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To my family...

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Abstract

The relationship between the European Union and the United Kingdom has always been considered of crucial importance, since both have shaped and continue to shape the European economy and culture. Within the Union, there are various fields that someone can work with. One of these is the legal language used in the legislative procedures of the Union. The aim of this dissertation is to compare and contrast two different legal languages and investigate how different laws are created based on two different legal systems, the British and the European one. Legal language has always been a fascinating and complex issue since no clear-cut definition can be given. As a result, the present study undertakes a comparative analysis of two legal systems as far as the linguistic means used are concerned. By comparing and analysing the two types of law, a new perspective is presented. The two texts under analysis were chosen to be as similar as possible on grounds of context, language and reasoning. Moreover, linguistic terms were selected in order to provide a clearer idea of what legal language is and how it is employed in the European legal procedures and the ones in the United Kingdom.

Key words: European Union, United Kingdom, legal language, law, Directive, Act

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Chapter One

Introduction

1.0 Setting the Scene

Language is one of the most important elements people have in order to communicate with one another. Different forms of language are used on a daily basis in all the various fields that humans get involved in. The origins of language can be traced back to thousands of years. Language was primarily in spoken form and not in written one. It is used as a means of information, to ask others to do different things but also to express feelings, opinions and attitudes to life. Language is the most fundamental part of human societies.

Without language, life would not be that interesting and people would have many more problems. Language is definitely connected to the way people think and express their thoughts. Without language, no rational thought could really exist.

More particularly, legal language has a fundamental role in modern societies. It is used in daily procedures and expresses the objectives of laws that shape human communities. Legal language defines the grounds on which a community is created and functions. Moreover, it defines the way people should be treated in order to be equal members of the community.

On the one hand, modern states do not exist on their own but work together in the European framework. The European Union was created after the Second World War in order to bring peace and stability to its Member States and to Europe in general. Belonging to the European Union has provided its citizens with many benefits and advantages, such as studying anywhere in the Union, or travelling and living in another European country without important limitations. It has, however, provided its Member States with some obligations. One of them is to adopt and enforce in their legal system some particular directives and regulations in order to ensure the achievement of particular results. They usually have to do with common policies adopted in all Member States.

On the other hand, the United Kingdom has played and continues to play a vital role not only in the European Union but also in the global decision making. Britain has a fundamental role in the world, booth with its traditional trading partners such as the US, its commonwealth relationships and many other strong historic ties that are being neglected in the relentless focus on Europe. Moreover, the United Kingdom as a state is made up of historic countries and it is well known as the home of both modern parliamentary democracy and the Industrial Revolution. Last but not least, English as a global language has originated from the United Kingdom. Almost everyone in the world speaks a little bit of English.

For this reason, the United Kingdom plays a major role in the global world. Its laws have shaped not only its communities but they have also provided the grounds for many other modern legal systems. As a result, researching about this system is crucial in understanding not only the way the British legal system works but also the way it adopts the European directives and regulations.

In essence, European Union has unified the way its Member States cooperate and face one another. Being able to understand how a directive is incorporated in the legal system of each country is indeed fascinating.

This paper puts forward the research questions that will be addressed herein followed by a literature review, which aspires to position this work within an existing knowledge base. Furthermore, the methodology and research design proposed for investigation in this research is given followed by a presentation, an analysis and a discussion of results.

1.1 Research Questions and Hypothesis

Through the research questions posed, the target is to present essential information on how the legal language is used in the European Union and the British legislation. Moreover, a clear-cut comparison will be made as far as terms, key elements and emphasis is placed in each one. Two texts will provide the basis for this analysis and the way that the European Union's directives are incorporated in the British legislation will be presented. At the same time, the procedures behind these two texts will be put forward. Lastly, the differences between the two in terms of language and legislation will be set forth.

This thesis investigates the aforementioned areas of the legal language and attempts to answer the following research questions. More specifically, the descriptive research questions are as follow:

1. How is legal language used in European Union law?
2. How is legal language used in British law?
3. What are the differences between the way legal language is used in European Union law and British law?

The first question seeks to identify the way legal language is used in the European Union. The second question aspires to identify the ways with which legal language is used in the British legislation, taking into account that the United Kingdom is made up of four separate countries, England, Wales, Scotland and Northern Ireland. The third question, which is the major one in this dissertation, surveys the differences between the legal language used in the European Union and the British Legislation on the basis of two actual legal texts.

The questions put forward are the product of a key hypothesis that underlies this dissertation. The directional hypothesis, thus, is that the legal language used in both the European Union and the British Legislation does not have any differences. This

hypothesis is driven by the fact that Britain has played and continues to play such an important role not only in the European Union but also in the global framework.

1.2 Significance of the Problem/ Justification for the Research

To begin with, language is the tool of communication, it is the means for people to express their ideas, opinions and interact with one another. Legal Language is equally important since it is a precise, functional part of people's everyday life. Legal Language is a particular type of language that is used by many people on a daily basis. This kind of language needs to be particularly accurate and explicit. Legal language can be observed in many different kinds of documents and occasions. Dealing with legal documents requires not only legal knowledge but also the ability to read between the lines and interpret the directives, acts, laws and everything associated it. Judges and lawyers are continuously reading and analyzing legal documents. Thus, legal language is present in every aspect of modern life.

Secondly, European Union and its legal texts define modern life in many aspects. Therefore, it is very common for people to read and check the legal documents originating from the EU. As mentioned before, the EU has a unique legislation procedure and a way of producing legal documents to be applied in its Member States. According to Cuyvers (2017, 120): "If the EU wants to act in a certain field, it must first have received the competence from the Member States to do so. Concretely, this delegation of competences in the Treaties is done via legal basis provisions. These are provisions in the TEU or TFEU that explicitly give the EU the competence to act in a certain field, and that also indicate the legislative process the EU should follow to adopt such acts. These legal bases can be very limited and specific, such as Article 157(3) TFEU, which only allows the EU to regulate in the field of sex equality in employment and occupation. Other legal bases are very open and wide-ranging like Article 114 TFEU on the creation of the internal market. However, this provision itself, only provides the objective of creating a market. It does not provide a legal basis to turn this

objective into reality by adopting legal acts.” For these reasons, dealing with and learning about the EU legal framework is essentially important.

Thirdly, the United Kingdom of Great Britain and Northern Ireland is a country that has shaped the world like no other. English is the most widely spoken language and the legal system in the UK is one of the most intriguing ones in the whole world. Its history dates as back as the Roman conquest in 55 BC with Roman general Julius Caesar bringing an army of 10,000 men to invade Britain. In AD 407, the Anglo-Saxon Kingdoms of North Umbria, Mercia, Essex, East Anglia, Wessex, Kent and Sussex were formed. Britain’s existence is as long as its impact on the modern world (Wood, 2011). As already mentioned, “England and Wales operate a common law system which combines the passing of legislation but also the creation of precedents through case law. The laws are established by the passing of legislation by Parliament which consists of the ‘Monarch’, the House of Commons and the House of Lords. The House of Commons is directly elected by the people and the Prime Minister is traditionally a member of this House. The Court System and case law are controlled by the judiciary which is completely separate to Parliament.”¹ It is obvious that the UK has a distinctive legal system, worth examining.

To conclude, a comparison between the UK legal system and the European Union’s legal framework is not only relevant but also significant for the modern research. Law is a field that aids people in their daily life, it helps them developing a sense of belonging and leading a life with a sense of responsibility towards the society and the rest of the people who live together.

1.3 Methodology – Research Design

¹ <https://ox.libguides.com/c.php?g=422832&p=2887374>

To this day, languages have been measured comparatively in order to study the development of language and perform a feature-by- feature comparison of two or more languages. This research is conducted in qualitative terms.

As a result, as far as the methodology is concerned, the comparative method is chosen. According to Campbell (2015), the comparative method is the most important of the various techniques used to recover linguistic history. It is a method (or a set of procedures) which compares related languages, descendants from a common ancestral language, in order to postulate, to ‘reconstruct’ the ancestral language. Moreover, comparative methods seek evidence for adaptive evolution by investigating how the characteristics of organisms- one of them the languages- evolve together.

For the aforementioned reasons, the comparative method was chosen, since it was considered more appropriate in terms of acquiring a clearer idea of the two legislative texts. In-depth analysis was conducted, with which factual material was collected.

