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Equivalence and discrepancies between different versions of the EU Constitution

Con il presente articolo si intende proporre una griglia di riferimento per un'analisi contrastiva delle differenti versioni linguistiche della Costituzione Europea, al fine di permetterne un'accurata indagine circa la natura e il valore dell'equivalenza e delle eventuali discrepanze osservabili. La proposta di una simile griglia diventa cruciale in considerazione della dinamica problematica tra la scelta della politica multilingue adottata dall'Unione Europea e la non coincidenza tra sistemi linguistici diversi. Da questa dialettica si è originato un fervido dibattito tra coloro che considerano il multilinguismo un ostacolo al costituirsi di un sistema giuridico comune per l'Europa (Braselmann 2002, Baron 2003) e chi, invece, è meno dubbioso circa questa possibilità.

Questo articolo si propone di elaborare parametri linguistici e pragmatici con i quali sia possibile, da un lato, definire livelli di equivalenza (Koller 1979, 1995) e, dall'altro, qualificare e quantificare le differenze osservate, evidenziando eventuali costanti di senso, in modo da fornire dati concreti e informazioni essenziali per una discussione più approfondita e meno pregiudiziale circa la possibilità di una felice traduzione multilingue della Costituzione Europea.

1. Multilingual language policy and translation

In 1958 the Council of Ministers of the European Economic Community adopted the 'multilingual language policy' (Council Regulation N 1 of 15 April 1958) in order to prevent or regulate possible language problems concerning the common system of law between Member States. The same policy, and for the same reason, is adopted today by the European Union (EU), amended and enlarged so as to account for all the 20 official languages of the 25 Member States. The multilingual policy establishes that regulations and other documents of general application shall be drafted in the 20 official languages, and that all the linguistic versions of such documents are 'authentic'. As a result, today there are 20 versions of the European Constitution (EC) to be ratified by the various Member States.

Under a linguistic and translational viewpoint, the question of the authenticity of the various linguistic versions – postulating their absolute semantic coincidence – is highly problematic, given the diversity (on a semantic, pragmatic and formal level) of any two linguistic systems. Every language has its own typical systematic (morphosyntactic and lexical) organization, and its own system of references and functions which is highly culture-specific. Thus, meaning can only problematically be transferred from one language to another, and from a source to a target culture, often being adapted, adjusted or even altered. The problem and risk envisioned by some scholars (Baron 2003, Braselmann 2002), dubious about the effectiveness of the multilingual language policy, is that of producing versions of the same text in the different official languages that – due to linguistic diversity and to the different juridical cultures – are possibly dissimilar from the original source and dissimilar among themselves, but still ‘authentic’.

The purpose of this paper is to provide sound linguistic criteria and a workable framework which – applied to a contrastive analysis of (any) two linguistic versions of the EC (in this case the English text and the Italian one) – makes it possible to list equivalences and main differences and, more characteristically, to quantify and qualify the nature of such differences and, ultimately, to visualise trends or patterns of reoccurrence, thus permitting an evaluation of the translation, that is, the ascertainment of whether each ‘authentic’ version of the EC has the same semantic value and a similar impact on its culture of reference.

2. Analytic tools

2.1. Levels of equivalence

When dealing with translation, the first requirement for a sound analysis is to have criteria for distinguishing between levels of salience to be recognized in the source and, consequently, to be found in the target text.

For this reason, we have based our study on Koller’s theory of translation (1979, 1992, 1995) and especially on the principle of equivalence between source and target text. Giving linguistic and pragmatic substance to the (otherwise simply commonsense) notion of equivalence

often claimed as the basis of any appropriate translation (Oettinger 1961, Lakoff 1965, 1970, Catford 1965, Nida / Taber 1974), Koller provides five 'equivalence frameworks' (1979) accounting for the following five equivalence conditions:

- at a denotative level (or dictionary level, D in the tables below): the target text indicates or transfers the same referent as in the source text;
- at a connotative level (C in the tables below): the target text reproduces the same connotation or semantic nuance as in the source;
- at a text-normative level (TN in the tables below): the target text follows and applies textual and linguistic norms which, for the target language and culture, have the same function and effectiveness as those used in the source text;¹
- at a pragmatic level (Pr in the tables below): the target text focuses on producing the same effect on the receiver of the target language and culture as the source text does with the receiver of the source language and culture;
- at a formal level (F): the target text maintains the aesthetic qualities of the source text (i.e., layout and structure, length, versification, patterns of sounds, rhyme scheme, etc.).

Necessarily, within the source text some of these levels are more salient as to the overall meaning than others, and an apt translation – after an appropriate weighing-up and the establishment of a hierarchy among them – should privilege those aspects over the others.

For the framework introduced below (2.3), we will use Koller's theory of level not only for the purpose of recognizing equivalences, but also, and significantly, to see at what level the most noticeable discrepancies are found.

2.2. *Relevant criteria*

The next step towards the definition of our framework is the establishment of parameters that allow a categorization of the differences according to their linguistic aspects and pragmatic status.

The set of relevant criteria that will be applied to our analysis is a

¹ Text-normativeness, in terms of Genre Analysis, is what accounts for the prototypicality (Swales 1990) of a text within a genre, and for the appropriateness of the linguistic and textual choices in relation to a genre of reference.

broadened version of the model outlined by Engberg (2004b) – to which this discussion is much indebted – which originally consisted of only four main categories, stressing differences between the source and the target text in:

- use of active vs. passive voice,
- choice of verbs,
- animation of inanimate subjects,
- differences in concepts.

For completeness' sake the model we present here is enlarged so as to encompass four general areas of discourse – nouns, verbs, modifying elements, and concepts or conceptualizations – all of which are further subdivided according to more specific parameters. In other words, our framework will analyse differences between the English and the Italian version of the EC found in:

- the noun area, and more specifically in:
 - noun choice (NC),
 - noun number (i.e., singular vs. plural) (NN),
 - animation of inanimate subjects (NA),
 - capitalization (CP),
 - phrase organization, or phraseology (PH) (accounting also for cases when noun or verb clusters are rendered either with a single noun or a single verb, and vice-versa);
- the verb area, and more specifically in:
 - verb choice (VC),
 - use of active vs. passive voice (VV),
 - verb tense (VT),
 - verbal modality (VM),
 - sentence structure, or syntax (SN) (accounting also for cases where gerundial or *-ing* forms are expressed by a relative clause);
- Modifying elements, and more specifically:
 - articles (ART),
 - adjectives (ADJ),
 - adverbs (ADV),
 - prepositions (PRP);
- Different concepts or conceptualizations (DC), accounting for those cases where the two versions vary in the use of metaphors or of different concepts altogether to express the same meaning.

2.3. Establishing a framework

Combining the principle of levels of equivalence and the relevant criteria outlined above (2.1, 2.2), in this section we introduce our framework, that later will be applied to a sample analysis of the Preamble to Part I of the EC² (Appendix 1) and of the Articles 1, 2 and 3 of Part I, Title I (Appendix 3). As we will see, this framework will enable us to visualize the variable and the reoccurring aspects within the differences, and it will also enable us to discuss them on a semantic level (3.1.3, 3.2.3) and to comment on the value of their reoccurrence (3.1.4, 3.2.4). The only limitation of our frame is that it cannot properly account for the purely formal aspects – visual presentation and overall rhetorical organization – of the two versions.³ For this reason, and for completeness' sake, before discussing semantics and recursiveness of the differences, we will introduce a brief section specifically devoted to the analysis of those aspects (3.1.2, 3.2.2).

The frame that we present here (Table 1) comprises 6 columns (excluding the very first, which is only for numeration purposes) that accommodate 1) the two different versions of the text in question (English vs. Italian), 2) the level of their equivalence (according to Koller's taxonomy), 3) the relevant criteria for defining their difference (according to the parameters in 2.2), 4) the level of their difference (after Koller's taxonomy); the two final columns will be devoted to the indexicalization of the linguistic aspects and pragmatic value of the difference noticed – respectively, 5) listing what is distinctive in the English version and is lost in the process of translation, and 6) listing what is distinctive and marked in the Italian version and is added in the process of translation.

As an operational choice, in Appendices 1 and 2 we introduce the full texts analysed, in both linguistic versions, numbering progressively all the instances that will then be listed in the table and commented upon in the following sections.

