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ERC-SG

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Law and Language at the European Court of Justice (LLECJ)

This project examines the production of the multilingual jurisprudence of the Court of Justice of the European Union (ECJ). It is generally accepted that the development of a rule of law within the EU is due in a large part to the judicial pronouncements of that Court. Based on the theoretical assumption that a linguistically 'hybrid' community, such as that of the ECJ, functions primarily through language interplays, negotiations and exchanges; and that the 'process' within any institution will necessarily affect its 'output', the development of an EU rule of law will necessarily be affected by the artificial and hybrid language of the ECJ. The project is situated on the threshold between legal anthropology, linguistic theories and linguistic semiotics. EU law, and in particular the jurisprudence of the ECJ, is coded in language, and the concepts that are used to construct that law are accessible only through language. By clarifying the ways in which *language* plays a key role in determining judicial outcomes, the project aims to challenge EU scholarship to look beyond more conventional approaches to the development of a rule of law which draw on law alone.

The project is divided into three inter-connected sub-projects: the first investigates the nature and limitations of a multilingual legal system by analysing the process behind the production of the ECJ's multilingual jurisprudence; the second analyses the development of a *de facto* precedent in ECJ judgments where, in theory, none should exist; and the third explores the significance of the linguistic aspect of the role of the Advocate General at the ECJ. The research carried out to date has focused on the first and second sub-projects.

Achieving the aims of the LLECJ project involves adopting a novel interdisciplinary approach. The project uses a range of methodological tools from disciplines such as law, linguistics and anthropology. This interdisciplinary approach has allowed the LLECJ team to develop a 'holistic' understanding of the development of concepts and theories across a number of fields and disciplines. This in turn has allowed the team to explore connections between ideas across those diverse fields and to develop a more nuanced understand of how EU law develops.

On the basis of ethnographic fieldwork research, linguistic and analytical work already conducted, the LLECJ team has been able to develop a theory of 'linguistic cultural compromise' in the production of ECJ case law. That linguistic cultural compromise exercises a formative influence on the working of the ECJ and on the character of its 'output', i.e. its jurisprudence.

The LLECJ team has also demonstrated that the judgments of the ECJ are hybrid documents, consisting of a blend of linguistic and cultural patterns, constrained by a rigid formulaic drafting style and put through many different permutations of translation. Furthermore, using corpus linguistic techniques (comparing a multilingual corpus of 1400 *acquis communautaire* judgments with large corpora from member state constitutional and supreme court judgments), the LLECJ team has for the first time systematically demonstrated the existence of an EU legal language, which derives from French and exists in 24 linguistic forms.

The LLECJ project has to date produced a number of outputs, including articles in international peer-reviewed journals and edited volumes (see further details on the project website: www.LLECJ.karenmcauliffe.com), and the research findings thus far have been widely disseminated to academic and public audiences. Planning is currently underway for an interdisciplinary workshop on '*Precedent in EU Law: The Linguistic Aspect*', which will bring together scholars from the fields of linguistics and law, as well as law practitioners and translators, to consider to what extent language may affect a *de facto* precedent in the judgments of the ECJ.