

Decision of the European Ombudsman closing the inquiry into complaint 861/2012/(RA)FOR against the European Parliament

Decision

Case 861/2012/FOR - **Opened on** 07/05/2012 - **Recommendation on** 31/07/2013 -

Decision on 21/05/2014 - **Institution concerned** European Parliament (Draft recommendation accepted by the institution) |

The background to the complaint

1. This complaint concerns the use of Irish on the website of the European Parliament. It was submitted by an Irish citizen on behalf of Stádas, an organisation which seeks to promote the status of the Irish language in the European Union. According to the complainant, Parliament has failed, since 1 January 2007 when Irish was granted the status of official and working language of the EU [1] , to make its home page and other relevant pages on its website available in Irish. The complainant argued that, by not making these pages available in Irish, Parliament is acting illegally.

2. The complainant raised these issues in a series of letters and e-mails to Parliament's President and Secretary-General, between January 2011 and March 2012. He claimed that, with one exception, Parliament failed to reply to this correspondence and that the one reply he received was not satisfactory.

The subject matter of the inquiry

3. The complainant alleged that:

(i) Parliament is failing to make Irish available on its website in an adequate and proportionate way.

(ii) With one exception, Parliament failed to reply to the letters he sent between January 2011 and March 2012.

4. The complainant claimed that:



(i) Parliament should ensure adequate and proportionate use of Irish on its website. At a minimum, it should ensure that any sections where the citizen is invited to interact with Parliament are made available in Irish.

(ii) Parliament should apologise to him for failing to reply to the letters he sent between January 2011 and March 2012.

5. In his observations on Parliament's opinion in this case, the complainant raised, what he considers to be, a problem in relation to Parliament's Information Office in Dublin. He pointed out that the Office has six windows at street level. In each of these windows there is a permanent sign with the text "European Parliament" in English, and a poster in English on the structure of Parliament. In the complainant's view, this display demonstrates the ideological position of Parliament on the official languages of Ireland.

6. The Ombudsman notes that the complainant did not raise this issue in his complaint to the Ombudsman and, as such, it falls outside the scope of the present inquiry. Should the complainant wish to pursue the matter, he should first contact Parliament concerning this issue.

The inquiry

7. The complaint was submitted to the Ombudsman on 25 and 27 April 2012. Parliament was invited to submit an opinion on the case, which it did on 24 October 2012. In his letter to Parliament asking it to submit an opinion, the then Ombudsman put a series of questions to it, as follows:

-Article 21 of the Charter of Fundamental Rights prohibits discrimination on the grounds of language. While a difference in treatment may be permitted, there must be a reasonable and objective justification for it, and it must comply with the principle of proportionality. Could Parliament explain how its policy of not making Irish available on its website at all can be reconciled with these considerations? In responding to this question, could Parliament also bear the following two points in mind: (i) it is the body that directly represents citizens in the Union; (ii) a citizen's ability to fully exercise certain fundamental rights, including the right to petition Parliament, is at stake?

-Parliament appears to suggest that the temporary derogation most recently provided for in Council Regulation 1257/2010 constitutes the legal basis for its practice of not using Irish on its website. Could Parliament explain what it has done to give effect to the commitment mentioned in Recital 3 in the preamble to Regulation 1257/2010, according to which "*[t]he institutions of the Union will continue to take steps to improve public access to information in Irish on the activities of the Union*"?

-In his decision in case 2413/2010/MHZ, the Ombudsman recalled his constant position [2] that good administration requires that, as far as possible, the institutions, bodies, offices and



agencies of the EU should provide information to citizens in their own languages. Could Parliament explain if it would be willing, at a minimum, to make the home page of its website available in Irish, and to explain its language policy thereon? In addition, would Parliament be willing, progressively and in accordance with a publicly available timetable, to make the relevant sections of its website, where citizens are invited to interact with Parliament, available in Irish?

-Finally, Parliament appears to argue that technical constraints prohibit it from making some sections of its website available in Irish. Mindful of the points highlighted in the first bullet point above, could it please elaborate on this argument?

8. On 31 July 2013 the Ombudsman made a draft recommendation to the European Parliament proposing that it take progressive steps to ensure adequate and proportionate use of Irish in its website. Parliament responded to the Draft Recommendation on 3 December 2013. On 30 January 2014 the complainant sent his observations.