² The versions analysed here are taken from the draft dating 18.7.2003, published in the *Official Journal of the European Union* and in the *Gazzetta ufficiale dell'Unione Europea*.

³ However, given the statutory nature of the text in question, and the little significance that eminently formal aspects hold within this type of texts, we consider this limit to be only a minor and non-relevant flaw.

3. Sample analysis

3.1. Part I, Preamble vs. Parte I, Preambolo

3.1.1. The framework

English text vs. Italian text	Level of equivalence	Criteria of differentiation	Level of difference	Value of the difference: English	Value of the difference: Italian
1 Draft vs. Progetto	Pr	NC	C		+ goal
1a Draft vs. Progetto di	D	PRP	TN / F		+ textual cohesion
2 establishing vs. che istituisce	TN	SN	-	0	0
3 is called vs. si chiama	TN	VV	-	0	0
4 a democracy vs. democrazia	D	ART	-	0	0
5 of a minority vs. di pochi	D	NC	C	legal lexis	
6 of the greatest number vs. dei più	D	NC / PH	-	0	0
7 that has brought vs. portatore	Pr	SN / VT	C	+ time	
8 arriving vs. giunti	D	VT	-	0	0
9 from earliest times vs. dagli albori dell'umanità	D	PH / DC	C / TN		metaphor
10 have [...] developed vs. vi hanno [...] sviluppato	Pr	ADV	D / C		+ place
11 gradually vs. progressivamente	Pr	ADV	C		+ goal
12 underlying vs. che sono alla base	Pr / TN	VC / SN	C		+ necessity
13 humanism vs. umanesimo	Pr / F	NC / DC	D / C	appropriate lexis	vague lexis
14 persons vs. esseri umani	D / Pr	NC / PH	C	legal lexis	
15 respect for reason vs. rispetto della ragione	D	PRP	-	0	0
16 drawing inspiration vs. ispirandosi	D / TN	PH	-	0	0
17 inheritance vs. alle eredità	Pr	NN	-	0	0
18 still present vs. sempre presenti	Pr.	ADV	C	time: present + end	time: present - end
19 have embedded vs. hanno ancorato	Pr	VC / DC	F	metaphor	metaphor
20 human person vs. persona	D	ADJ	TN / F	redundance	
21 his or her [...] rights vs. suoi diritti	D	ADJ	TN / C	formality / political correctness	
22 respect for law vs. rispetto del diritto	D	PRP	-	0	0
23 believing vs. convinti	D / TN	VC / VT	-	0	0
24 reunited vs. ormai riunificata	D	ADV	C / Pr		+ process + time
25 continue along the path vs. proseguire questo percorso	D / Pr	PRP / DC	C	+ orientation	+ product / object
26 including vs. compresi	D	PH	-	0	0

27	deprived vs. bisognosi	D		NC		C		+ lack + agent	+ lack - agent
28	wishes vs. vuole	D		VC		C / Pr		optative / + orientation	performative / + goal + necessity
29	learning vs. sapere	D		NC		C		+ process	+ product
30	mature vs. carattere	D		NC		C		+ object / substance	- object / predominance
31	of its public life vs. della vita pubblica	D / Pr		ADJ		-		0	0
32	strive for vs. operare a favore	D		VC		C / Pr		+ effort	
33	solidarity through the world vs. solidarietà nel mondo	D		PRP		C		+ place (distribution)	
34	convinced vs. persuasi	D / Pr		VC		-		0	0
35	Convinced that, while remaining proud [...] vs. i popoli dell'Europa, pur restando fieri [...]	D / TN		SN		-		0	0
36	of their own [...] identities vs. della loro identità	D / Pr		ADJ / NN		-		0	0
37	determined vs. decisi	D		VC		-		0	0
38	even more closely vs. in modo sempre più stretto	D / TN		PH		-		0	0
39	forge a common destiny vs. forgiare il loro comune destino	D / Pr		ADJ / ART		C			+ object (quality)
40	this 'united in diversity' vs. 'unità nella diversità'	D / Pr		ADV		C		+ text specificity	
41	the best chance vs. le migliori possibilità	D		NN		C			+ object (quantity)
42	with due regard vs. nel rispetto	TN		ADJ		-		0	0
43	each individual vs. ciascuno	D / C		NC		TN		+ formality	
44	the great venture vs. la grande avventura	Pr / F		NC / DC		D / TN		appropriate lexis	vague lexis
45	area vs. spazio	D		NC		-		0	0
46	having prepared vs. aver elaborato	D		VC		C / Pr			+ effort
47	this Constitution vs. la presente Costituzione	D		ADJ		C / TN			+ text specificity / formality
48	having exchanged vs. dopo aver scambiato	D / Pr		SN		C			+ time
49	found vs. riconosciuti	D		VC		C / Pr			+ process
50	have agreed as follows vs. hanno convenuto le disposizioni che seguono	D / TN		SN / PH		-		0	0

Table 1: Analysis of the texts in Appendices 1 and 2.

3.1.2. Formal aspects

The most noticeable formal aspects of the text, not evincible from the table above, concern the following aspects:

3.1.2.1. Heading: Consider the two versions:

Draft	Progetto di
TREATY ESTABLISHING A CONSTITUTION FOR EUROPE	TRATTATO CHE ISTITUISCE UNA COSTITUZIONE PER L'EUROPA

As indicated in (1a) and (2) in Table 1, for the Italian version the noun *progetto* is syntactically and semantically related to the rest of the title by the preposition *di* (of), thus being an integral part of the whole text. The English version has the noun 'draft' visually, syntactically and semantically separate from the rest of the text, functioning as a simple indication as to the text's provisional status.

3.1.2.2. *Rhetorical organization*: After the headings, the Greek quotation and its translation, the text is organized in seven main paragraphs beginning as follows:

– Conscious that [...]	– Consapevoli che [...]
– Drawing inspiration from [...]	– Ispirandosi alle [...]
– Believing that [...]	– Convinti che [...]
– Convinced that [...]	– Persuasi che [...]
– Convinced that [...]	– Certi che [...]
– Grateful to [...]	– Riconoscenti ai [...]
– Who [...]	– I quali [...]
[...] have agreed as follows:	[...] hanno convenuto le disposizioni seguenti:

As we observe, in the English version the sequence of six paragraphs before the final relative clause is opened by an adjective (A), followed by two gerunds (G) and by two past participles (P), and closed by another adjective. It is possible to notice a sort of circularity and symmetry between such elements (AGGPPA). This impression is further confirmed by the anaphoric repetition of the participle "Convinced that"

(fourth and fifth paragraph), which is quite noticeable in the English version. In the Italian text, such a formal arrangement and the series of correspondences is not respected. In fact, the structure of the first six paragraphs opens with an adjective followed by a gerund and by four more adjectives, the former two derived from past participles and the last from a present participle. It is therefore hard to find correspondences with such a variety of elements. In addition, the anaphoric repetition of the past participle noted in the English version is here completely lost. This may be due to the fact that in Italian, in formal texts in general, variation is to be preferred over repetition.

3.1.2.3. Formal and semantic co-occurrence and co-references: In the English version the people of Europe are defined ‘inhabitants’ in two occurrences (first and third paragraph), when the stress is on their residing in the European territory, and ‘persons’ in two other occurrences (first and second paragraph), when the stress is on their being legal and juridical entities. In the Italian version only the occurrence of the noun *abitanti* (inhabitants) is repeated, whereas the co-occurrence of the noun ‘person’ is lost by the introduction of the cluster *esseri umani* (human beings, first paragraph). Another co-occurrence that in English is quite noticeable is the anaphoric repetition of the phrase “that it wishes to” in the third paragraph. In the Italian version the co-occurrence is lost: the English phrase is translated in two different ways, as *che vuole* (that wants) in the first case, and as *che desidera* (that desires, that wishes) in the second case. Here again, the choice of the translator may be justified as an attempt to minimize repetitions.

According to this analysis of the aesthetic and rhetorical elements, the conclusion which may be drawn is that the formal level of equivalence is the least respected in translation. In the hierarchical organization of the levels of salience, this is a reasonable and justifiable choice on the part of the translator, given the statutory – thus eminently pragmatic – character of the EC.