1.4 Definitions

Definitions chosen by researchers are truly essential in order to understand the points made and the positions taken in this dissertation. The key terms defined here are the following: a) *Legal language*, b) *Legal Framework of the European Union* and c) *British Legislation System*. It is necessary to underscore that what follows is just a preliminary account of these terms and more detailed attention of them is paid in the following chapter (Chapter 2).

a) Legal Language

Language can be divided into two categories. On the one hand, there is spoken language and on the other hand, there is written language. Spoken language can be

defined as “the faculty which men possess of communicating their perceptions and ideas to one another by means of articulate sounds.” On the other hand, “ideas and perceptions may be communicated without sound by writing and this is called written language. By conventional usage certain sounds have a definite meaning in one country or in certain countries, and this is called the language of such country or countries.”² On these grounds, written language has many subfields to deal with. One of them is legal language. In the Oxford English Dictionary law is described as:

The body of rules, whether formally enacted or customary, which a particular State or community recognizes as governing the action of its subjects or its members and which it may enforce by imposing penalties.” (Bernard, O’ Sullivan, Virgo, 2011, 4)

As it can be easily understood, defining legal language is a difficult procedure. For this reason, a combination of the aforementioned will be used as a definition of the legal language would be the following: a peculiar, special kind of language used in the body of rules which a particular State or community recognizes as governing the action of its subjects or its members.

This definition will be used in this Dissertation and when referring to legal language the aforementioned will be understood.

b) Legal Framework of the European Union

The EU is a partnership of 27 ‘Member States’, which have agreed to work together on issues of common interest. EU legal materials consist chiefly of the Treaties, which are negotiated at intergovernmental conferences and ratified by each member state, secondary legislation, decisions and cases. There is also a large body of draft legislation and official records of negotiations, known collectively as ‘travaux préparatoires’.

The Treaties set out rules and procedures for EU decision making.

A "directive" is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals. One example is the EU consumer rights directive, which

² "Language." A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier.. 1856. 25 Apr. 2020 <https://legal-dictionary.thefreedictionary.com/Language>

strengthens rights for consumers across the EU, for example by eliminating hidden charges and costs on the internet, and extending the period under which consumers can withdraw from a sales contract.

The Lisbon Treaty introduced changes to the legislative procedure, and these are set out by Article 294 of the Treaty on the Functioning of the European Union.

Under the Ordinary Legislative Procedure, the Commission formulates the draft legislation.

c) British Legislation System

The main focus of this research paper is the law of England, which includes the law of Wales. This system is primarily common law based. Common law is mostly made by judges a long time ago. It continues to develop as judges have decided new and different cases. It is all rather mysterious, because strictly speaking judges don't make new law, they merely declare and apply the existing when deciding a case. On the other hand, Scottish law is different. It is derived from Roman law, which is the tradition which also applies in continental Europe. The Scottish system, also sometimes called the civilian system is based on formal written Codes prescribing the detail of the law. In contrast to the common law, civilian judges have no law-making function at all, other than in interpreting and applying the Code. However, the law of England and Wales, on the one hand, and Scotland, on the other hand, is not as different as would first appear. In areas which have not been devolved to the Scottish Parliament or the Welsh Assembly, statutes passed by the Westminster Parliament in London apply to all three jurisdictions and the interpretation of those statutes by the Scottish courts has persuasive effect on the English courts.

At present, Northern Ireland's legal system is very similar to that of England and Wales, applying the common law in an identical judicial structure. (Bernard, O' Sullivan, Virgo, 2011, 182)

As a result, the systems of England, Wales and Northern Ireland are mostly similar and they are the ones discussed in this dissertation.

1.5 Delimitations of Scope of the Study and Key Assumptions

At this point, it is essential to place some delimitations set by the scope of this study in order to define the necessary parameters of the research study. In particular, the stance adopted in this study is that in most cases the targeted conclusions of a study are more general than the actual results found (Richards, 2011). Therefore, any limitations this study may have do not necessarily undermine it as its findings provide an important understanding of the legal language used in the acts of the United Kingdom and in the directives and regulations of the European Union. With this research, it is hoped that an important contribution is made to understanding the key elements and differences of the legal language between two major parts of the modern world. Moreover, it is also hoped to put forward the unifying elements between the two aforementioned parts in a field that cannot be easily understood by people who have not studied or dealt with law. Lastly, with this dissertation, essential questions for further research are believed to have been raised in order to better understand not only the relationship between the legal systems but also how they will change after the exit of the United Kingdom from the European Union.

1.6 Summary of the Chapter and Concluding Remarks

This chapter presented the basis for this dissertation. More particularly, it introduced the research problem and presented the research questions. The main principles of this study were presented and an argumentation for its realization was provided. Furthermore, key term definitions were given noted by a description and justification of the research design. This chapter presented the dissertation outline, too. Finally, the delimitations set by the scope of this study were put up. On these principles, the dissertation is fully presented and can proceed with a detailed description of the research.

Chapter Two

Literature Review

2.0 Introduction

In order to address the issue at hand, a review of recent literature referring to European Union lawmaking and British Legislation will be considered in general. European Union's legislation procedure will also be compared to the British equivalent. Moreover, a detailed feature to feature comparison between a directive- legislative text of the European Union and an Act- legislative text of the United Kingdom will be made in order to see how legal language is used both in the European Union and the United Kingdom. Additionally, a presentation of legal translation and its importance within the European Union will be given. Moreover, the differences between the two will be presented. Finally, a detailed account on Brexit as a great change to the relation between the European Union and the United Kingdom in legal terms and on a global scale will be put forward as well as conclusions will be made.

2.1 Language

First and foremost, a presentation of what language is in general is hereby made in order to fully understand and conceptualize the idea of legal language, whose definition was provided earlier in this dissertation (Ch. 1). Language has been connecting people since ancient years. Definitions of what language might be started quite early, with Plato and Gorgias talking about the philosophy of language in Ancient Greece. Then, Jean-Jacques Rousseau connected language with emotions in his *Essay on the Origin of Languages* (1781). In the twentieth century, clearer definitions were given. In 1921, Edward Sapir defined language as “a purely human and noninstinctive method of communicating ideas, emotions, and desires by means of a system of voluntarily produced symbols.” These symbols were the organs of speech (Sapir, 1921,7). In 1968, Noam Chomsky defined language as “an integrated system of rules and principles from which the expressions of the language can be derived, each of them a collection of instructions for thought and action” (Chomsky, 1968, x) and thus, it has the character of a scientific theory. Chomsky primarily focused on the grammatical aspect of

language. Lastly, Wittgenstein presented the idea that meaning is connected to words, then words make sentences and as a result, a number of sentences form the language. He developed the Language Game philosophy (German: Sprachspiel) and he connected this to language, Language as Language Games (German: Sprache als Sprachspiele) aiming at presenting the notion that there are many different combinations through which language is woven. Nowadays, a commonly accepted definition of language would be that a language is a key element, special and distinctive in each nation that helps people express their opinions, communicate their feelings and feel connected to their fellow people. Language also provides a sense of unity, a sense of belonging and a sense of common inheritance. Moreover, language is a living organism that evolves just like the people that use it do along with the society within it is spoken. As already mentioned earlier (Ch.1), language can be divided into two categories, spoken and written language: Spoken language is about “the faculty which people possess of communicating their perceptions and ideas to one another by means of articulate sounds.” While written language can be defined as “ideas and perceptions may be communicated without sound by writing. By conventional usage certain sounds have a definite meaning in one country or in certain countries, and this is called the language of such country or countries.”³ Overall, language is a complex issue and specialists define it differently based on which of its aspects they choose to focus on.

2.2 European Legal History

Each country around the world has its own history not only in terms of culture and tradition but also in terms of law. Europe is considered the oldest continent in the world having many different people and countries in its broad territory. European identity began to form and manifest itself as early as the 11th century in the field of law with the renaissance of Roman Law due to the rapid economic development and cultural advances (Wieacker & Bodenheimer, 1990, 13). Little by little Roman law started to influence every state in the European continent, while undergoing major codification

³ "Language." A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier.. 1856. 25 Apr. 2020 <https://legal-dictionary.thefreedictionary.com/Language>

in the *Corpus Juris Civilis*. Later, it was influenced by the French Revolution and provided the grounds for other codes such as the French Napoleonic and the German ones. Moreover, two types of law in the legal system were created, civil and common law. On these grounds, European Legal history started to emerge.

However, defining European legal history is a rather complex issue, since it cannot be put “within normal constraints of time and space” (Gordon, 2007, 355). As a result, scholars and historians have dealt with the issue of the “birth” of Europe thoroughly. According to Duve, “for them, ‘Europe’ is nothing but the result of a constant process of self-definition, mainly derived from the encounter with a Non-European, mostly ‘non-civilized’ world during the European expansion, and more forcefully in 18th and 19th centuries.” (2014, 32-34)

Trying to provide the framework of the so-called European legal history is connected to finding common themes in the legal histories of the countries that form Europe. However, “national legal systems make it all the more difficult to think in common terms.” (Gordon, 2007, 358). At the same time, difficulties arise not only due to the characteristic multilingualism in the Union but also due to the use of Latin in the legal language in particular.