The Ombudsman's analysis and conclusions

A. Allegation that Parliament is failing to make Irish available on its website in an adequate and proportionate way and related claim

Arguments presented to the Ombudsman

9. According to the complainant, Parliament has failed, since 1 January 2007 when Irish was granted the status of official and working language of the EU, to make its home page and other relevant pages on its website available in Irish. The complainant mentioned, in particular, Parliament's web pages relating to the submission of petitions and other parts of its website in which the public is invited to interact with the institution, for example, Parliament's Citizens' Enquiry Service and Parliament's Citizens' Agora. The complainant insisted that this violates a range of legal rules and principles, including the principle of equal treatment between official languages, the basic principle of non-discrimination, as well as Council Regulation 1/58 determining the languages to be used by the European Union (hereinafter 'Regulation No 1' [3]). The complainant contested Parliament's statement, in its letter to him dated 23 May 2011, that it is currently not obliged to publish its website in Irish due to the temporary derogation relating to the use of Irish that was agreed between the Irish government and the EU institutions [4]. The complainant argued that the derogation provided for in Article 2 of Council Regulation 920/2005 has nothing to do with Parliament's obligation to make Irish available on its website. Moreover, the same derogation applied to Maltese but Parliament made Maltese available on its website even when that derogation was in force. The complainant further argued that Recital 3 in the preamble to Council Regulation (EU) No 1257/2010 [5], which extended the aforementioned derogation, provides that "*[t]he institutions of the Union will continue to take steps to improve public access to information in Irish on the activities of the Union.*" The



complainant argued that, unlike the European Commission and the Council of the EU, Parliament has done nothing to implement this commitment.

10. The complainant further contested Parliament's assertion that it is its genuine commitment to multilingualism that makes it particularly difficult for it to make Irish available on its website. According to Parliament, the structure of Parliament's website that facilitates this multilingualism and that embraces an "*all or nothing*" approach, does not allow for Irish to be made available "*ad hoc*". The complainant insisted, in this regard, that if Parliament claims to be particularly advanced as far as multilingualism is concerned, it makes no sense for Irish not to be included on an equal basis. He pointed out that Parliament does not even list Irish as a language option.

11. Finally, in response to Parliament's statement in its letter to the complainant dated 23 May 2011, that it does not make its website available in Irish because of the transitional legal framework and for lack of resources, the complainant mentioned, in particular, Rules 146 and 147 [6] of Parliament's Rules of Procedure which, he said, are not applicable to Parliament's website.

12. In its opinion submitted to the Ombudsman in this case, Parliament made three main arguments: first, Parliament insisted that its overall commitment to multilingualism is profound. No other EU institution comes close to Parliament's practice of incorporating full multilingualism in its day-to-day operations. As far as communication activities are concerned, Parliament's main website incorporates multilingualism throughout the entire site, which means, at present, that there are 22 parallel sites which are normally available in full in the relevant language [7] . No other institution offers online multilingualism on this comprehensive a scale, it said. This commitment to multilingualism has developed as a result of the status of Parliament as, in the Ombudsman's words, "*the body that directly represents citizens in the Union*". By the same token, the present situation regarding Irish should not be attributed to a lack of will. Rather, objective difficulties and considerations exist in the case of Irish which do not pertain to other languages. As the legal framework acknowledges, there are specific challenges associated with Irish which every EU institution has made an effort to address in a pragmatic and appropriate way.

13. Second, Parliament argued that there is a serious shortage of suitably qualified staff in its secretariat to take on Irish language responsibilities. Given this shortage, Parliament's Bureau decided, on 16 June 2012, to prolong the derogation from Rule 147 [8] of Parliament's Rules of Procedure with respect to Irish until the end of 2012. It is, however, not for lack of effort that Parliament, or indeed other EU institutions, have been unable to recruit a body of staff sufficient to provide a full service in the Irish language. Any assertions to the contrary, namely, that "*plenty*" of individuals are available on the job market who are able to write in, or to translate into Irish, or to interpret in the language to a professional level are untrue. Suitable candidates must be willing to undergo selection procedures for posts in the EU institutions, and to succeed in these procedures. This means that candidates' language abilities must meet standards equivalent to those applied to other languages. Successful candidates must then be willing to take up posts and to be available to take them up. To date, recruiting Irish language staff has proved very difficult, despite numerous recruitment procedures and concrete efforts by