3.1.3. The semantic level

In this section we will discuss the most problematic choices made by the translator in a semantic perspective. As we can see, considering the

fourth column in Table 1, not all occurrences listed are in fact problematic and not all of them need discussion. As a matter of fact, we will not discuss all the instances marked ‘-’ in the fourth column (and ‘0’ in the fifth and sixth), all being legitimate linguistic choices justified on language-specific grounds: the translator uses phrases and sentences in a way that, though dissimilar from the original, are the sole or the most appropriate ones allowed by the target language system. The problematic cases are instead those where the two versions differ especially in denotation and pragmatic value, then in connotation, and finally in text-normative and formal aspects.

Below we list and comment on cases of relevant differences (indicated according to the numeration in Table 1):

(1) In the noun *progetto* used in the Italian version, the idea of a goal-oriented activity – aimed at attaining the constitution of something – is more marked than in the English noun ‘draft’, where emphasis is on the incompleteness and tentativeness of the object. Note that Italian allows for the proper translation of ‘draft’ (*bozza*), as in English the equivalent of Italian *progetto* is ‘project’.

(5) The English noun ‘minority’ has a political and juridical connotation, missing in the more generic Italian expression *di pochi* (of few (people)).

(7) The English expression “that has brought” has a clear reference to a specific time frame for the realization of the activity expressed by the verb, whereas the Italian noun *portatore* (bringer) lacks any reference to a chronological framework.

(9) The Italian *dagli albori dell’umanità* (since the dawning of humanity) is more rhetorically marked, belonging to a high register, the most appropriate to the text-normative requirements of formal texts in general, whereas the English “from earliest times” is from a lower register and has no rhetorical embellishment.

(10) The presence, in the Italian version, of the adverb *vi* (there) contextualizes and localizes the scope of the action expressed by the verb within the boundaries of the European territory, whereas in the English version there is no spatial limitation.

(11) The Italian adverb *progressivamente* (progressively, increasingly) has a goal-oriented connotation, whereas the English adverb ‘gradu-

ally’ conveys the idea of a process taking place by a series of small changes over a period of time, regardless of its orientation or finality.

(12) The Italian relative clause *che sono alla base* (which are at the basis) conveys the idea of the necessary and fundamental status of the object, whereas the English gerund “underlying” refers to the constant presence of the object, independently from its relevance or necessity.

(13) Despite the same etymological root, ‘humanism’ and *umanesimo* have a different semantic value, which might cause problematic interpretations. As a matter of fact, the English noun ‘humanism’, non-capitalized, refers primarily to “a system of beliefs that concentrates on common human needs and seeks ways of solving human problems based on reason” (OED 1948/1995: 582). The Italian noun *umanesimo*, instead, is mainly and commonly used to refer to a specific historical and cultural period of the fifteenth century in Italy, characterized by its focus on the possibilities and capabilities of human reason, and only seldom does it convey the same meaning as in English. Note also that capitalization to denote a specific period in history (i.e., the Renaissance, the Enlightenment, etc.), that would be an essential disambiguating element here, is not necessary in Italian. For this reason, to an Italian ear, this sentence may have a peculiar connotation: if in the English version values like “equality of person, freedom, respect for reason” are undoubtedly related to the humanist spirit of the peoples of Europe, in the Italian version they might also be related to the Humanist movement, thus connotating such ethical values as a direct inheritance of Italian culture. This reading would necessarily imply the fundamental role played by Italy as a source of civilization and its (almost parental) role for the birth of the modern European Union.

(14) The referent of the Italian noun *esseri umani* (human beings) is broader compared to the noun ‘person’ in the English version, which is more specific and limited in reference: for instance ‘person’ is hardly appropriate to refer to infants or small children, whereas ‘human beings’ has no connotation as to the quality (in this case, the age) of the denoted object.

(18) The English adverb ‘still’ is less broad in scope than the Italian *sempre* (always), referring to a period of time which includes the moment of reference but also connotes, if remotely, the possibility of the end of the process described.

(19) Both verbs, *hanno ancorato* and “have embedded”, convey the

same idea of fixing and securing something firmly and are used in a figurative sense, even if hinging on different systems of images. The difference between the two versions, in this case, is purely formal and both expressions have the same pragmatic value.

(20) The English 'human person' is redundant, and is rendered in Italian through the single noun *persona* (person). The reproduction of the adjective in Italian would have added emphasis to the expression, which is not relevant for the overall meaning of the text.

(21) Non-abusive forms, as the one in the case in point, are lost in Italian, as the possessive does not agree with the gender of the person (thus, 'his or her') but with the object. Similar instances of political correctness are hardly transferred in neo-Latin languages, reflecting the Italian adjectival reference system.

(24) The Italian adverb *ormai* (at last, finally) refers to a process within a time frame, realized after a long time span. This is missing in the English version.

(25) The main difference between the two versions lies in the fact that the Italian noun *percorso* (path) is the direct object of the verb *proseguire* (continue), whereas in English it is the indirect object. The different connotative value depends on the fact that in Italian the focus is on the 'path' as an object, as the result of a process, while in English the phrase 'along the path' has only a sense of orientation or movement in an already existing direction, along a 'path' already traced.

(27) The English adjective 'deprived', being of verbal derivation, points to the idea of an agent, whereas such a semantic possibility is missing in the Italian adjective *bisognosi* (needy, poor).

(28) In the case of this sentence the different connotation and pragmatic force is quite noticeable. In fact, the Italian verb *vuole* (wants) connotes a firm will and determination whereas the English 'wish' stresses desire.

(29) The Italian word *sapere* (knowledge) refers to the result or product of the process of learning, while English 'learning' relates more closely to the process.

(30) The Italian *carattere* (character, trend) connotes a set of features which are typical of an object or a state due to their predominance over others, while the English 'nature' connotes the substance, the ontological status of an object or state.

(32) The Italian choice of the expression *operare a favore* does not convey the precise meaning of the English ‘strive for’. In fact, in the Italian verb the stress is on the process and the goal of the activity described, while in English a specific emphasis is placed on the effort involved in the process. Thus, the Italian version refers simply to a goal-oriented activity, whereas in English a problematic and demanding process is highlighted, with an idea of greater effort and engagement.

(33) The difference between the two versions is slight and resides in the distributive character of the preposition ‘through’ (in every part) compared to the more generic sense of the expression *nel mondo* (in the world) in the Italian version.

(39) The Italian *forgiare il loro comune destino* (forge their own mutual destiny) is more specific and circumstantiated as to the quality of the object, which is closely linked to the agent (peoples of Europe) and more specifically identified by the use of the definite article and the possessive, whereas the English version, “forge a common destiny”, is more vague as to the specific character of the object.

(40) The difference here resides in the fact that the English version displays a text-specific reference through the adverb ‘thus’, which, placed before adjectives or participles, has the meaning of ‘as a result of what was previously stated’. This sense is completely missing in the Italian text, which simply uses quotation marks – too weak a punctuation sign to have the same connotative value.

(41) Here the Italian version is connotated as being more specific as to the quantity of the object, *le migliori possibilità* (the best possibilities), which may be many and different, whereas the English version, “the best chance”, in the singular, is more generic.

(43) The main difference here is in the register. The Italian pronoun *ciascuno* (each one) is rather common and an instance of everyday speech, while the English “each individual” is more marked and belongs to a more formal register, satisfying the text-normative requirements for formality in texts of a statutory kind.

(44) This is a rather problematic point. The English noun ‘venture’ conveys the meaning of a process involving some risk and effort, and may have the primary meaning of ‘enterprise’ but also the meaning of ‘adventure’. The Italian version privileges the latter, translating it precisely with the noun *avventura*. This way, if the English word sounds

appropriate to the overall meaning and register, the Italian lexical choice is noticeable for the vagueness of its referent and its lexematic inappropriateness within a statutory text.

(46) The Italian verb *aver elaborato* (having worked out) connotates a process involving some effort, unlike the English verb ‘having prepared’.

(47) The Italian version contains a text-specific reference, by the use of the adjective *presente* (present) referring to the text ‘in point’, to the text being read or written, or, more generally to an object being considered at the moment of speech or within the speech, whereas the English version uses the unmarked and more generic adjective ‘this’. The choice of such an adjective in Italian is justified on text-normative grounds.