Overall, since Europe itself cannot be clearly and easily defined, so does its legal history. As it was presented above, its legal history is a combination of many other legal histories within the Old World as Europe is also called.

2.3 Legal Framework of the European Union

The European Union is practically an agreement between nations that aims at maintaining peace in Europe, promoting common interests and making the quality of living better in all its Member States. As every organization has, European Union could not work without a distinctive basis, known as the founding treaties, a legal framework and some other key elements that make it work as a whole, advancing inclusivity and prosperity for all the European citizens.

According to the official website of the European Union: “Every action taken by the EU is founded on the treaties. These binding agreements between EU member

countries set out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its members.

Treaties are the starting point for EU law and are known in the EU as primary law. The EU is a partnership of 27 ‘Member States’, which have agreed to work together on issues of common interest. EU legal materials consist chiefly of the Treaties, which are negotiated at intergovernmental conferences and ratified by each member state, secondary legislation, decisions and cases. There is also a large body of draft legislation and official records of negotiations, known collectively as ‘travaux préparatoires’. The Treaties set out rules and procedures for EU decision making.”⁴

The laws originating from the principles and objectives of the treaties is known as secondary law and includes regulations, directives, decisions, recommendations and opinions. A "directive" is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals. One example is the EU consumer rights directive, which strengthens rights for consumers across the EU, for example by eliminating hidden charges and costs on the internet, and extending the period under which consumers can withdraw from a sales contract.⁵ The Lisbon Treaty provided the grounds for some changes in the legislative procedure as set by Article 294 of the TFEU.

The EU is a political entity and a legal system, so exciting, dynamic and transformative. As it is widely known, European Union consists of 27 Member States and thus, “multilingualism is a central and inevitable aspect of European integration. The official languages of EU Member States are formally equal. After successive enlargements, the number of official languages has grown exponentially from the original four to an impressive 24 in 2013” (Paunio, 2013, 1). The principle of multilingualism is used to ensure that there is no discrimination between citizens on the basis of language. It ensures full respect of EU citizens’ rights, as enshrined in Article 24 TFEU, to contact and receive a response from any EU institution in any of the EU’s

⁴ https://ec.europa.eu/info/law/law-making-process/types-eu-law_en

⁵ https://europa.eu/european-union/eu-law/legal-acts_en

official languages. Moreover, the Commission generally promotes a number of initiatives to enhance multilingualism in the EU according to the President Juncker on behalf of the Commission.⁶

Regarding the EU legislation, based on the policy of linguistic equality, it has to be translated into all official languages of the Member States. As a result, language versions are drafted and not translated. Taking this into account, it can be easily understood that language versions are somewhat independent and not originating from one version. They are also considered equal.

As per Leal (2013), the EU is committed to respecting “its rich cultural and linguistic diversity” and the principle of non-discrimination. The Treaties establishing the EU provide that the rules governing the languages of the EU institutions are to be determined by the Council of the EU.

Overall, it should be mentioned that all languages are considered equal and all legislation should be drafted in all 24 official languages of the European Union. This sui generis organization is considered to promote the rights of its citizens equally and thus, all legislation should be available for every one of them to read and understand it.

2.4 EU Legislation Procedure

Another aspect worth mentioning in this chapter is how the European Union forms its legislative texts. Apart from the treaties which are the legal and functional basis of the Union, there are other laws designed, proposed, accepted and forwarded to the Member States for implementation. Before everything else, it should be underlined that Member States are required under Community law to include in their national implementing legislation mechanisms the specified provisions given by the Union.

⁶ https://www.europarl.europa.eu/doceo/document/E-8-2014-010852-ASW_EN.html?redirect

On a second level, as it has already been mentioned, the Union's legal texts are placed in different categories. The most important legal texts are the Treaties and then come regulations, directives, decisions, opinions and recommendations. All the aforementioned texts are affected by multilingualism. According to Clyne: "Within linguistics it refers either to individuals (bilingualism) or to the linguistic situation of a nation/society and is divided into symmetrical multilingualism with the equal status of all the languages and asymmetrical multilingualism where at least one language has a higher status (Clyne 1997:301)." (Biel, 2017, 145)

It should also be mentioned that at the EU level, legislation is drafted in one of the drafting languages (procedural/ working languages), which show some properties of a lingua franca and in fact have a more privileged status than other languages. (Biel, 2017, 148)

On these grounds, EU law is drafted. A standard procedure is followed. The Commission prepares "impact assessments" in order to define the advantages and disadvantages of possible policy options in cooperation with non-governmental organisations, local authorities and representatives of industry and civil society. After considering their opinions, the European Parliament and the Council review proposals, make amendments in order to come to an agreement and adopt the proposed legislation. If they do not agree, a second reading of the proposals follow.⁷

In summation, drafting European Law is a complex procedure, where many factors and issues are considered in order to fully ensure equality, justice and participation of all Member States, institutions and bodies of the Union.

2.5 Legal Translation

At this point, legal translation should be mentioned. As far as the European Union is concerned, legal translation is considered an essential element of its legal culture. In order to present and translate legal texts within the Union, comparative law is the key to comprehend various legal texts. According to Jopek-Bosiacka (2013, 110), "this is especially critical in the European Union, whose policy of multilingualism and striving towards the principle of equal authenticity in law leads to something close to mission

⁷ https://europa.eu/european-union/eu-law/decision-making/procedures_en

impossible: the reconciliation of the 28 legal systems of its Member States into a coherent body of law which would ensure uniform interpretation of EU legal texts.”

In a strict sense, comparative law is about comparing the legal texts of different legal systems and it has developed in the past few years due to the progression in international trade and the possibility of harmonizing the laws in the different international bodies such as the European Union.

At the same time, translation in the Union asks for various resources and is related to the principle of multilingualism as stated in the Treaty on the Functioning of the European Union (TFEU) and other Council Regulations. The main aim and objective of these regulations is to assure that all 24 official languages are equally presented within the Union. Moreover, in order to accomplish this, particularly qualified lawyer-linguists are necessary to work as a bridge between the citizens and the Union’s bodies.

Overall, legal translation is deemed necessary within the Union and thus, it is presented in this chapter.

2.6 British Legislation System

In order to understand the British Legislation System, some distinctions should first be made. The main focus of this research paper is the law of England, which includes the law of Wales. This system is also categorized in primary and secondary law. However, it is mostly common law based. Common law has been created and continues to develop by judges on new and different cases. Scottish law is closer to the laws of the continental Europe, since it derives from Roman law.

As previously pointed out, at present, Northern Ireland’s legal system is very similar to that of England and Wales, applying the common law in an identical judicial structure.

As already mentioned, British Legislation is categorized in primary and secondary legislation. According to their official website ‘Primary legislation’ is the term used to describe the main laws passed by the legislative bodies of the UK such as Acts of the UK Parliament, Scottish Parliament, National Assembly of Wales and Northern Ireland Assembly. It also includes Acts passed by historical parliaments, other primary

legislation for Northern Ireland and Church of England Measures (legislation for the established church in England passed by the General Synod of the Church of England).

These types of legislation are sometimes referred to as ‘statutes’ and the term ‘the statute book’ refers to the whole of the statute law currently in force. Certain legislative instruments made by the Crown and the Privy Council under the royal prerogative (called ‘Prerogative Orders’) are also referred to as Primary Legislation. Prerogative Orders are called either ‘Order in Council’ (when made by the Queen on the advice of the Privy Council) or ‘Orders of Council’ (when made by the Lords of the Privy Council without any approval by the Queen).

‘Secondary legislation’ (also called ‘subordinate legislation’) is delegated legislation made by a person or body under authority contained in primary legislation. Typically, powers to make secondary legislation may be conferred on ministers, on the Crown, or on the public bodies. For example, the Office of Communications (OFCOM) is given such powers by the Communications Act 2003.

The main types of secondary legislation are Statutory Instruments, Statutory Rules and Orders, Church Instruments.

As a member of the European Union, section 2 of the European Communities Act 1972 (c.68) made provision for EU legislation to become law in the UK in two ways.

Some EU legislation was directly applicable to the UK. This meant that it applied automatically in UK law, without any action required by the UK. This legislation is published on the EUR-Lex website.

Other EU legislation required domestic implementing legislation before it became national law. UK legislation that implemented EU legislation was generally in the form of secondary legislation made under section 2 (2) of the European Communities Act 1972 (c.68), though sometimes primary legislation, or secondary legislation made under another Act, was used. Implementing legislation is also published on [legislation.gov.uk](https://www.legislation.gov.uk), as part of the UK statute book.⁸

⁸ <https://www.legislation.gov.uk/understanding-legislation>

Overall, it can be understood that legislation in the UK is a rather complex issue since there are different states united in the so-called British state. Albeit their similarities, each state has its own procedures when lawmaking is considered.