Parliament to assist the process, whereby suitable candidates can emerge from the Irish national system. This situation has been recognised in the extension of the temporary derogation provided for in Council Regulation (EU) No 1257/2010 applicable to the use of Irish, and means that Parliament, and the other EU institutions, have been obliged to establish priorities in this area. In order to respect the priorities laid down by Council Regulation (EC) No 920/2005 and Council Regulation (EU) No 1257/2010, Irish linguistic resources in Parliament have been allocated as a matter of priority to legislative and parliamentary business, namely, to the translation and legal-linguistic revision of legislative texts, including preparatory drafts and amendments, and to interpretation into and from Irish as requested during plenary sittings. Additionally, Parliament meets its formal obligation to respond to citizens' enquiries in Irish, when required.

14. Third, Parliament argued that, as far as its website is concerned, the fact that a website in Irish is being provided by Parliament's Information Office in Dublin is a clear message to the general public in Ireland about Parliament's commitment to the use of Irish.

15. By way of conclusion, Parliament stressed that it fully understands the despair of Irish speakers, not only because of the great amount of correspondence it has received on this issue but also because it shares the wish for the situation to be remedied as soon as possible. Present resource constraints on Parliament nevertheless mean that a pragmatic, progressive approach will be needed for a considerable time to come. Parliament reiterated its willingness to make progress on this issue. Specifically, it informed the Ombudsman that the Bureau of Parliament, the competent body in this matter, would reassess the situation with respect to the Irish language at the end of 2012. This review will determine possibilities open to Parliament in the area of communication, including online communication. Until the Bureau has concluded this review, no timetable for the introduction of Irish into specific sections of Parliament's main website can be settled, it said. Parliament undertook to keep the Ombudsman informed in this regard.

16. In his observations on Parliament's opinion, and specifically with regard to multilingualism, the complainant argued that making information available in 22 of the 23 official EU languages does not constitute full multilingualism. He pointed out that the websites of the two other principal EU institutions — the Commission and the Council — function in all of the EU's official languages, including Irish. The complainant further argued that the legal service of Parliament is aware that there is a legal duty on the institution to make the interactive pages of its website available in Irish, on the grounds that they are communications of the institution with the citizen.

17. In response to Parliament's argument about the shortage of staff, the complainant pointed out that his complaint concerns translation, and not interpretation. With regard to Parliament's reference to the transitional arrangement provided for in Rule 147 of its Rules of Procedure, the complainant reiterated his point that Rule 147 has nothing to do with Parliament's website. The complainant further insisted that the shortage of staff is Parliament's fault, as the latter refused to employ a sufficient number of translators from the panel of fully qualified translators which resulted from competition EPSO/AD/45/06, organized by the European Personnel Selection Office (EPSO) in 2006. Parliament subsequently failed to organise, through EPSO, any



competitions for Irish language translators between 2006 and 12 July 2012 when EPSO announced such a procedure. Moreover, the complainant pointed out that the Commission and the Council have found sufficient numbers of translators over the same period to make their websites available in Irish. Translation of parts of the website could also be contracted out, he said.

18. In relation to the extension of the temporary derogation, the complainant argued that there is no connection between Council Regulations (EC) No 920/2005 and (EU) No 1257/2010 and Parliament's duty to provide a website in Irish. The derogations provided for in these Regulations release the institutions from the requirement to draft acts, other than regulations jointly adopted by Parliament and Council, in Irish and to publish them in the *Official Journal*. They do not release the institutions from any other responsibility, should that exist by virtue of Regulation No 1, or because it derives from the principle of equality, from the principle of non-discrimination, or from any other Treaty or legislative source. In the complainant's view, Parliament's refusal to make its website available in Irish infringes Article 21 of the Charter of Fundamental Rights which prohibits discrimination on the basis of language. Moreover, the complainant disputed the argument that the regulations referred to by Parliament provide for the establishment of priorities. With regard to Parliament's point that it meets its formal obligation to respond to citizens' inquiries in Irish when required, the complainant recalled that, in his experience, it does not succeed in doing so in every case.

19. The complainant further argued that, while the website made available by Parliament's Information Office in Dublin is useful, it does not function in any way as a substitute for Parliament's website.