(48) The Italian *dopo aver scambiato* has a specific past time reference, whereas the English version has no reference to a chronological framework.

(49) The Italian verb *riconosciuti* (recognized) implies a process involving some effort, whereas the English verb ‘found’ has no such connotation.

3.1.4. Comment

3.1.4.1. Preliminary remarks

Before discussing the constant elements evincible from the data collected within our frame, some general and preliminary observations can easily be made – by reference to the entries in the fifth and sixth columns in Table 1 – as to the nature of the various differences noted. In fact, we observe that the discrepancies between the two versions of the EC may be grouped:

- according to their varying level of *specificity* of:
 - *time*: when elements of the four discourse areas outlined in 2.2 – i.e., nouns, verbs, modifying elements and conceptualizations – in one of the language systems convey some reference to a specific time frame – like (7) (18) (24) (48);
 - *place / location*: where elements of the four discourse areas convey references to some spatial frame – like (10) (33);
 - *object*: when elements of the four discourse areas convey the idea of the specificity of some object by reference to its quantity or quality – like (39) (41);
 - *goal and/or orientation*: when elements of the four areas of dis-

- course convey the idea of finality or purpose – like (1) (11) and (28); by analogy, though not found in the text analysed, it is possible to hypothesize cases of *specificity of cause* and/or *origin* where the focus is on the source or provenance of an object or state;
- *text*: when elements of the four discourse areas, and more specifically adjectives and adverbs, refer to the text itself or to agents, objects, states and processes as they are described within and by the text – like (40) (47);
 - *field / domain*: when either version employs lexis which is typical of a given domain – like the instances of legal lexis in (5) (14);
 - *language*: when, as already noted (marked with ‘-’ in the fourth column), the use of elements of the four discourse areas are biased by the normative or usage requirements of the linguistic system – like (2) (3) (4) (6) etc.;
- according to their varying level of *emphasis* on:
- *process*: where elements of the four discourse areas stress the dynamic elements referred to an object or state – like (24) (29) (49);
 - *product / object*: where elements of the four discourse areas privilege references to the outcome of a process rather than the process itself – as in (25) and (29) in the Italian version;
 - *agent*: where elements of the four discourse areas refer to or imply the presence of an agent – like (27);
 - *effort*: where elements of the four discourse areas allude to the difficulty involved in a process – like (32) (46);
 - *necessity*: where elements of the four discourse areas allude to the unavoidability or to the fundamental quality of an object or state – like (12) (28);
- according to their *linguistic quality*, which may privilege:
- lexical *appropriateness* and *clarity* over *vagueness* and *opaqueness* – like (13) (44);
 - register *formality* or *rhetorical care* over *informality* and *everyday speech* – like (9) (20) (21) (43);
 - *figurativeness* and *metaphoricity* over *directness* – like (19) (9) (the latter also an instance of rhetorical care).

With the aid of the various categories outlined here, it will be easier to consider and comment on the quality of the differences listed in both tables (i.e., Table 1 and Table 2, below).

3.1.4.2. Differences

Through a quantitative calculation of the various occurrences in the columns of Table 1, it is possible to draw patterns of reoccurrence that may be significant and relevant (at least to some extent) for the overall meaning of the text. Below we will discuss separately the data in each column, before drawing some partial conclusions (3.1.5).

3.1.4.2.1. Level of equivalence: If we consider the second column of Table 1, the levels of equivalence privileged in the translation become evident. Within the 50 differences listed, we notice a predominance of the denotative level (38 occurrences, including mixed cases),⁴ followed by the pragmatic level (17 occ., i.m.c.) and the text-normative one (9 occ., i.m.c.). Very few are instead the instances of formal (2 occ., i.m.c.) and connotative equivalence (1 occ, m.c.). From this we may conclude that the Italian version, given the statutory nature of the text, is most accurate and scrupulous as to the referent expressed and the effect to be achieved on the receiver. Also noticeable is the text-normative care, whereas little relevance is given to purely formal aspects. The only instance of connotative equivalence – (43) – is a mixed case combined with the equivalence of denotation, and, on this basis, easily justified.

3.1.4.2.2. Criteria of differentiation. The differences, as listed in the third column of Table 1, refer in a similar and consistent way to the first three areas of discourse outlined in 2.2, that is, to:

- the *noun* area, with 19 occurrences, and respectively (i.m.c.):
 - 11 occ. for noun choice,
 - 3 occ. for noun number,
 - 7 occ. for phraseological organization;
- the *verb* area, with 16 occurrences, and respectively (i.m.c.):
 - 9 occ. for verb choice,
 - 3 occ. for verb tense,
 - 1 occ. for verb voice,
 - 6 occ. for syntactic organization;
- the *modifying elements* area, with 19 occurrences, and respectively (i.m.c.):

⁴ We define mixed cases those instances which fall into two or more different (sub)categories. Consider, for example, (12) in Table 1, which satisfies two levels of equivalence: pragmatic and text-normative. The phrase ‘including mixed cases’ is henceforth indicated as i.m.c.

- 7 occ. for adjectives,
- 5 occ. for adverbs,
- 5 occ. for prepositions,
- 2 occ. for articles.

The last area of discourse, concerning *different conceptualizations*, is less relevant in number with only 5 occurrences, two of which – (9) and (19) – are explained as being metaphors, thus using a different system of images than the one in the source text which is nonetheless instrumental to the transmission of the same meaning; one – (25) – is due to the introduction of a preposition which slightly modifies the concept in the original, but which is not relevant or problematic on a semantic level. The last pair of different conceptualizations – (13) and (44) – depend on a choice justifiable on etymological and phonetic grounds, but rather inappropriate and problematic on a semantic level, as already discussed in 3.1.3.

A noticeable trend observed at this point is that many of the discrepancies (20 out of 61, i.m.c.) depend on the *choice* either of the *verb* (9 cases, i.m.c.) or of the *noun* (11 cases, i.m.c.), thus entailing and explaining the high number of different connotations noted and listed in the third column.

3.1.4.2.3. Level of difference. Considering the fourth column in Table 1, we have an idea as to the level(s) at which the two versions of the EC differ most. Within the 50 instances listed, 20 are justified as being language specific and, for the reason expressed in 3.1.3, are not relevant. Of the remaining cases, 26 (i.m.c.) differ at a connotative level, 7 (i.m.c.) differ at a text-normative level, 5 (i.m.c.) at a pragmatic level, 3 (i.m.c.) at a formal level and 3 (i.m.c.) at a denotative level. As we observe, the differences at a denotative – (10) (13) (44) – and pragmatic level – (24) (28) (32) – are understandably few and are all rather problematic (see discussion in 3.1.). The number of differences occurring at the connotative level is also symptomatic: still maintaining the overall meaning (i.e., referent and pragmatic value) of the English version, the translation adds significant nuances to it. At this point of the analysis it possible to consider and account for all such connotative nuances.

3.1.4.2.4. Value of the differences: Synthesizing the data in the fifth and sixth columns of Table 1, we see that the different nuances of meaning depend on:

- instances of *specificity*:
 - of *goal*: no occ. in English, 3 occ. in Italian,
 - of *time*: 2 occ. in English, 2 occ. in Italian,
 - of *space*: no occ. in English, 1 occ. in Italian,
 - of *object*: 1 occ. in English, 3 occ. in Italian (i.m.c.),
 - of *field*: 2 occ. in English, no occ. in Italian;
- instances of *emphasis*:
 - on *process*: 1 occ. in English, 2 occ. in Italian,
 - on *product*: no occ. in English, 2 occ. in Italian,
 - on *agent*: 1 occ. in English, no occ. in Italian,
 - on *effort*: 1 occ. in English, 1 occ. in Italian,
 - on *necessity*: no occ. in English, 2 occ. in Italian;
- instances of *linguistic care*:
 - for *appropriateness* and *clarity*: 2 occ. in English, no occ. in Italian,
 - for *rhetoric* and *formality*: 4 occ. in English, 2 occ. in Italian,
 - for *figurativeness*: 1 occ. in English, 2 occ. in Italian.