2.7 The Concept of Autonomy in Law

In order to fully address the issue of legislation both in the European Union and the United Kingdom the concept of Autonomy in Law should be presented. Autonomy is a term originating from the Greek language and the word ‘Νόμος’ (law) and is about the ability to work and act independently in a system. According to Sosoni (2018, 181), “the legal system of the EU is a combination of other legal traditions such as Roman Law. As already mentioned, there are three categories of law, primary – treaties-, secondary – agreements like Regulations and Directives and tertiary law- decisions of the CJEU.”

Another reason why autonomy is so important is because it allows the Union to create new autonomous concepts and enables the Member States to enforce them according to the domestic legal systems. Autonomy is a fundamental part of the European Union and its legal procedures. Without it, the Union would not be able to function properly.

For this reason, it should be mentioned that legal language within not only the EU but also within any kind of legal system is embellished with autonomy. Autonomy is also connected to multilingualism. As a result, legal language can be a) language-dependent b) communal/interactional c) institutional (Sosoni, 2018).

In summation, it should be underlined, that autonomy is a crucial concept in any legal system.

2.8 English as a connecting element of the EU Legislation and the British Legislation

English is a language that functions as a connecting element among many people and many fields, such as the European legal system and the British one. Even if multilingualism gives space for all 24 languages to be spoken and used in written texts of any kind, according to Leal (2013), English tends to be the language of choice. This is usually the outcome of the widespread use and understanding of English around the Union and the world, since almost everyone nowadays has even the minimum knowledge of it.

At the same time, the EU uses English as its *lingua franca*, as an instrument to communicate and promote international understanding. As already mentioned, most citizens of the European Union are able to comprehend and use English in their daily life. As a result, choosing English as a means of communication is not odd or unusual, rather the opposite. Indeed, English remains in the spotlight due to a variety of reasons that promote its use not only for basic communication between people of different cultures, but also for other purposes like legal texts, official documents and other kinds of papers.

Furthermore, the European Union prefers English since it provides a sense of unity and of something in common that all people can relate to. English is widespread used in every aspect of the globalized culture, where national identities and particularities tend to be left aside in order to encourage a more globalized and open attitude towards lifestyles in general. Citizens are now rewarded when they think themselves as global citizens or citizens of the world instead of British, Spanish and so on.

For this reason, globalization has contributed to the promotion and widespread use of this language. More and more people are involved with learning and utilizing it on a daily basis. However, according to Leal (2013, 18): “If the use of English as a *lingua franca* provides a comfortable unity and a sense of totality in the Union, as seems to be

the case, the call for multiplicity must be allowed to remain, must be strengthened in the same measure as the use of English as a lingua franca is strengthened. In a Derridean double gesture, the use of English as a lingua franca needs to be accompanied by fierce criticism of its use as well. Perhaps the EU is already halfway there: its countless efforts to foster multiplicity and celebrate diversity certainly serve to counterbalance the predominance of English as a lingua franca overall.”

On the other hand, as per Cavoski (2017, 62), “since the membership of the UK and Ireland in 1973, the English language assumed an unprecedented significance in the translation process of the EU. It has displaced French to become the lingua franca of the EU.”

To sum up, the reasons behind preferring English are quite easy to understand. As already mentioned, English is one of the most globally used languages. At the same time, it has become one of the most important working languages in almost every international or European organization. English has been learnt and used by millions of people around the world and it is almost always a prerequisite for any kind of profession. Another aspect worth presenting is that many Member States prefer using English since there are always translators and national officials who know how to speak and have full command of the language. Equally, every country that has wanted to participate and become a member of the Union, has already chosen English as its working language so as to understand and familiarize themselves with the concept of the EU. However, “it should not be forgotten that this lingua Franca is essentially different than the language of Shakespeare. It is a novel version of the language, often called ‘EU English’ that is different from the English spoken in the UK or Ireland” (Cavoski, 2017, 63).

2.9 Brexit and its implications for both the EU and the UK

The United Kingdom joined the European Union in 1973. At that time, it was known as the European Economic Community and became the first Member State opting to leave the Union. On June 23, 2016, the United Kingdom decided to stop being a member of the Union, in an official public vote, when 17.4 million people opted for the Exodus of the country of the European Union. The success of the Leave option was one of the most important events in the European politics. Immigration had been a heated issue over the Brexit discussion, since countless migrants from the Eastern European countries had moved to the UK.

This decision was not taken overnight. People in the UK had experienced a lot of tension and pressure from everything that was going on in the past few years. A phenomenon called Euroscepticism started making its presence more and more evident. Especially due to border-free Schengen Area, travelling and moving to a country within the EU became really easy.

The relationship between the United Kingdom and the European Union has been turbulent for many years. According to Bulmer and Quaglia, “Some of the challenges in the UK-EU relationship have come from the EU itself: the two rejections of membership by de Gaulle (in 1963 and 1965); the policy ‘misfits’ that the European budgetary system and the Common Agricultural Policy presented for the UK; and the other Member States developing policies at odds with UK government preferences, resulting in the need for various policy opt-outs.” As a result, divisions and quarrels led to the appearance of a new attitude towards the Union which became known as *Euroscepticism*, that is a European political doctrine that advocates disengagement from the European Union. Different political parties supported this viewpoint, which is generally viewed as populist and its main focus is imposing tighter immigration controls.⁹

The percentages of Euroscepticism in the UK that led to Brexit can also be seen in the following figure. (Figure 1). From 1975 to 1980, there is a constant and steady rise

⁹ <https://www.britannica.com/topic/Euroscepticism>

from all age groups. In 1990, a great fall in the percentages can be seen and another rise again is noticed until 2010 from all age groups. In a time where global political views had been overtaking the national ones and at the same time, a need for stability was developed for more and more people, who probably felt unsafe in a difficult period for both the economy and the states in general.

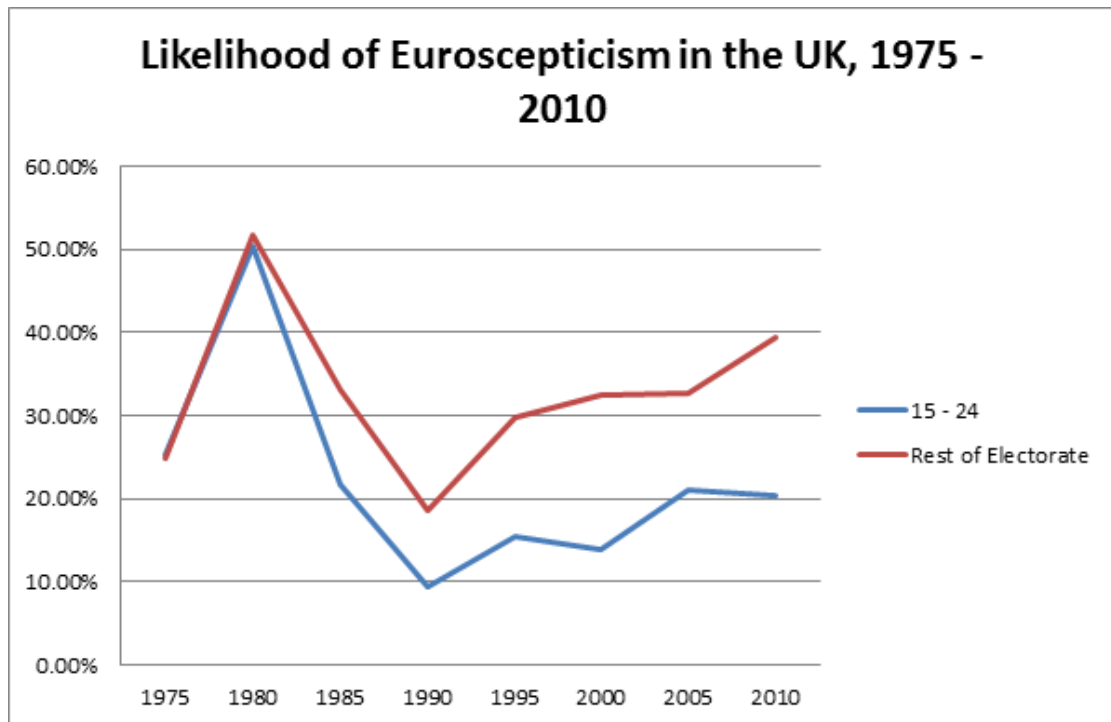


Figure 1: Likelihood of Euroscepticism in the UK¹⁰

All in all, it should be mentioned that Brexit has made alterations to the relationship between the European Union and the United Kingdom. This vote has changed not only Europe but also the rest of the world. What remains now is to see how exactly the Union and the world will undergo this change.