20. The complainant pointed out that Parliament did not deal at all with the Ombudsman's question relating to proportionality. It did not explain why it was not willing to make even its home page available in Irish. Nothing has been done by Parliament, he said, to implement the commitment made in Recital 3 of the preamble to Council Regulation (EU) No 1257/2010. While the complainant recognised that there are resource constraints, it is not acceptable that all of the resources made available to provide a Parliamentary website are spent on 22 of the 23 official languages, while Irish is excluded altogether.

21. Finally, the complainant referred to the judgment of the Court of Justice in case C-566/10 P, *Italy v Commission*, and specifically, to paragraph 67 thereof, which provides as follows: "... the working languages of the institutions are expressly referred to in Article 1 of Regulation No 1, and Article 6 of that regulation provides that the institutions of the [European Union] may stipulate in their rules of procedure which of the languages are to be used in specific cases". The complainant insisted that Parliament has not, on the basis of Article 6 of Regulation No 1, stipulated in its Rules of Procedure which working languages are to be used in the case of its website. Consequently, if Parliament chooses to exclude only one of the EU's official languages from its website, it is infringing Articles 1 and 6 of Regulation No 1.

The Ombudsman's assessment



Legal framework

22. Article 6 of Regulation 1/1958 provides that the EU institutions *may* stipulate in their rules of procedure which of the official and working languages are to be used in specific cases. It is thus entirely open to an institution to decide, in its rules of procedure, on a language regime for its website which would allow certain official languages to be used more frequently than other official languages.

23. Article 21 of the Charter of Fundamental Rights of the EU, however, prohibits "discrimination" on the grounds of language. Article 21 of the Charter of Fundamental Rights should not be understood as prohibiting discrimination *of* a language, but rather as prohibiting discrimination against any person on the grounds of a language that a person uses. Thus, if a person were to argue convincingly that a language regime were to disadvantage him or her, because, for example, it made the exercise by that person of rights granted to him or her more difficult or impossible, there would be at least a possibility that Article 21 of the Charter of Fundamental Rights would apply. However, a difference in treatment based on languages will not infringe Article 21 of the Charter of Fundamental Rights if there is a reasonable and objective justification for the difference in treatment based on languages, and that difference in treatment complies with the principle of proportionality.

24. The Ombudsman also noted that, according to Recital 3 in the preamble to Council Regulation (EU) No 1257/2010, " *[t]he institutions of the Union will continue to take steps to improve public access to information in Irish on the activities of the Union* ". It can therefore be argued that there is a certain obligation on the EU institutions to take concrete steps to *improve* public access to information in Irish concerning the activities of the Union. That obligation does not, however, establish any specific level of improvement that must be achieved in a specific time frame.

Principles of good administration

25. The Ombudsman noted his longstanding position [9] that good administration requires that, as far as possible, the institutions, bodies, offices and agencies of the EU should provide information to citizens in their own language. Specifically, where the EU institutions' external communication with citizens is concerned, it would be ideal that the material intended for such purposes be published in all official languages.

26. When the " *external communication* " is a means to facilitate citizens in exercising a fundamental right, such as the right to petition, or to otherwise interact with the institution that directly represents them, multilingualism becomes an essential precondition for the effective exercise of such democratic rights [10] .

27. With regard to these latter rights, the Treaty provides, in Article 20(2)(d) TFEU, for the right



to petition Parliament and to write to Parliament in one of the Treaty languages and to have an answer in the same language.

28. In its judgment in *Kik* [11], the Court of First Instance (now the General Court) held that Treaty references concerning the use of languages cannot be regarded as evidencing a general principle of Union law that confers on every citizen a right to have, in all circumstances, a version of anything that might affect his interests drawn up in his language [12]. It follows that there may be circumstances in which that right cannot be applied. They should, however, be limited and justified on each occasion [13]. In other words, unequal treatment is permitted where there is a reasonable and objective justification for it.

29. The question therefore arises as to whether the reasons provided by Parliament in this case are sufficient to justify not making any material available on its website in Irish. The Ombudsman noted that Parliament invoked (a) "*objective difficulties and considerations*" and "*specific challenges associated with Irish*"; (b) a shortage of staff; (c) the fact that the website of its Information Office in Dublin contains information in Irish; and (d) technical difficulties.

30. As regards technical difficulties, the Ombudsman noted that Parliament mentioned this aspect in its reply to the complainant dated 23 May 2011, but did not reiterate it in its opinion. Therefore, the Ombudsman considered that Parliament had abandoned this argument, and that it was not necessary to take a stance on it.