As we can see, some entries – though few and far between – are nonetheless more frequent than others, thus indicative of some possibly meaningful trend. At this point, in consideration of what has been observed so far, it is possible to draw some conclusions as to the different nuances existing between the two versions of the EC.

3.1.5. Partial conclusions

The English version of the EC appears to be more concerned with language than the Italian version. The English text is more lexically accurate, because of the more field / domain specific lexis – see (5) (14) – and the more appropriate and less opaque lexical choices than the ones in the Italian translation – see (13) (44). In addition, formality, rhetorical and lexical care are well balanced and cohesively distributed throughout the text, which does not suffer from any abrupt and noticeable gap, as occasionally does the Italian version.⁵ On the other hand, the Italian version is more pragmatically and goal oriented: particular stress is given to the sense of finality, to goals to be achieved – see (1) (3) – and to the outcome of the processes described (or alluded to). (25) and (29) are symptomatic: where the stress in English is on the sense of orientation (the preposition ‘along’) and of process (the *-ing* form), the Italian text opts for nouns where the stress is on the object or product of such activities. Together

with the specificity of goal and of object, the sense of necessity is also connotated in the Italian, either through reference to some binding causal link – see (12) (see also its discussion in 3.1.3) or through the performative force of a verb – see (28) (see also its discussion in 3.1.3).

To conclude this section, it is possible to outline a synthesis of the history of Europe as differently connotated in the English and in the Italian versions of the Preamble. For the English text, the history of Europe has been (7) a slow movement (11) oriented (25) towards an end (i.e., civilization); the peoples of Europe have developed values which correspond to and are typical (12) of a particular system of values (13), and to which they have been (7) sensitive; the peoples of Europe are oriented – (25) (29) – towards goals which they desire (28) to realize. For the Italian text, the history of Europe is (7) a sequence of portions of time necessarily (12) linked and increasingly (11) building up and nurturing (25) a result (i.e., civilization); the peoples of Europe, within the boundaries of their territories (10) have developed values which have generated (12) a particular cultural movement / system of values (13), and to such values they are (7) and possibly will always (18) be sensitive; the peoples of Europe have specific objectives – (25) (29) (39) (41) – and are determined (28) to realize them.

3.2. *Articles 1, 2, 3 vs. Articoli 1, 2, 3*

To further test the effectiveness of our framework, we provide here another sample analysis. This decision is motivated by the fact that the Preamble to Part I, functioning as a general introduction to the body of the EC, is of a more descriptive and expository kind (Kinneavy 1980, Faigley / Meyer 1983, Trosborg 1997), simply sketching the history of Europe and introducing a general declaration of intents. Now we will apply the framework and the criteria outlined above (2.1, 2.2, 2.3) to discuss a sample of the eminently normative part of the EC – this being its most typical character – by the analysis of the first three Articles of Part I (cf. Appendices 3 and 4).

⁵ Consider, for example, (44), where the cohesiveness of a series of lexical choices suitable for a statutory text is disrupted by the introduction of the noun *avventura* (adventure) which is rather marked in this context; on account of its denotation and connotation, it would in fact be more appropriate within a literary or narrative context.

3.2.1. *The framework*

	English text vs. Italian text	Level of equivalence	Criteria of differentiation	Level of difference	Value of the difference: English	Value of the difference: Italian
Art. 1						
1	reflecting vs. ispirata	D	VC / VV	C		+ agent + necessity
2	this Constitution vs. la presente Costituzione	TN	ADJ	-	0	0
3	establishes vs. istituisce	D	VC	-	0	0
4	Member States vs. Stati membri	D / C	CP	-	0	0
5	objectives they have in common vs. obiettivi comuni	D / C	SN	-	0	0
6	shall coordinate vs. coordina	Pr / TN	VM	C	+ necessity + goal	
7	the policies by which the Member States aim to achieve vs. le politiche degli Stati membri dirette al conseguimento	D / C / Pr	SN	-	0	0
8	these objectives vs. tali obiettivi	D	ADJ	C		+ text specificity
9	shall exercise vs. esercita	Pr / TN	VM	C	+ necessity + goal	
10	in the community way vs. sul modello comunitario	D	PH	-	0	0
11	shall be open vs. è aperta	Pr / TN	VM	C	+ necessity + goal	
12	are committed vs. si impegnano	Pr	VC	C		+ process
13	together vs. congiuntamente	D	ADV	C		+ formality
Art. 2						
14	is founded vs. si fonda	Pr	VV	C		+ agent
15	values of respect for human dignity vs. valori della dignità umana	Pr / TN	PH		+ redundancy	
16	the rule of law vs. stato di diritto	Pr / TN	NC	-	0	0
17	society of pluralism vs. società fondata sul pluralismo	D	VC / ADJ	C		+ necessity + source
Art. 3						
18	The Union's aim vs. L'Unione si prefigge	Pr	SN	C		+ necessity + process

19	well-being vs. benessere	D	NC	-	0	0
20	shall offer vs. offre	Pr / TN	VM	C	+ necessity + goal	
21	area vs. spazio	D	NC	-	0	0
22	where vs. nel quale	D	SN	-	0	0
23	shall work vs. si adopera	Pr	VM / VC	C	+ necessity + goal	
24	balanced vs. equilibrata	D	VC	-	0	0
25	social market economy vs. economia sociale di mercato	D	PH		+ vagueness	
26	highly vs. fortemente	D / C	ADV	-	0	0
27	aiming vs. che mira	Pr	SN	-	0	0
28	employment vs. occupazione	D	NC	-	0	0
29	with a high level of vs. un elevato livello di	C	PRP	Pr		+ vagueness
30	protection vs. tutela	D / TN	NC	C		+ juridical lexis
31	It vs. L'Unione	D / TN	NC	C		+ formality
32	shall promote vs. promuove	Pr / TN	VM	C	+ necessity + goal	
33	It vs. -	TN / D	NC	-	0	0
34	shall combat vs. combatte	Pr / TN	VM	C	+ necessity + goal	
35	shall promote vs. promuove	Pr / TN	VM	C	+ necessity + goal	
36	equality vs. parità	Pr	NC / DC	C / D		+ object (quality)
37	protection vs. tutela	D / TN	NC	C		+ juridical lexis
38	children vs. minori	Pr / TN	NC / DC	C / D		+ juridical lexis + object (quality)
39	It vs. -	TN / D	NC	-	0	0
40	shall promote vs. promuove	Pr / TN	VM	C	+ necessity + goal	
41	The Union vs. -	TN / D	NC	-	0	0
42	shall respect vs. rispetta	Pr / TN	VM	C	+ necessity + goal	

43	its rich [...] diversity vs. la ricchezza della sua [...] diversità	D	PH	-	0	0
44	shall ensure vs. vigila	Pr / TN	VM	C	+ necessity + goal	
44a	ensure vs. vigila	Pr	VC	C	+ process	
45	that Europe's cultural heritage is safeguarded vs. alla salvaguardia [...] del patrimonio culturale [...]	D / Pr	SN / VV	C	+ agent	
45a	heritage vs. patrimonio	D	NC		+ origin / source	+ object
46	In its relations vs. nelle relazioni	D	ADJ	-	0	0
47	wider world vs. resto del mondo	D	PH	-	0	0
48	shall uphold vs. afferma	Pr / TN	VM	C	+ necessity + goal	
49	earth vs. Terra	D	CP	-	0	0
50	mutual vs. reciproco	D	ADJ	-	0	0
51	eradication vs. eliminazione	D	VC	C	+ source / origin	
52	children's rights vs. diritti dei minori	Pr / TN	NC / DC	C / D		+ juridical lexis + object (quality)
53	strict vs. rigorosa	D	ADJ	C		+ formality
54	including vs. in particolare	Pr				+ goal / orientation
55	United Nation Charter vs. Carta delle Nazioni Unite	D	NC / PH	-		
56	These objectives vs. Tali obiettivi	D / TN	ADJ	C		+ text
57	shall be pursued vs. sono perseguiti	Pr / TN	VM	C	+ necessity + goal	
58	by appropriate means vs. con i mezzi appropriati	D	ART	C		+ object
59	depending on the extent to which the relevant competences are attributed vs. in ragione delle competenze attribuite	Pr / TN	SN / PH	-	0	0
59a	relevant competences vs. competenze	Pr	ADJ	C	+ object (quality)	

Table 2: Analysis of the texts in Appendices 3 and 4.