2.10 Summary of the Chapter and Concluding Remarks

¹⁰ <http://nottspolitics.org/wp-content/uploads/2013/02/Untitled.png>

In this Chapter, a conceptual framework of the European Union's legislation procedures and British legislation were provided, followed by a presentation of the concept of legal autonomy. Following, the relation between European Union and the United Kingdom through the use of the English language was presented. In addition, the specific context of legal language and its definition was considered, whereas the importance of comparative law was also put forward. Lastly, some additional background information was presented in order to fully acquire the knowledge behind the two chosen texts that will be analysed in the subsequent Chapters.

Up to this point, this dissertation has developed a framework of reference regarding Law and Language in the European Union's legislation in relation to British legislation. The remainder of the dissertation discusses the methodological procedures; presents and discusses the findings; and addresses the implication of these findings. In the subsequent chapter (Chapter 3), an elaborate account of the research design is presented.

Chapter Three

Research Design

3.0 Introduction

The theoretical underpinnings provided in Chapter Two served as a solid basis for this investigation and created the ideal ground for the research. In this chapter, the research design is presented. As stated in the introductory chapter (Chapter 1), the primary goal of this research was to identify the way intercultural communication competence and intercultural sensitivity help the countries deal with the refugees and asylum seekers aiming at understanding their needs. The overall aim was to provide valuable answers to the research questions. More specifically, the research questions explored were formulated as follows:

1. How is legal language used in European Union law?
2. How is legal language used in British law?
3. What are the differences between these two?

As given in Chapter 1 the first question seeks to identify the way legal language is used in the European Union given the fact that the Union does not have an actual legal system. The second question aspires to identify the ways with which legal language is used in the British legislation, taking into account that the United Kingdom is made up of four separate countries, England, Wales, Scotland and Northern Ireland. The third question, which is the major one in this dissertation, surveys the differences between the legal language used in the European Union and the British Legislation on the basis of two actual legal texts.

The questions put forward are the product of a key hypothesis that underlies this dissertation. The strategies of enquiry adopted here provide the direction for the research design employed and the methodological procedure used. These strategies of

enquiry are used to seek answers to the above questions and draw conclusions are presented in detail in this chapter.

More particularly, the tools used for the comparative analysis of the study are discussed in detail and justification is provided. In summary, this chapter considers the research design and the methodology employed for this study.

3.1 Research Design

Many studies in linguistics have used comparative methods and approaches, since they have been based on text-to-text analysis. The present study has primarily relied on a primarily comparative and contextual analysis and approach. It is based on discussing similar elements (comparison) “while contrast in writing discusses elements that are different. A compare-and-contrast thesis, then analyzes two subjects by comparing them, contrasting them or both.”¹¹

3.2 The Comparative Method

The comparative method was selected because a sharp analysis defining important terms as far as legal language is concerned will be made and then an in-depth comparison between the selected terms will be presented. Comparative research can be applied to any kind of fields, such as nations, cultures, societies and institutions. Researchers frequently come across differences on their use of the terminology. According to Sasaki (1996, 2): “To some, comparative research is strictly limited to comparing two or more nations (also known as “cross-national research”), but others prefer to widen the scope to include comparison of many different types of social and/or cultural entities. Yet other scholars use the term to encompass comparisons of subcultures or other social substrata either within or across nation-states or other cultural and social boundaries. [...] The intent of comparative research is more

¹¹ <https://courses.lumenlearning.com/suny-englishcomp1v2/chapter/writing-for-success-comparecontrast/>

universal: Comparative research aims to develop concepts and generalizations based on identified similarities and differences among the social entities being compared, especially in their characteristic ways of thinking and acting; in their characteristic attitudes, values, and ideologies; and in the intrinsic elements of their social structures. This then serves as a means of enhancing one's understanding and awareness of other social entities.”

Another interesting aspect of the comparative method of research is its aspect. As per Mills (2012, 2), “The underlying goal of comparative research is to search for similarity and variation between the entities that are the object of comparison. The examination of similarity often means the application of a more general theory and a search for universals or underlying general processes across different contexts or categories.

The ontology of patterns or categories is assumed to be universal and independent of time and space. In other words, the comparison should be broad enough to allow researchers to compare at a “higher level” of abstraction. However, it remains difficult to determine these general patterns. For this reason, comparative research is often used to separate patterns that are more general and isolate regularities or discrepancies from the context-laden environment.”

For the aforementioned reasons, the comparative method was selected in order to provide a better idea of what the legal language is and how it is used in the United Kingdom and the European’s Union legislation.

3.3 Presenting the Material

The material to be compared and contrasted in this Thesis is the Counter Terrorism and Security Act of 2015 implemented in the United Kingdom and the directive 2017/541 of the European Parliament and the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending

Council Decision 2005/671/JHA (see Appendix). These two choices of the material were selected on the grounds of content, language and purpose. Therefore, their content has to do with security and combating terrorism. They were decided at the same time, even if they were implemented in different one. At the same time, both have the same kind of language, the legal one and finally they have the same purpose, to prevent further terrorist attacks in Europe and in the United Kingdom.

3.4 Summary of the Chapter and Concluding Remarks

This chapter addressed the research methodology used to acquire the essential data to address the research questions. The justification for the use of the particular research tools used was stated to be the comparative results. This chapter also provided an elaborate account of the material used. The presentation of the findings combined with the research along with an interpretation and discussion are provided in the following Chapter 4.

Chapter Four

Research Findings

4.0 Introduction

This chapter presents the results pertaining to the research question put forward in this thesis. The research questions aimed to identify and present the similarities and differences between the legal language used in the European Union's directives and the United Kingdom's acts.

In the following sections, the aforementioned texts are compared and analysed in-depth in order to find out their similarities and differences. Then, the factors on which they were compared and contrasted are examined. Finally, a presentation of the results is made.

4.1 Presenting the data

In Counter- Terrorism and Security Act of 2015, the following elements are worth mentioning: In Chapter 1, after defining shortly what an act is, it immediately deals with the actual things that will be done once it is implemented, starting with the power to seize travel documents and then presenting what will be follow. The language that used is quite simple and easy to understand. It goes on mentioning some temporary exclusion orders and permits to return. Also, more supplementary provision is put forward regarding the temporary exclusion orders defining them even further. The actual step-by- step procedure is presented at the same time. Lastly, the ones who were restricted to travel to the United Kingdom have some duties to it and these duties are given along with the subsequent offences, proceedings and so on, so forth. A second chapter is added here to define how the act shall be interpreted along with its consequent amendments.

After this, there is a second part about terrorism prevention and investigation measures. In this part, further details are presented in order for a fully detailed idea of what each measure is about. For instance, there is a section about weapons and explosives.

Part 3 and part 4 refer to data prevention and aviation, shipping and rail in order to cover every possible route for a terrorist to reach the country and cause problems.

Then, there is part 5, where the risk of being drawn into terrorism is fully given. In particular, the power as far as several authorities is concerned, is presented along with the power to issue special guidance.

Henceforth, the following elements in the Counter- Terrorism and Security Act of 2015 will be discussed:¹²

1) *Make provision for*: to make a statement within an agreement or a law that a particular thing must happen or be done, especially before another can happen or be done.

2) *Terrorism*: the use of threat designed to influence the government or an international governmental organization or to intimidate the public or a section of the public and for the purpose of advancing a political, religious, racial or ideological cause. It also involves serious violence against a person, to property, endangers a person's life, other than that of the person committing the action, creates a serious risk to the health or safety of the public and it is designed seriously to interfere with or seriously disrupt an electronic system.

¹² To define these terms, a combination of the Counter Terrorism and Security Act of 2015 and the Cambridge Online Dictionary was used.

3) *Authority- to-carry scheme*: made by the Secretary of State to carry persons on aircraft, ships or trains arriving or expected to arrive and leaving or expected to leave the United Kingdom.

4) *Authorisation*: the act of giving official permission by senior police officer for retention of travel document

5) *Seizure*: the action of taking something by force or legal authority

6) *Temporary retention*: the possession of something that does not last for very long

7) *Exclusion and exception*: something or someone that a contract, law, or agreement does not include and a condition in an agreement that limits someone's rights

8) *Imposition*: the introduction of a new law or system

9) *Conditions A to E are met*: particular requirements A to E are fulfilled

10) *Right of abode*: legal control of a home or permanent place to live

11) *Obviously flawed*: clearly containing mistakes

12) *Only be made on a question of law*: solely made when an issue arising in a lawsuit or criminal prosecution which only relates to determination of what the law is, how it is applied to the facts in the case and other purely legal points in contention.¹³

13) *“Excluded individual”*: when an imposition of a temporary exclusion order is imposed on a particular individual.