31. As regards "*objective difficulties and considerations*" and "*specific challenges associated with Irish*", the Ombudsman did not consider that these vague terms are sufficient to justify Parliament's policy of not making Irish available on its website at all.

32. Parliament further alluded to a shortage of staff. The Ombudsman noted, in this regard, that in Recital 3 of the preamble to Council Regulation (EU) No 1257/2010, the Council referred to the fact that "*there are still difficulties in recruiting a sufficient number of Irish-language translators, legal/linguistic experts, interpreters and assistants*". The Ombudsman found, therefore, that this could constitute a reason for not making the entirety of Parliament's website available in Irish.

33. In the decision in case 2413/2010/MHZ, the Ombudsman acknowledged that as the number of official languages in the EU had then increased to 23, there might indeed be some practical or financial reasons justifying that, in the short term, the entire content of EU websites is not always available in all EU languages. This is particularly true regarding information which, by its nature, needs constantly to be updated.

34. The Ombudsman recognised Parliament's immense efforts to make constantly updated information available on its website in a very significant number of EU official languages. The Ombudsman fully acknowledged Parliament's insistence that its overall commitment to multilingualism is profound. The Ombudsman agreed that no other EU institution comes close to Parliament's practice of incorporating full multilingualism in its day-to-day operations. Specifically, the Ombudsman noted that the sections on Parliament's website entitled "News",



"Plenary", "Committees" and "Delegations" appear to be regularly updated in 22 EU official languages. He noted that this commitment to multilingualism has developed as a result of the status of Parliament as the body that directly represents citizens in the Union.

35. The Ombudsman accepted Parliament's declaration that the present situation regarding the Irish language should not be attributed to a lack of will. Rather, objective difficulties and considerations do exist in the case of Irish which do not pertain to other languages. There are, the Ombudsman agreed, specific challenges associated with Irish. These difficulties, considerations, and specific challenges relate to the relative absence of suitably qualified staff to translate into Irish. He acknowledged that it could prove difficult to constantly update all information on Parliament's website in Irish.

36. However, the Ombudsman noted, the essential information provided "About Parliament" on Parliament's website does not appear to be subject to frequent changes. This section contains the sections of its website, where citizens are invited to interact with Parliament, including Parliament's Citizens' Enquiry Service and Parliament's Citizens' Agora, and the section concerning petitions. Moreover, the section entitled "MEPs" also appears to contain relatively stable content.

37. While it may be the case that it is not possible to ensure translation into Irish on a daily basis, Parliament could still ensure that at least basic information is provided on its website in Irish. More specifically, the Ombudsman found that provision of information in Irish "About Parliament", and in particular the sections therein where citizens are invited to interact with Parliament is important.

38. To the extent therefore that Parliament invoked reasons of staff shortages in order to support its position, the Ombudsman took the view that such considerations cannot suffice to entitle Parliament to disregard *completely* the status of Irish as an official EU language, unless the difficulties it would face by giving some effect to this reality are insurmountable. In the Ombudsman's view, Parliament did not establish that this is the case. In any event, even if this had been so, Parliament's reason for not translating anything into Irish in any section of its website is clearly disproportionate. As the complainant argued, all of the available resources should not be devoted to making 22 official languages available in their entirety and completely neglecting one official language. In the event that the available human resources are not available in-house, Parliament could, the Ombudsman noted, consider contracting out some of the work, as suggested by the complainant.

39. The Ombudsman noted that, if Parliament had availed itself of the opportunity to respond positively to the question the Ombudsman put in his opening letter about the provision of basic information in Irish, Parliament could have sent an important signal about how it respects those citizens that choose to use Irish when interacting with Parliament. In addition, translating at least the most relevant sections into Irish would require minimum efforts, in terms of costs and human resources. The Ombudsman took the view that Parliament did not give any serious consideration to this possibility. For the Ombudsman, the fact that Irish does not even feature as an option on Parliament's website sends the wrong signal to citizens.



40. Parliament's policy concerning the use of Irish in its correspondence with citizens could not, in the Ombudsman's view, eliminate the above negative consequences.