3.2.2. Formal aspects

The rhetorical organization of the Italian version reflects the English version with no relevant variation. As to the co-occurrence of textual and semantic elements, mention should be made of the translation of the English noun ‘protection’: the four occurrences in the English text are rendered either literally (with the Italian noun *protezione*) or through the noun *tutela* – (30) (37). This choice is justified by the Italian tendency to avoid repetition and also by the fact that expressions like *tutela dei minori* (protection of children) and *tutela dell’ambiente* (protection of the environment) are more frequently used in and are appropriate to a legal register.

3.2.3. The semantic level

We shall start this section by noting that, as is evident in Table 2, many occurrences refer to the English use of the modal ‘shall’ – (6) (9) (11) (20) (23) (32) (34) (35) (40) (43) (44) (48) (57). This modal is typical of the legal register even to this day (Williams 2005: 115), and adds a prescriptive and deontic value to the verb (Gotti / Dossena 2001, Gotti 2003) – marked in the table as ‘+ necessity’ and ‘+goal’. In Italian such modality is rendered through the use of the present tense which, if not losing its performative value, is less marked and noticeable. After this general remark, meant to account for all the entries diverging because of the value of this modal, we can proceed to the discussion of each single instance of noticeable differences listed in Table 2.

(1) The Italian participle *ispirata* (inspired) adds causality between two objects or states, one of which justifies the coming into being of the other. No causality is implied by the English verb ‘reflect’.

(8) The Italian adjective *tali* (such) is text-specific and refers to objects or states previously introduced in the text (with implicit reference to the character and features previously attributed to them). The English adjective ‘these’, instead, is more generic.

(12) The use of the Italian verbal form *si impegnano* (commit themselves), in the present tense, stresses the dynamic aspect of the process, whereas the English past participle ‘committed’ has a less marked dynamic connotation.

(13) The Italian adverb *congiuntamente* is more formal and appropriate to a legal text, whereas the English ‘together’ belongs to everyday speech.

(14) The use of the passive voice in ‘is founded’ implies an agent, whereas such a possibility is lost in Italian, owing to the use of the reflexive verb *si fonda* (relies).

(15) The Italian version is more concise than the English, leaving out the noun ‘respect’ which is not salient, in that it is implicit in or recoverable from the verb phrase.

(16) The Italian version adds the past participle *fondata* (founded) to the English phrase, implying a necessary relationship between the two objects (i.e., pluralism and society).

(18) The use of the verbal form *si prefigge* (aims to) marks the dynamic aspect of the action described, and its function is performative, whereas this nuance is missing in the English text.

(25) In the English phrase, the relationship of interdependence between the elements is little determined, admitting the possibility of linking the adjective (‘social’) with either of the following nouns (‘market’ and ‘economy’). The Italian version operates a specific choice by associating the adjective *sociale* (social) with the noun *economia* (economy).

(29) Given the hypotactic nature of the long sentence in which the phrase in point belongs, the omission of the preposition in the Italian version is noticeable and renders this phrase difficult to contextualize, either syntactically or semantically. As the phrase is dependent on the verb *basato su* (based on), the repetition of the preposition *su* (on) would have made the series of syntactic relations between subordinate clauses more evident, as is the case in English.

(30) The Italian noun *tutela* is formal and most appropriate to a legal text (see 3.2.2).

(31) The repetition of the noun *Unione* (Union) in the Italian version, being redundant, may be justified as a formal and rhetorical choice.

(36) The concept expressed by the noun *parità* (parity, equivalence) does not correspond to the English ‘equality’, which eliminates any idea of difference. *Parità* does not exclude the idea of difference between two objects or states, but stresses the significant similarity between

them. Also, the noun *parità* is appropriate to a legal register and is most commonly used precisely to indicate equality between men and women.

(37) See (30).

(38) The Italian noun *minori* is more lexically and semantically accurate than the English noun 'children'. On the one hand, it belongs to legal lexis. On the other, it is more specific in scope, having as referent people up to the age of eighteen, whereas the noun 'children' has a more opaque meaning, at least as to the duration of such a state.

(45) The use of the passive verb 'is safeguarded' in English implies a possible agent, whereas the syntactically different construction in Italian eliminates this possibility.

(45a) The idea expressed by the English noun 'heritage' includes an implicit reference to the source / origin of what is inherited. The Italian noun *patrimonio* (property) puts emphasis on the quality / quantity of the object.

(51) The meaning of the English verb 'eradicate', by its etymology, is stronger than the verb *eliminare* (eliminate, remove) in the Italian version. It means to root out something completely, so that it cannot happen again. The reference of the verb in Italian is less marked.

(52) See (38).

(53) The Italian adjective *rigorosa* (rigorous) in the Italian version is more formal compared to the English adjective 'strict'.

(54) The Italian adverbial form *in particolare* (in particular) adds a specific sense of orientation or hierarchy to the more generic meaning of the English form 'including'.

(56) See (8).

(58) The definite article *i* added in the Italian version before the noun *mezzi* (means) better specifies the object, if only virtually,⁷ whereas the English version, without this article, has a more generic connotation.

(59) The adjective 'relevant' in the English version connotes the quality and kind of the object. The Italian version, not reproducing such adjective, is more generic as to the object.

⁷ By 'virtually' we intend that the specification introduced by the definite article is purely lexical, but semantically empty. That is to say, from a semantic point of view, the phrases *con i mezzi appropriati* (by the appropriate means') and *con mezzi appropriati* (by appropriate means) have the same meaning.

3.2.4. Comment

3.2.4.1. Differences

3.2.4.1.1. Level of equivalence: Of the 59 differences listed in Table 2, 34 (i.m.c.) maintain an equivalence of denotation with the English version, 28 (i.m.c.) of pragmatic value, 25 (i.m.c.) of text-normative aspects, 5 (i.m.c.) of connotation and none of formal aspects. The trend already observed in the discussion of the Preamble (3.1.4.) as to the privileged levels of equivalence is further confirmed in the analysis of the first three Articles of the EC. A particularly significant piece of information retrievable from Table 2 is the absence of formal / aesthetic aspects as parameters of equivalence. This is symptomatic of the switch between the introduction (i.e., the Preamble to the ‘law’, -normative) and the full body of the EC (i.e., Articles of the ‘law’, +normative), thus, aesthetic care is minimized and subordinated to meaning and pragmatic purposes.

3.2.4.1.2. Criteria of equivalence: Similarly to the case of the Preamble reported in Table 1, most differences are found in:

- the noun area, with 17 occurrences, respectively (i.m.c.):
 - 15 in noun choice,
 - 7 in phraseological organization;
- the verb area, with 24 occurrences, respectively (i.m.c.):
 - 8 in verb choice,
 - 13 in verb modality,
 - 3 in verb voice,
 - 5 in syntactical organization;
- in the modifying elements area, with 11 occurrences, respectively (i.m.c.):
 - 8 in adjectives,
 - 2 in adverbs,
 - 1 in articles,
 - 1 in preposition.

The area of different conceptualizations counts 3 occurrences.

As we can see, the distribution of the occurrences (and the predominance of cases of noun and verb choice) reflects the general trend noted in Table 1, with one major exception concerning the instances of verb

modality. As noted above (see also 3.2.3), this is due to the typical normative character of this part of the text, the prescriptive kind of which is best rendered through the use of the modal ‘shall’ (Gotti 2003). Also significant is the case of the different conceptualizations introduced in the Italian version – see (36) (38) (52) (54). As a matter of fact, if in the Preamble similar cases were either due to figurative language or semantic opaqueness – thus representing deviation from a direct and clear transmission of the meaning – here they are instead motivated by a scrupulous semantic care and meant for clarity and specificity purposes, even if meaningful information missing in the English source text (see discussion in 3.2.3) is added. This particular care towards the referent – rather than simply towards the translation of the reference as formulated in the source text – may be explained by the eminently performative character of legal texts (Austin 1962) within which “the wording of text is crucial” (Gotti 2003: 128) for its meaning.