14) *Revoke- revocation*: the act of saying officially that an agreement or law is no longer in effect

15) *Permit- permission*: an official document that allows people to do something or go to the United Kingdom, applied by an individual

16) *Obligations- offences*: a legal duty to do an illegal act/ crime that is imposed or chosen by some people in particular contexts

17) *Quash*: to state officially that something, especially an earlier decision, is no longer to be accepted

18) *Interpretation*: an explanation of what the articles mean

¹³ <https://dictionary.law.com/Default.aspx?selected=1704>

19) *Annulment*: an official announcement that a law or an agreement no longer exists

20) *Internet data*: communications data which—(a)relates to an internet access service or an internet communications service,(b)may be used to identify, or assist in identifying, which internet protocol address, or other identifier, belongs to the sender or recipient of a communication (whether or not a person), and(c)is not data which—(i)may be used to identify an internet communications service to which a communication is transmitted through an internet access service for the purpose of obtaining access to, or running, a computer file or computer program, and (ii) is generated or processed by a public telecommunications operator in the process of supplying the internet access service to the sender of the communication (whether or not a person)”.

21) *Accredited immigration officers/ Constable immigration officers*: British police officers of the lowest rank appointed as immigration officers designated as such by the Secretary of State

22) *come into force*: come into effect, implement

Moving on to the directive 2017/541 of the European parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism and amending Council Decision 2005/671/JHA, in the beginning, there is a presentation of what consists a terrorist act, along with the putting forward of what the main universal values are. Then, the need to implement relevant international standards and obligations and address the evolving terrorist that is put forward. Lastly, in this first part, the consistency with existing policy provisions and the replacement of the former Council Framework Decision is presented.

At the same time, the directive provides the ground for each Member State to fully adopt and adapt it in accordance with the local laws.

Finally, a detailed explanation of the specific provisions of the directive are made.

This actual directive was put into practice in 2017, after having been proposed two years earlier in 2015.

The following instances will be discussed:¹⁴

- 1) *acts of terrorism/ terrorist offences*: violations of universal values, attacks on democracy and the rule of law for political reasons
- 2) *universal values*: existing everywhere beliefs people have that control their behaviour. In particular, human dignity, freedom, equality, solidarity, respect for human rights and other fundamental freedoms.
- 3) *“foreign terrorist fighters”*: individuals from a country not connected to a particular country in Europe who use or threat violent action for political purposes.
- 4) *Cross-border nature*: the characteristic of involving people of different countries
- 5) *Joint investigation teams*: a shared group by two or more people which examines a crime, problem or statement, very carefully in order to discover the truth.
- 6) *Electronic evidence*: objects, documents or official statements in computer-related form used to prove something as true or not true.
- 7) *Public provocation*: an action or statement intended to make people angry related to people in general and not being limited to a particular group only.
- 8) *Aiding and abetting*: to help, support or encourage someone to get involved in terrorism
- 9) *Intentional nature*: having something planned as the main characteristic of something
- 10) *The interception of communication*: the action of stopping and catching something or someone before that thing or person is able to reach a particular place especially when sending information between people and places.

¹⁴ To define these terms, a combination of the Cambridge Online Dictionary and the Directive (EU) 2017/541 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA was employed.

11) *Common assistance mechanisms*: frequent and for many people ways of helping

12) *Radicalisation*: the action or process of making someone become more radical (or extreme) in their political or religious beliefs. This person usually uses or condones violence in order to reach a specific political or ideological purpose.

13) *Recruitment*: the process of finding people to work and participate in terrorist groups or become new members of terrorist organizations

14) *Principles of subsidiarity and proportionality*: ideas or rules aiming to ensure that decisions are taken as closely as possible to the citizens and regulating how the European Union exercises its powers.¹⁵

15) *Preparatory acts*: laws or formal decisions made by a parliament in order to get ready for something

16) *Freeze or confiscate*: a temporary period of stopping something or taking a passport or other legal documents away from someone who is considered suspicious for terrorist actions

17) *Transposition*: the act or process of adopting some measures containing a reference to the original Directive

18) *Duly reflected*: shown obviously in the right time

19) *Criminal conducts*: organized and performed in a way related to crime and laws.

20) *Actively preparing for the commission of terrorist offences*: getting ready in a way that involves positive action for committing violent illegal acts.

21) *In accordance with the treaties*: following or obeying the European treaties

22) *Enter into force*: come into effect, implement

4.2 Analysing the data

¹⁵ https://ec.europa.eu/regional_policy/en/policy/what/glossary/p/proportionality & https://ec.europa.eu/regional_policy/en/policy/what/glossary/s/subsidiarity

After selecting twenty-two terms in the two documents, definitions based on the texts were given and an analysis on their similarities and differences will be put forward.

Starting with the Counter- Terrorism and Security Act of 2015, the first expression that is worth noticing is the term “make provision for”, the need to take care of what must be done before another thing or in particular terrorist attack can happen.

Then, we move on with the definition of terrorism in the Counter- Terrorism and Security Act and the acts of terrorism or terrorist offences in the Directive 2017/541. The way they are defined are almost the same, where the Directive’s definition is about the violations of universal values, attacks on democracy and the rule of law for political reasons. In the Counter- Terrorism and Security Act, the definition is more extensive and provides more information on what it is about. As a result, terms like the “government” or “governmental organization” are used in the Act, whereas in the Directive the definition is more general and without any descriptive terms. In the Directive, the nature of the terrorism is also presented with the term “cross-border nature”, something that is not mentioned in the British act. This nature is also about imported and exported terrorism between European countries and is connected to the Schengen agreement between the countries, which aims at ensuring “the security of travel documents to fight against the falsification and counterfeiting of travel documents and to establish a reliable link between the document and its holder.”¹⁶ This agreement is related to this cross border nature and the efforts made by the Union to tackle the crucial issue of terrorism.

Following the definition of terrorism, there is the presentation of the “authority-to-carry-scheme” in the Counter- Terrorism and Security Act. Such a scheme does not exist in the European Union’s directive. This scheme is created by the Secretary of State and was published in March 4, 2015 and is defined as following: “A carrier must seek authority to carry persons on inbound or outbound journeys to and from the UK who

¹⁶ https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas_en

come within the scope of the scheme. The scheme specifies the classes of carriers to which it applies, the classes of passenger or crew to whom authority to carry may be refused and sets out the process for carriers to request authority to carry. The purpose of the scheme is to prevent certain individuals from travelling to or from the UK when that is necessary in the public interest.¹⁷ As a result, it is clear that the UK government has created particular measures in order to prevent possible terrorist attacks. What is really worth here, is the final phrase about the purpose of the scheme, that is the prevention of certain individuals to travel to/from the UK when this is relevant to the public interest. Along with this term, it is justly relevant to mention the phrase “Only be made by question of law”. This phrase is about possible appeals made only by the Secretary of State and has to do with temporary exclusion orders prior to acquiring permission of the court. Here, another key element regarding terrorism and the United Kingdom should be mentioned. In the past years, many incidents of violent nationalism have taken place in Ireland. The Irish Republican Army, or RA as it is widely known, struggled for independence along but not necessarily always together with the Irish nationalist party, Sinn Fein. In 1969, IRA was defined as the new breed of terrorists in Northern Ireland which sought the establishment of a republic, the end of British rule in Northern Ireland and the reunification of Ireland.¹⁸ This was a really pressing issue and thus, the British societies had to deal with terrorism that came from within the UK. As a result, people in the UK should consider not only the international forms of terrorism but also the national kinds of it. In the Directive, such scheme or term does not exist since the former is addressed to all Member States of the Union and not to the United Kingdom in particular. For this reason, it is certain that not all Member States have the same coping and prevention mechanisms and/ or the same needs and issues to deal with, as far as terrorism is concerned.

In the Directive, there is also a definition of the universal values and some examples of what they may be. Such description is not provided in the UK Act. Moreover, in the Directive, there is another mentioning on those who are involved in terrorist actions and they are mentioned as “foreign terrorist fighters” whose main aim is to use or threat violent action for political purposes. A parallel could be drawn to the

¹⁷ <https://www.gov.uk/government/publications/authority-to-carry-scheme-2015>

¹⁸ <https://www.britannica.com/topic/Irish-Republican-Army%22>

term “excluded individual” which is used in the British act in the sense that foreign terrorist fighters are excluded individuals.

In the Counter- Terrorism and Security Act, some more specific terms regarding the actual actions of the authorities in the United Kingdom are mentioned. “Authorisation”, “Seizure” provide justification for what senior police officers are allowed to do if they believe it is necessary in order to prevent possible attacks.