41. In light of the above, the Ombudsman considered that Parliament's justification, for not making at least some of the most relevant pages on its website available in Irish, was insufficient. In the Ombudsman's view, Parliament unjustifiably and disproportionately limited the use of Irish on its website, in that it did not make it available at all. This constituted an instance of maladministration.

42. Since the issue underpinning this complaint has clear general implications, and could be remedied for the future, the Ombudsman made the draft recommendation that Parliament should, progressively and in accordance with a publicly available timetable, ensure adequate and proportionate use of Irish on its website. At a minimum, Parliament should ensure that any sections, where the citizen is invited to interact with Parliament, are made available in Irish.

The arguments presented to the Ombudsman after his draft recommendation

43. In responding to the Ombudsman's draft recommendation, the President of Parliament stressed that he himself raised the issue of the use of Irish on Parliament's website during the Parliament's Bureau meeting of 10 June 2013. In that context, he had asked for Irish content to be introduced on Parliament's website. Since then, he stated, Parliament's administration has worked to estimate the work and resources needed and to draw up an implementation timetable, building on the experience acquired with the recent introduction of the Croatian version of the website. He stated that the issue is of great importance to the European Parliament and gave an assurance of Parliament's willingness and commitment to respect the Irish language statute.

44. In the above context, Parliament agreed to accept and implement the Ombudsman's draft recommendation. It stated that it would even go a step further as it intends not only to introduce some Irish content on the website, but to provide full navigation and all the static content in Irish.

45. However, not all working documents are available in Irish and this will remain unchanged. Linguistic substitution will apply wherever needed, i.e. English content will be provided if no Irish is available.

46. Parliament committed itself to the progressive introduction of Irish on its various online platforms. It put forward an implementation timetable which, however, would be qualified by technical constraints (translations, IT developments ...) as well as the availability of resources at a time when major efforts are required from the administration (and especially the communication services) for the European election campaign. The timetable involved the following steps:



Step one: integration of the Irish language on the EP Newshub.

The EP Newshub gives internet users access to original, unedited material produced by Parliament's members, political groups, President and news service. It provides an instant news service and is a key tool for information and communication professionals. The possibility to filter content in the Irish language is already implemented.

Status: already done and online

Step two: start of production of a stream of daily news content in Irish

The production of a stream of daily news content in Irish will start before the replication of the overall structure of Parliament's website into Irish - a technically complex operation that will require more time. Such a news flow will therefore be published on the micro-blogging platform Tumblr and on a dedicated Twitter account, as was done for the Croatian language before its integration on the Parliament's website on 1 July 2013. Implementation of this step will depend on the availability of human resources.

Timetable: before the end of 2013

Step three: opening of the 2014 European elections website in all official EU languages, including Irish.

This website will provide non-partisan information material related to next years' elections. It will be a key tool in the Parliament's online array for raising awareness of the European elections, containing news, background information, data sheets on all EU countries, electoral laws, information on European political parties and an extensive press kit. This new website is expected to attract a large audience. Its availability in Irish is considered a priority due to the closeness of the elections. It will be made possible (inter alia) by the presence of the above mentioned human resources. All the election campaign material that is currently being developed by the institution will also be made available in Irish (infographies, educational films, TV spot, web applications ...).

Timetable: to be opened on 1 December 2013

Step four: introduction of an Irish version of the European Parliament's website.

Parliament has decided to provide full navigation and the great majority of its content on its flagship website in Irish. The scope of this project, going beyond the Ombudsman's recommendations, represents a major technical operation that requires substantial time and resources. Furthermore, such a project cannot be implemented in a gradual way due to the Parliament's website structure and to the need to ensure consistency in the users' navigation. It has hence been decided to make the whole website available at once in Irish. This will include,:

- all navigation labels,



- all static content explaining the work of the European Parliament,
- all parts of the website where citizens are invited to interact with the Parliament: Citizens' Enquiry Service, Citizens' Agora ...,
- the website for mobile devices, and
- the editorial animation of the website (for example, news, press releases...)

Timetable: expected for 1 May 2014, ahead of the European elections

47. In his observations, the complainant stated that, overall, Parliament's plan complies with the requirements of the Ombudsman's draft recommendation. He added that its implementation, if conducted in accordance with the timetable given, will eliminate the instance of maladministration and satisfy his complaint. He noted that he had expected that Parliament would also include a description of the administrative and procedural aspects of the implementation, for example, the establishment of an Irish language web unit, the appointment of a head of unit, the recruitment and appointment of staff, and budgetary adjustment measures, and that a timetable in respect of these matters would be given which would describe what had already been implemented and what remained to be implemented. For lack of sufficient information, it can only be assumed that these matters are being administered effectively and efficiently.