3.2.4.1.3. Level of difference: Analysing the fourth column in Table 2, we observe that the main differences between the two versions of the text reside in the connotative aspects: in fact, 33 occurrences (i.m.c.) out of 59 cases observed differ in semantic nuances, 3 (i.m.c.) differ at a denotative level and 1 at the pragmatic level. As already noted, deviations in denotation and pragmatic value are noticeable and problematic (see discussion of (29) (36) (38) (52) in 3.2.3.), but are exceptions to the trend of prevalence of connotational differences (also reflecting the results in Table 1).

3.2.4.1.4. Value of the difference: Synthesizing the data collected in the fifth and sixth columns of Table 2, we see that the different connotations between the English and the Italian versions are related to:

- instances of *specificity*
 - of *goal / orientation*: 13 occ. in English, no occ. in Italian,
 - of *source / origin*: 2 occ. in English, no occ. in Italian,
 - of *object*: 1 occ. in English, 4 occ. in Italian,
 - of *field*: no occ. in English, 4 occ. in Italian,
 - of *text*: no occ. in English, 2 occ. in Italian,
 - of *time* and of *place* are not found in either language;
- instances of *emphasis*:
 - on *process*: 1 occ. in English, 1 occ. in Italian,

- on *agent*: no occ. in English, 2 occ. in Italian,
- on *necessity*: 13 occ. in English, 3 occ. in Italian,
- on *effort* and on *product* are not found in either language;
- instances of *linguistic care*:
 - for *appropriateness* / *clarity*: 1 occ. in English, 1 occ. in Italian,
 - for *rhetoric* and *formality*: 1 occ. in English, 3 occ. in Italian,
 - for *figurative language* are not found in either language.

3.2.5 *Partial conclusion*

From the observation of the data in the previous section it is possible to draw some conclusions as to the value of the difference between the two versions of the three Articles opening the EC. The most noticeable feature of the English version is the high frequency of nuances on orientation and necessity, which are all related to the repeated use of the modal ‘shall’. For this reason the English text has a more marked performative force. Another peculiarity of the English version – though not an actual trend – is represented by the indirect references made to (chronological, ontological or causal) sources / origins of objects or states, creating ideal patterns of coherence and continuity between different portions of time and place, on the one hand, and between causes and effects, on the other. For instance, according to what is stated in Article 3, positive things are ‘inherited’ from objects or states in the past – see (45) – whereas negative things must be ‘eradicated’, i.e., uprooted – (51).

The different connotations added by the Italian version are more dispersed but noticeable enough to conclude that the text is markedly concerned with formality – (13) (31) (53) – with the precision and appropriateness of language – (30) (37) (38) (52) – and with the transmission of information as consistently as possible with the referent. Unlike the English text, which privileges references to virtual links through time, space and logic, the Italian one tends to privilege more concrete references to processes – (12) (18) –, to their orientation – (54) – and to objects. Due to the need for clarity and specificity, in some cases the denoted object carries connotations adding extra information about its quality, quantity and relevance – see (36) (37) (38) (48) – even at the risk of altering the reference used in the English text.

4. Conclusion

With the data collected through our frame (synthesized in Tables 1 and 2), it is not impossible to predict the general pattern of equivalence (at the denotative, pragmatic and text-normative level) and of difference (at the connotative level) through the whole body of the English and Italian versions of the EC. With the results arrived at in the partial conclusions of each sample analysis (3.1.5 and 3.2.5), instead, it is not an easy task to envision what are going to be the most salient trends within the various categories of differences to characterize one version of the EC over the other. But the capability of predicting is certainly not the purpose of our framework, once we have proved that, applied to the analysis of the text, it is able to produce relevant information, otherwise hard to note, about differences and their relation to meaning.

In the context of the debate about the (im)possibility of an appropriate translation of legal texts (the EC, for one) on grounds of linguistic diversity and of different legal systems (Baron 2003, Smith 2003, Kjaer 2004, Engberg 2004b), we thought it useful to provide some workable analytic tools, combined in a general frame, for a contrastive analysis of (any) two versions of the EC through which to verify and quantify the degree of effectiveness of the translation in relation to the source text. Also, to minimize possible criticism based on grounds of the cultural, historical, local and social specificity of any legal system, we wanted to provide a framework that, if primarily based on linguistic and pragmatic criteria, leaves enough meaningful space to comment on and justify culture specific and field specific aspects (see (13) in 3.1.3 and (36) (37) (38) in 3.2.3 respectively).

For these reasons, organizing relevant criteria from the theory of translation (Koller 1979, 1995) and of the translation of legal texts (Engberg 2004a), we have elaborated a multifaceted general frame that allows us to consider any noticeable difference in translation, first, within its semantic context and, secondly, independently from it. The first step of our analysis has provided the tools to justify differences on some level of equivalence and also to ascertain what level of equivalence is least respected. Our results at this stage are sound enough criteria to evaluate the (degree of) effectiveness of the translation. The second step of our analysis, instead, has allowed us to abstract any difference from

its context and to compare it with other similar instances listed in the frame, so as to highlight possible patterns of occurrence and significant trends. In this way, we have derived the appropriate means to qualify and quantify what otherwise – through a superficial reading or a less articulated analysis – would be simply impressionistic observations. As a matter of fact, tested through a sample analysis of two different parts of the EC – the English and the Italian versions of the Preamble and of the first three Articles of Part 1 – our frame produced relevant information. We noticed trends of equivalence, primarily in denotation and pragmatic value and, secondarily, in text-normativeness and thus showed that the choices made were justified in consideration of the statutory type and performative character of the text. On the other hand, and significantly, we noticed that most differences concern connotative aspects. Among these, for instance, it is remarkable to observe the Italian tendency towards object specificity and emphasis on necessity (noted in the Preamble), and the trend revealing a marked linguistic care for formality, appropriateness and field specific lexis (in the first Articles of the EC).

On the basis of these results, we can claim that, within the debate on the possibility of translating legal texts, our framework may offer linguistic and pragmatic bases for observation, discussion and circumstantiated judgment.

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Appendix 1: English version of the Preamble to Part I

Draft (1/1a)
TREATY ESTABLISHING (2) A CONSTITUTION FOR EUROPE

PREAMBLE

Χρώπεξα γὰρ πολιτεία... καὶ ὄνομα μὲν διὰ τὸ μὴ ἐς
ὀλίγους ἀλλ' ἐς πλείονας οἰκεῖν δημοκρατία κέκληται.

*Our Constitution ... is called (3) a democracy (4) because power is in the hands
not of a minority (5) but of the greatest number (6).*

Thucydide II, 37

Conscious that Europe is a continent that has brought (7) forth civilisation; that
its inhabitants, arriving (8) in successive waves from earliest times (9), have
gradually (11) developed (10) the values underlying (12) humanism (13): equal-
ity of persons (14), freedom, respect for reason (15),

Drawing inspiration (16) from the cultural, religious and humanist inheritance
(17) of Europe, the values of which, still present (18) in its heritage, have em-
bedded (19) within the life of society the central role of the human person (20)
and his or her (21) inviolable and inalienable rights, and respect for law (22),

Believing (23) that reunited (24) Europe intends to continue along the path (25)
of civilisation, progress and prosperity, for the good of all its inhabitants, in-
cluding (26) the weakest and most deprived (27); that it wishes (28) to remain a
continent open to culture, learning (29) and social progress; and that it wishes to
deepen the democratic and transparent nature (30) of its public life (31), and to
strive for peace (32), justice and solidarity throughout the world (33),

Convinced (34) that, while remaining proud (35) of their own national identities
(36) and history, the peoples of Europe are determined (37) to transcend their an-
cient divisions and, united ever more closely (38), to forge a common destiny (39),

Convinced that, thus 'united in its diversity' (40), Europe offers them the best
chance (41) of pursuing, with due regard (42) for the rights of each individual
(43) and in awareness of their responsibilities towards future generations and the
Earth, the great venture (44) which makes of it a special area (45) of human hope,

Grateful to the members of the European Convention for having prepared (46)
this Constitution (47) on behalf of the citizens and States of Europe,

[Who, having exchanged (48) their full powers, found (49) in good and due
form, have agreed as follows (50):]

Appendix 2: Italian version of the Preamble to Part I

Progetto di (1/1a)

TRATTATO CHE ISTITUISCE (2) UNA COSTITUZIONE PER L'EUROPA

PREAMBOLO

Χρόπεξα γὰρ πολιτεία... καὶ ὄνομα μὲν διὰ τὸ μὴ ἔς
ὀλίγους ἄλλ' ἔς πλείονας οἰκεῖν δημοκρατία κέκληται.