In the British Act, there are also the terms, “accredited immigration officers/ Constable immigration officers” and “Conditions A to E are met” to talk about who can act and on what conditions when terrorism is concerned. Only the accredited immigration officers can act in a way to prevent possible terrorist events and only when the prerequisite conditions are fulfilled. It is also necessary to mention here, the term “Right of abode” which is the condition D and is about the legal control of someone’s house. If someone has this right, he/she can return to the United Kingdom even if he/she is temporarily excluded. Such term does not exist in the Directive.

In the Directive of the European Union, the way that terrorism can be fought is with “joint investigation teams” aiming at promoting cooperation between people and by extension between countries.

On what the responsible people can base their investigation on terrorism and possible future terrorist attacks is also electronic evidence according to the Directive. Electronic evidence can be about anything either communication data or internet protocol addresses and so on.

In the British Act, there is the term “temporary Retention” which is the result of what will happen when the accredited immigration officers take action in regard to possible suspects and is about taking something from someone for a limited amount of

time. Such term does not exist in the Directive, since it is more of a guideline rather than what each Member state should do to tackle this crucial issue.

There should also be mentioned the terms “exclusion and exception” which are about particular limits imposed on somebody’s rights in the United Kingdom.

On the other hand, what is equally interesting in the Directive, is the term “public provocation” as an action or statement intended to make people angry related to people in general and not being limited to a particular group only. That is, in order to be defined as terrorist, an act should have the element of “public provocation”.

Moreover, in the Directive, equally significant is the term “aiding and abetting”. To help, support or encourage someone to get involved in terrorism makes him/her morally responsible for the possible future attacks. He/ She should have “intentional nature” meaning that his/her aim is to encourage people get involved in terrorist events.

Following, the term “interception of communication” is interestingly mentioned. Nowadays, communication takes place through various ways and means, especially with the help of technology. More and more people, not to mention all people around the world, use technology to communicate not only with their families and friends but also, they employ it to get informed and communicate in order to do their work. People who are involved in terrorist attacks also, to organize and sort the tasks out. As a result, the Directive correctly provides this term as it is an increasingly important aspect of the discussing issue.

Similarly, there is the term “internet data” in the British Act, where it is clearly defined. Overall, it has the same use as in the Directive since internet data are used for people to connect and the Internet plays an ever-increasing role in modern life.

Another essential term is the “common assistance mechanisms” that are relevant to the victims of terrorism. As a result, European Union takes care of the victims in advance. Such term does not exist in the British Act, which mostly takes care of what should be done to prevent terrorism rather than how the victims should be taken care of after the attacks.

In the Directive, another term is also mentioned “radicalisation”. With this Directive, it is understood that radicalization is not new but the means, trends and patterns or it have continuously developed. It is mentioned here to underline the issues of security and other opportunities for terrorist and extremist groups to communicate and move around the world. Such a term does not exist in the British Act. The reason behind this absence can be found in the fact that terrorism is already defined as radical in the Act and more emphasis is placed on other terms such as “internet data”, through which communication between the terrorist groups and their followers is successful.

Then, in the Directive, the term “recruitment” is mentioned, which is also connected to terrorism and how people are encouraged to participate in such organizations. Once again, a similar term in the British Act does not clearly exist since it is considered somewhat self-evident.

On the other hand, in the British Act, the terms “Permit” and “Permission” are worth mentioning because generally, in the United Kingdom, official documents in order to enter the state or live there are necessary. Such terms do not exist in the Directive.

Another point worth noticing is the principles of subsidiarity and proportionality. The European Union is fundamentally created on these principles. They are mentioned in each Directive, since they are about the way it works and decides about each matter. These terms are connected to the European Court of Human Rights and on these grounds, people are protected. The principle of proportionality is also incorporated in

the laws of the UK either as part of the European Union Laws or a generally accepted guiding moral principle. According to Jowell, this principle can also be the ground of administrative law and under common law constitutional reviews.

In addition, the Directive does not state what each country must do so as to prevent terrorist attacks, but rather it talks about “preparatory acts” with which, each and every one of them will handle the issue both individually but also collectively as a whole.

Another term worth mentioning in the British Act is the term “Quash” used to state that an older decision is no longer accepted. Equally, in the Directive, another term worth pointing out is the use of the following verbs; “freeze” and “confiscate”. These verbs are used in order to underline the need of stopping something or taking a passport or other legal documents away from someone who is considered suspicious for terrorist actions.

In the British Act, there is the term “Imposition” referring to the introduction of a new law or a new legal system. Following, there is the term “transposition” on which the whole Directive is based. That is the process of adopting some measures to cope with terrorism but each Member state should always do so, with a reference to the original Directive.

In the British Act, the phrase “Obviously flawed” is used to underline the importance for a behaviour to be flawed beyond any doubt in order to be considered terrorist-involved.

Equally in the Directive, there is the use of the phrase “duly reflected” meaning that something is shown in the right time.

In this Directive, any possible crime or attempt to commit a crime is mentioned as a “criminal conduct” so as to underline the connection between the action and the

violation of the law. Similarly, in the British Act, there are the terms “Obligations” and “Offences”, referring to the legal duties to act in a way against the laws.

Coming to an end of the Directive, it is definitely worth presenting the need to “actively prepare for the commission of terrorist offences”, placing particular emphasis for the person involved in terrorist actions and/or organizations to actually and actively prepare for doing so.

Moreover, two terms are mentioned: “In accordance with the treaties” and “enter into force”. Without these two, the Directive would not have been complete. The former is about following and/or obeying the European treaties and the latter is about the implementation of the Directive.

Finally, as far as the Counter- Terrorism and Security act is concerned, it is worth analysing the terms “revoke”, “annulment” and “interpretation”. The term “revoke” is about officially ending an act or a law, the term “annulment” is the official announcement of its ending. Most important, however, is the term “interpretation”. The ways a law or an act can be interpreted are various and for this reason, in order to be done correctly, this term and a whole section is included in the Act. Similarly, to the Directive, without this last part, the Act would not have been complete. It is also essential to mention the term “Come into force” which is almost identical to the term “enter into force” existing in the Directive and is about the implementation of the Act.

4.3 Presenting the results

Having presented the similarities and differences, an overall conclusion will be made.

In the directive of the Union, passive voice and noun clauses are thoroughly used. Moreover, general directions on what the Member States have to do to deal with the issue of terrorism are mentioned.

It is also noticeable that there is a difference in the context of the directive compared to that of the British Act. The Directive is more generally designed due to its general nature. The Directives are more like guidelines given to the Member States.

On the contrary, the Counter- Terrorism and Security Act is an actual legislative text providing specific details of what the United Kingdom will do in the aforementioned circumstances aiming at tackling terrorist phenomena. Moreover, in the Counter- Terrorism and Security Act, actual tackling measures are mentioned.

On a second level, in both texts, modal verbs, passive voice, noun phrases are used so as to provide the necessary sense of formality that is expected of such legal texts.

Overall, both texts are similar both in context and the linguistic means they use to present the required information.

4.4 Summary of the Chapter and Concluding Remarks

In this chapter, the definition of particular terms was presented. Then, a comparative analysis was made to come to a conclusion. In view of these results, an overall conclusion was drawn, and a summary was made. Both texts are equally important albeit their differences for both legal frameworks in the European Union and the United Kingdom.

The results have made this study both ideal and fertile for the subsequent discussion of the research questions and hypothesis which will be presented in the following chapter (Chapter 5).

Chapter Five

Discussion and Conclusion

5.0 Introduction

The purpose of this study is to present significant information on how the legal language is used in the European Union and the British legislation. A clear-cut comparison was made regarding terms, after having provided the necessary definitions. Two texts were selected to function as a basis for this analysis in order to present both the similarities and the differences of a directive of the European Union and an Act of the United Kingdom. This purpose was fulfilled with the help of three research questions and a key hypothesis in Chapter One (see Section 1.1). The findings have shed some light and provided answers to the research questions and refuted the initial directional hypothesis. In this chapter, a discussion referring to the findings is given; then the significance of the findings is presented along with some practical implications. Then, the limitations of the study are put forward, following a number of suggestions for further research. Lastly, this chapter ends with a final conclusion.

5.1 Discussion

In this part a discussion of the results is presented. This part focuses exclusively on the research questions and the hypothesis.