48. The complainant noted that the fundamental outcome criterion will be the availability of Parliament's website in Irish on a satisfactory basis from 1 May 2014 onwards.

49. He also welcomed the decision of the European Parliament to make its entire website available in Irish in what appears to be a non-discriminatory manner from 1 May 2014.

50. As regards the substantive aspects of the opinion of Parliament, he noted that Parliament's intent not only to accept and implement the draft recommendation, but to go "a step further" and "provide not only certain material in Irish, but full browsing and all of the static content".

51. As to the comment of the President that not all working documents would be made available in Irish, it should be pointed out that a patently unreasonable request that such be done was never made. Websites in all of the official languages contain working documents in other languages, especially in the dominant languages - English, French, and German. However, it should be stated that the last sentence of the detailed opinion which reiterates that not all working documents would be available in Irish, and that documents not available in Irish would be supplied in English, entertains certain assumptions about the linguistic skills of Irish people. Moreover, some working documents are not available in English, and in fact there was one situation in Parliament when an official working document was available in Irish only.

52. With regard to Step one of the detailed opinion, the complainant noted that the Irish



language filter is there. There are as yet no Irish language messages on the website, but, he stated, he expects the provision of navigation from an Irish language website will facilitate the use of that language on this Parliamentary news hub.

53. Concerning Step two, due to be implemented by the end of 2013, the complainant noted that this step has not yet been implemented. The proviso that "Implementation of this step will depend on the availability of human resources" leads us back to the fundamental arguments of the complaint, and the assertion of the Ombudsman in paragraph 38 of the draft recommendation that "As the complainant argued, all of the available resources should not be devoted to making 22 official languages available in their entirety and completely neglecting one official language. In the event that the human resources are not available in-house, Parliament could consider contracting out some of the work, as suggested by the complainant."

54. The complainant welcomed wholeheartedly the successful introduction, as Step three of the process, of the 2014 European elections website in all of the official languages, including Irish, and sees this as a clear indicator of the serious intentions of Parliament in this matter.

55. The complainant welcomed the Step four commitment to make the whole website available in Irish by 1 May 2014. The implementation of this commitment will end the maladministration and satisfy the complaint. It will also satisfy the complainant.

56. The complainant thanked the European Ombudsman for protecting and vindicating his rights as a citizen, and the rights of the Irish language community to which he belongs.

The Ombudsman's assessment after his draft recommendation

57. The Ombudsman welcomes not only the detailed content of Parliament's response to the Ombudsman's draft recommendation, but also the very positive citizen-friendly tone of the response. The Ombudsman commends Parliament's implicit recognition that language rights are an important part of EU citizenship. The Ombudsman therefore closes this aspect of the complaint with the finding that the complainant's allegation has been settled by Parliament.

B. Allegation of failure to reply and related claim

Arguments presented to the Ombudsman

58. As a first step in this inquiry, the Ombudsman asked Parliament, on 7 May 2012, to reply to the complainant, addressing the concerns the latter had raised. On 8 May 2012, Parliament sent to the Ombudsman the reply it had sent to the complainant on 23 May 2011. The Ombudsman forwarded that reply to the complainant.



59. The complainant stated that he never received Parliament's reply of 23 May 2011, possibly because he had mentioned the wrong postcode in the relevant letter to Parliament. He also argued that, even if Parliament replied, in May 2011, to his letter of January 2011, it failed to reply to his other letters. The complainant further argued that Parliament's reply of 23 May 2011 failed to deal with his questions concerning the use of Irish, at least as far as submitting petitions and other interactive elements of Parliament's website are concerned.

60. The complainant argued in this regard that his rights under Article 20(2)(d) and 24 TFEU, Articles 41(1) and 41(4) of the Charter of Fundamental Rights of the EU, and Articles 13 and 14 of the European Code of Good Administrative Behaviour have been violated. In his view, Parliament should respond to him and apologise for having violated his fundamental rights.

61. In its opinion, Parliament confirmed that it had received nine letters and e-mails from the complainant. It acknowledged that it is duty-bound to reply to all correspondence from citizens and that its services endeavour to ensure this happens in an optimal manner. However, delays and omissions have occurred in this specific case, it said. Parliament expressed its regret and offered an apology.

