court cases have taken place in which the analysed issues appeared.

NOTES

[1] All Internet references in this article were last visited on August 1, 2017.

[2] This is the same rule as in the case of officially multilingual (plurilingual) states (Turi, 2012, p. 12).

[3] Agata Kłopotowska in her presentation (*Meandry pracy unijnego tłumacza. Jak powstają polskie wersje tekstów urzędowych Unii Europejskiej?*) to the First Congress on the Official Language (30–31 October 2012, Warsaw, Poland).

[4] Contrary to the viewpoint that translation from a multilingual document ought to reflect the terms used in all the existing authentic versions rather than follow any one of them in an over-precise manner. (See Tabory, 1980: 143).

[5] The so-called non-cross-border effect of decisions (Piszcz, 2016: 60–61).

[6] The phenomenon of forum shopping is analysed in many aspects in: (Basedow, Francq & Idot, 2012: 6–7, 46–47, 52–53, 409–410 etc.).

[7] All emphases added by the author.

[8] See Article 250^{68} (2) of the draft Amendments to the Civil Procedure Law (Grozījumi Civilprocesa likumā, Nr 90/TA-2542 (2016), http://titania.saeima.lv/LIVS12/saeimalivs12.nsf/0/C01EC42AEC2A79D7C225812A002A8C21?OpenDocument).

[9] See https://www.uradni-list.si/glasilo-uradni-list-rs/vsebina/2017-01-1208?sop=2017-01-1208.

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