*La nostra Costituzione ... si chiama (3) democrazia (4) perché il potere non è
nelle mani di pochi (5), ma dei più (6).*

Tucidide II, 37

Consapevoli che l'Europa è un continente portatore (7) di civiltà; che i suoi abitanti, giunti (8) in ondate successive fin dagli albori dell'umanità (9), vi (10) hanno progressivamente (11) sviluppato i valori che sono alla base (12) dell'umanesimo (13): uguaglianza degli esseri umani (14), libertà, rispetto della ragione (15);

Inspirandosi (16) alle eredità (17) culturali, religiose e umanistiche dell'Europa, i cui valori, sempre presenti (18) nel suo patrimonio, hanno ancorato (19) nella vita della società il ruolo centrale della persona (20), dei suoi (21) diritti inviolabili e inalienabili e il rispetto del diritto (22);

Convinti (23) che l'Europa, ormai riunificata (24), intende proseguire questo percorso (25) di civiltà, di progresso e di prosperità per il bene di tutti i suoi abitanti, compresi (26) i più deboli e bisognosi (27); che vuole (28) restare un continente aperto alla cultura, al sapere (29) e al progresso sociale; che desidera approfondire il carattere (30) democratico e trasparente della vita pubblica (31) e operare a favore (32) della pace, della giustizia e della solidarietà nel mondo (33);

Persuasi (34) che i popoli dell'Europa, pur restando fieri (35) della loro identità (36) e della loro storia nazionale, sono decisi (37) a superare le antiche divisioni e, uniti in modo sempre più stretto (38), a forgiare il loro comune destino (39);

Certi che, "unita nella diversità" (40), l'Europa offre loro le migliori possibilità (41) di proseguire, nel rispetto (42) dei diritti di ciascuno (43) e nella consapevolezza delle loro responsabilità nei confronti delle generazioni future e della Terra, la grande avventura (44) che fa di essa uno spazio (45) privilegiato della speranza umana;

Riconoscenti ai membri della Convenzione europea di aver elaborato (46) la presente Costituzione (47) a nome dei cittadini e degli Stati d'Europa,

[I quali, dopo avere scambiato (48) i loro pieni poteri, riconosciuti (49) in buona e debita forma, hanno convenuto le disposizioni che seguono (50):]

Appendix 3: English text of Articles 1-3 of Part I

PART I

TITLE I

DEFINITION AND OBJECTIVES OF THE UNION

Article 1

Establishment of the Union

1. Reflecting (1) the will of the citizens and States of Europe to build a common future, this Constitution (2) establishes (3) the European Union, on which the Member States (4) confer competences to attain objectives they have in common (5). The Union shall coordinate (6) the policies by which the Member States aim to achieve (7) these objectives (8), and shall exercise (9) in the Community way (10) the competences they confer on it.
2. The Union shall be open (11) to all European States which respect its values and are committed (12) to promoting them together (13).

Article 2

The Union's values

The Union is founded (14) on the values of respect for human dignity (15), liberty, democracy, equality, the rule of law (16) and respect for human rights. These values are common to the Member States in a society of pluralism (17), tolerance, justice, solidarity and non-discrimination.

Article 3

The Union's objectives

1. The Union's aim (18) is to promote peace, its values and the well-being (19) of its peoples.
2. The Union shall offer (20) its citizens an area (21) of freedom, security and justice without internal frontiers, and a single market where (22) competition is free and undistorted.

3. The Union shall work (23) for the sustainable development of Europe based on balanced (24) economic growth, a social market economy (24), highly (26) competitive and aiming (27) at full employment (28) and social progress, and with a high level (29) of protection (30) and improvement of the quality of the environment. It (31) shall promote (32) scientific and technological advance.

It (33) shall combat (34) social exclusion and discrimination, and shall promote (35) social justice and protection, equality (36) between women and men, solidarity between generations and protection (37) of children's (38) rights.

It (39) shall promote (40) economic, social and territorial cohesion, and solidarity among Member States.

The Union (41) shall respect (42) its rich cultural and linguistic diversity (43), and shall ensure (44 / 44a) that Europe's cultural heritage (45a) is safeguarded (45) and enhanced.

4. In its relations (46) with the wider world (47), the Union shall uphold (48) and promote its values and interests. It shall contribute to peace, security, the sustainable development of the earth (49), solidarity and mutual (50) respect among peoples, free and fair trade, eradication (51) of poverty and protection of human rights and in particular children's rights (52), as well as to strict (53) observance and development of international law, including (54) respect for the principles of the United Nations Charter (55).
5. These objectives (56) shall be pursued (57) by appropriate means (58), depending on the extent to which the relevant competences (59a) are attributed (59) to the Union in the Constitution.

Appendix 4: Italian text of Articles 1-3 of Part I

PARTE I

TITOLO I

DEFINIZIONE E OBIETTIVI DELL'UNIONE

Articolo 1

Istituzione dell'Unione

1. Ispirata (1) dalla volontà dei cittadini e degli Stati d'Europa di costruire un futuro comune, la presente Costituzione (2) istituisce (3) l'Unione europea, alla quale gli Stati membri (4) conferiscono competenze per conseguire obiettivi comuni (5). L'Unione coordina (6) le politiche degli Stati membri dirette al conseguimento (7) di tali obiettivi (8) ed esercita (9) sul modello comunitario (10) le competenze che essi le trasferiscono.
2. L'Unione è aperta (11) a tutti gli Stati europei che rispettano i suoi valori e si impegnano (12) a promuoverli congiuntamente (13).

Articolo 2

Valori dell'Unione

L'Unione si fonda (14) sui valori della dignità umana (15), della libertà, della democrazia, dell'uguaglianza, dello stato di diritto (16) e del rispetto dei diritti umani. Questi valori sono comuni agli Stati membri in una società fondata sul pluralismo (17), sulla tolleranza, sulla giustizia, sulla solidarietà e sulla non discriminazione.

Articolo 3

Obiettivi dell'Unione

1. L'Unione si prefigge (18) di promuovere la pace, i suoi valori e il benessere (19) dei suoi popoli.
2. L'Unione offre (20) ai suoi cittadini uno spazio (21) di libertà, sicurezza e giustizia senza frontiere interne e un mercato unico nel quale (22) la concorrenza è libera e non distorta.

3. L'Unione si adopera (23) per lo sviluppo sostenibile dell'Europa, basato su una crescita economica equilibrata (24), un'economia sociale di mercato (25) fortemente (26) competitiva che mira (27) alla piena occupazione (28) e al progresso sociale, e un elevato livello (29) di tutela (30) e di miglioramento della qualità dell'ambiente. L'Unione (31) promuove (32) il progresso scientifico e tecnico.

(33) Combatte (34) l'esclusione sociale e le discriminazioni e promuove (35) la giustizia e la protezione sociali, la parità (36) tra donne e uomini, la solidarietà tra le generazioni e la tutela (37) dei diritti dei minori (38).

(39) Promuove (40) la coesione economica, sociale e territoriale, e la solidarietà tra gli Stati membri.

(41) Rispetta (42) la ricchezza della sua diversità (43) culturale e linguistica e vigila (44/44a) alla salvaguardia e allo sviluppo del patrimonio (45a) culturale (45) europeo.

4. Nelle relazioni (46) con il resto del mondo (47) l'Unione afferma (48) e promuove i suoi valori e interessi. Contribuisce alla pace, alla sicurezza, allo sviluppo sostenibile della Terra (49), alla solidarietà e al rispetto reciproco (50) tra i popoli, al commercio libero ed equo, all'eliminazione (51) della povertà e alla tutela dei diritti umani, in particolare dei diritti dei minori (52), e alla rigorosa (53) osservanza e allo sviluppo del diritto internazionale, in particolare (54) al rispetto dei principi della Carta delle Nazioni Unite (55).

5. Tali obiettivi (56) sono perseguiti (57) con i mezzi appropriati (58), in ragione delle competenze (59a) attribuite (59) all'Unione nella Costituzione.