62. In his observations, the complainant argued that Parliament provided no explanation as to how this failure to reply to him occurred. In his view, systematic discriminatory procedures are in place.

63. With regard to Parliament's apology, the complainant argued that it is unclear whether the apology is directed to the Ombudsman, to him, or to the general public. To the extent that it might be intended as an apology to him, he stated that it is unsatisfactory and unacceptable, and appears to be devoid of true regret. Any acceptable apology would, in his view, involve remedial measures. In this case, the obvious remedial action would be to reply to his letters in accordance with legal requirements and good administrative principles, expressing such apologies or regrets as might be appropriate.

The Ombudsman's assessment

64. The Ombudsman notes Parliament's acknowledgment that delays and omissions have occurred in this specific case. He further notes that Parliament has expressed its regret and offered an apology. The Ombudsman's view is that Parliament has acknowledged its mistake and apologised for it. There are there no grounds for further inquiries into this aspect of the complaint.

C. Conclusion

On the basis of her inquiry into this complaint, the Ombudsman closes it with the following conclusion:



The Draft recommendation on the first allegation and claim was accepted by Parliament

There are there no grounds for further inquiries into the second allegation and related claim.

The complainant and the Parliament will be informed of this decision.

Emily O'Reilly

Done in Strasbourg on 21 May 2014

[1] Council Regulation (EC) No 920/2005 of 13 June 2005 amending Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community and introducing temporary derogation measures from those Regulations accorded Irish the status of official language and working language of the institutions of the European Union with effect from 1 January 2007; OJ 2006 L 156, p.3. Regulation (EC) No 920/2005 provided that, for practical reasons and on a transitional basis, the EU institutions are not to be bound by the obligation to draft and translate all acts, including judgments of the Court of Justice, in the Irish language, with the exception of Regulations adopted jointly by the European Parliament and the Council.

[2] See the Ombudsman's decisions in cases 939/99/ME, 1146/2001/IP and his special report to the European Parliament following the draft recommendation to the Council of the European Union in case 1487/2005/GG, all available at www.ombudsman.europa.eu [Link]. See, also, more recently the Ombudsman's decisions in cases 2413/2010/MHZ and 640/2011/AN.

[3] Regulation 1/58 of the Council determining the languages to be used by the European Economic Community, OJ 1958 L 17 p. 385.

[4] See footnote 2 above.

[5] Council Regulation (EU) No 1257/2010 of 20 December 2010 extending the temporary derogation measures from Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community and Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community introduced by Regulation (EC) No 920/2005, OJ 2010 L 343, p. 5.

[6] These Rules are contained in Chapter 3 of Parliament's Rules of Procedure, which is entitled "General Rules on the Conduct of Sitings". Rule 146 is entitled 'Languages' and makes provision for "[a]ll documents of Parliament" to be drawn up in the official languages. It also contains the rules on interpretation. Rule 147 is entitled 'Transitional arrangement' and provides that derogations from Rule 146 shall be permissible if and to the extent that, despite adequate



precautions, interpreters or translators for an official language are not available in sufficient numbers.

[7] Parliament explained that there are limited exceptions for information explicitly targeting specialised or professional audiences.

[8] The Ombudsman understands that Parliament means to refer to Rule 146 of its Rules of Procedure, given that Rule 147 itself provides for the derogation in the form of a "Transitional arrangement".

[9] See footnote 3 above.

[10] In case 640/2011/AN, the Ombudsman made a similar statement in relation to European citizens' participation in the decision-making process. See paragraph 29 of that decision.

[11] Case T-120/99 *Kik v OHIM* [2001] ECR II-2235, paragraph 64. The Court of Justice upheld this judgment on appeal: Case C-361/01, *Kik v OHIM* [2003] ECR I-8283, paragraph 82.

[12] The General Court reiterated the above view in its most recent judgments in Case T-205/07 *Italy v Commission*, judgment of 3 February 2011, not yet published in the ECR, paragraph 50, and Joint Cases T-156/07 and T-232/07 *Spain v Commission*, judgment of 13 September 2010, not yet published in the ECR, paragraph 53.

[13] Opinion of Advocate-General Poiares Maduro in Case C-160/03, paragraph 38.