5.1.1 Discussion of Research Question 1

The first research question presented in this study is the following: “How is legal language used in European Union law?”. The findings affirm that legal language is a crucial element in the way legal documents such as directives or regulations are created. According to the official website of the European Union, “A "directive" is a legislative

act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals”¹⁹ In general, directives should be incorporated to the national legislation body of each Member State. In the directive 2017/541 of the European Parliament and of the Council on combating terrorism and replacing Council Framework Decision 2002/475/JHA on combating terrorism and amending Council Decision 2005/671/JHA, particular instances were presented in order to understand the functioning of the legal language in depth. Through the definitions of these instances, it became evident that modal verbs, noun phrases and passive voice are essential linguistic elements as far as legal language is concerned. The directive is full of nouns, participles and gerunds, too. In it, there are also terms that allow the understanding of a European citizen in order to fully comprehend their meaning. Such terms are the “interception of communication” and the “cross-border nature”. Based on the definition given in Chapter One, that is “a peculiar, special kind of language used in the body of rules which a particular State or community recognizes as governing the action of its members”, legal language in the European Union can be defined with the aforementioned way. For this reason, legal language in the European system is of highest significance. Although it can be difficult for a common citizen to understand it sometimes, without it, the directives and the other legislative acts of the Union would not have been complete. Lastly, it is worth mentioning that because of this difficulty and the wish of the Union to make the acts easy for the citizens to understand them, in the Directive, many definitions of the presumed as unknown terms are provided.

5.1.2 Discussion of Research Question 2

As far as the second research question is concerned “How is legal language used in British law?” the definition of the legal language is the same. The findings of the study clarify the importance of this kind of language in the British legislative system. Several terms were selected in order to understand the way it is used as fully as possible. In the chosen Act, which is a very crucial act to the United Kingdom, many modal verbs, participles, gerunds and nouns are used. Equally, passive voice is preferred and

¹⁹ https://europa.eu/european-union/eu-law/legal-acts_en#directives

phrasal verbs are presented alike. The British Act is far more detailed and more definitions are given, so as to make it more comprehensible for the average citizen of the United Kingdom who does not have complex legal knowledge. Examples of difficult terms to understand are the “authority-to-carry scheme”, the “annulment” and the “right of abode”. Through the presentation and the definitions given in the previous Chapter (see Section 4.1), a better understanding of the linguistic elements was achieved. It is also worth mentioning that legal language is similarly used in the British legislation and its importance is underpinned by every selected phrase. Just like the directive, the Counter- Terrorism and Security Act of 2015 has a specific form and structure.

5.1.3 Discussion of Research Question 3

Finally, regarding the third and most crucial research question of this study “What are the differences between the way legal language is used in European Union law and British law?” the data collected through the comparison analysis of the 22 selected terms in the previous Chapter indicate the way this particular type of language is used in these two official documents. There are some differences mainly in terms of context, since the Directive is more of a general guideline whereas the Act is specific-oriented to tackle the issue of **terrorism**. Moreover, it should be mentioned that there are different nouns used in the two texts. For example, in the British Act the word “imposition” referring to the introduction of a new law or a new legal system is used, whereas in the Directive the term “transposition” is used. These terms are similar with their key difference being the prefix. In the Act, the term is about enforcing a new law or legal system where in the Directive it has the meaning of incorporating something into something else. Another interesting aspect is the use of adverbial particles, “obviously flawed” and “duly reflected” in the Act and the Directive respectively. They both refer to show exactly what a behaviour is about. Similarly, the key element of both texts is terrorism. Once again, even if the context is almost identical, the way it is presented differs. In the British Act, the definition is far more extensive and detailed, whereas in the Directive, it is more general. Overall, the differences between the two texts are mostly about the chosen words and the extend a term is defined. That is, in the

Counter- Terrorism and Security Act of 2015, more details are given not only regarding what the given terms are about but also regarding the way the necessary measures will be implemented and for what reasons. On the contrary, in the Directive 2017/541, far less details are provided and it is smaller in size. Moreover, fewer terms are defined since more are considered known to the European citizens.

5.1.4 Discussion of Hypothesis

In the first Chapter the following directorial hypothesis was put forward: “is that the legal language used in both the European Union and the British Legislation does not have any differences.” Based on the aforementioned analysis, it is clear that the results do not support it. On the contrary, the hypothesis was refuted and the legal language used in both the European Union and the British Legislation does indeed have some differences.

The research findings may lead to assuming that the legal language used in both the European Union and the British legislation are mostly similar, however, this is not entirely the case.

5.2 Importance of Findings and Practical Implications

The results of this research contribute to the knowledge of the Legal Language within the framework of a globalized world where the European Union and the United Kingdom are and continue to be important parts. While the findings cannot be absolute, the information presented here, has given an indication of some frequently met terms and have provided their definitions, while at the same time, have quite proven the differences and similarities between the legal language used in the European Union and the United Kingdom. Because of the focus of this study on the legal language and the system behind it, it is quite unique as no other study to this date has explored the

relationship between two different legal systems and how this is depicted in their official legal documents. This study has clarified to some extent the diverse field of legal language and its similarities and differences of a broader one, the one of the European Union and a narrower one, the one of the United Kingdom. Therefore, scholars and journalists may wish to use the data presented here to further dig deeper in the way legal language is formed and used in various countries or organisations.

This study also provides fertile ground for some implications. First of all, the findings put forward here can be used to better understand the similarities between the European union and its Member States. At the same time, the ground is set for a broader comparison between the language used in the directives or the regulations or the decisions of the European Union and other legal documents of the Member States. By providing the example of the comparison between the United Kingdom and the European Union and using the English language as a basis, more and more research could be conducted to further investigate the ways law interacts with everyday life.

Finally, this study could function as a new aspect for more developed research to be conducted and as a result to prove that similarities even in linguistic terms overall outweigh the differences between the Member States. It will probably meet the need for this globalized world to be more united instead of divided.

5.3 Limitations of the study

Any new research conducted has its limitations. As a result, attention is always necessary when making generalisations or drawing conclusions from specific observations put forward here on the grounds of the aforementioned results. Generalisations are not really the target of this study.

Another issue worth underlining is that comparing such texts is at least difficult and cannot always be correct. Additionally, the terms and their definitions presented here were selected according to similarities in meaning in order to be compared and contrasted as well as possible.

Lastly, not all terms could be presented here since the extent of this dissertation would have been outreached and a proper conclusion would not have been made.

5.4 Directions for further research

Various issues emerging from this study can be investigated in the future and therefore, some suggestions for directions for further study are presented here. Legal language is a complex type of language. However, every citizen should be able to understand, since it is an essential part of his/her life. In general, law is present everywhere and as a result, more and more people should be capable of comprehending the legal documents. For this reason, here are some suggestions about further investigation, which can lead to the provision of a new perspective in linguistics and to the improvement of the ability to understand difficult terms.

First of all, more comparative studies between not only the European Union and its Member States but also on a globalized level may be carried out. Collecting more and more data and comparing more and more legislative acts could offer a deeper understanding of the similarities of the legal systems around the world and could ease the travelling between countries.

A further recommendation has to do with the comparison of legal systems around the world. The way they are developed and the reasons behind their differences. Such a study would cast more light on the difficulty to adapt and get to know the new legal system when immigrating.

Another suggestion is to carry out a study comparing the origin of legal terms and their evolution in time. As a result, more and more people would understand the linguistic importance of these terms.

The relationship between the UK and the EU after Brexit takes place could also be further investigated. Apart from the transition phase between the two which takes place in 2020, what will happen after 2021 is a crucial issue. The means through which the laws and the relationship between the two will continue is a heated debate. It should also be further investigated in relation to Scotland and Northern Ireland and their legal systems.

In any case, the line of enquiry is expected to remain a priority since legal systems and legal language are present in every aspect of modern life in every country. Scholarship should also be constantly re-examining and considering major issues such as the ability for the average European citizen to understand the legal documents originating from the Union.

5.5 Conclusion

Technology evolves every day and as a result, more and more people have access to the legal documents of their country and the European Union via the Internet. However, the amount of people who can practically understand what all these documents are about is rather limited.

The language used in official documents is rather difficult to understand and formal for people to be interested. For this reason, less and less people have a minimum knowledge of their rights as European citizens or know how the legal documents of the Union are incorporated in the national legislation body of their country.

Nonetheless, as everything develops, so does the ability of people to learn and understand more about the ways law and legal language is present in their lives on a daily basis. It appears that the need to comprehend and stay informed about what goes on in the legal systems is crucial in the modern world.

Both the European Union and the United Kingdom are essentially and equally significant parts in the modern Western world. The decisions taken and the laws produced in both of them function as a basis for the rest of the other countries. Being able to understand how a legal system works, how a law is drafted and implemented is not only fascinating but also important since law is a necessary aspect of every modern society.

By comparing and contrasting, by noticing that is, the way two different legal systems interact through the legal terms they use in their official documents is deemed completely significant. As a result, people need to widen their horizons in order to better understand the legal systems around them. Moreover, it is hoped that the basis for further investigation and exploration of the complex dynamics of the legal language has been provided and that the following researchers will be assisted by this dissertation.

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Appendix

Appendix 1

Here are the links for the documents used in this Dissertation:

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