

Appendix II: Comments by the Spanish authorities



SECCIÓN DE
TRADUCCIÓN INVERSA E
INTERPRETACIÓN

CLASSIFIED

Comments pertaining to the Committee of Experts' report on the European Charter for Regional or Minority Languages submitted to the Committee of Ministers of the Council of Europe, pursuant to Article 16 of the Charter on 27th May 2005.

The Kingdom of Spain wishes to make the following observations and comments pertaining to the Committee of Experts' Report on the European Charter for Regional or Minority Languages, conveyed to the Spanish Representatives on 30th May 2005 (MIN-LANG (2005) 1).

1. Spain thanks the Committee of Experts for the recommendations concluding its report on the application of the European Charter for Regional or Minority Languages, and for the findings preceding them, which are detailed in Chapter 3 thereof.
2. Spain thanks the Committee for its recognition of the efforts made by the Spanish authorities in the sphere of protection of regional or minority languages, and is very pleased with the acknowledgement that the system adopted by these authorities grants "optimal" recognition to the co-official languages.
3. The report recognises that the degree of protection provided to regional or minority languages places Spain in the forefront of the European countries seriously committed to the protection and promotion of regional or minority languages, and points out that in many areas Spain has reached the highest undertakings, above the limit set in the Charter.
4. Given these considerations, Spain would like the following comments to be taken into account, with the aim of responding to, complementing or qualifying certain specific aspects on which the Committee has made statements, in the following paragraphs:

PARAGRAPH C:

As highlighted in the Committee's report, Spain's domestic legal framework regarding the territorial organisation of power, is that of a State in which sub-state bodies, especially Autonomous Communities, are granted a significant degree of autonomy, including legislative autonomy.

This form of organisation enables the promotion and defence of the right to use regional languages, because a large number of measures that should be taken to apply the Charter fall under the competences of the Autonomous Communities, which are the administrative bodies with the greatest interest in promoting their respective languages.

In addition, it must be borne in mind, as a general consideration, that the linguistic reality of Spain is particularly abundant, to the point that there may not be another State in Europe with such a large number of co-official languages.

However, this linguistic wealth is often compatible with complex situations, in which the personal interests of speakers coexist with administrative measures fostering and promoting languages. This is how the comment made in the report should be understood. In short, **the Spanish Government considers it appropriate to recall that the authorities can and must introduce formulas to enable and foster the promotion of regional or minority languages, but the fact that the effectiveness of these measures depends on voluntary acceptance by speakers cannot be overlooked.**

PARAGRAPH D:

As to the application of Article 9 of the European Charter for Regional or Minority Languages, attention must be drawn to Article 231 of the Organic Act on the Judiciary, already included in the report of 2002, with

reference to the provision of posts for judges and magistrates in the Autonomous Communities that have a co-official language. **When evaluating the merit or preference which the knowledge of that co-official language might entail, the Constitutional Court does NOT consider it an indispensable or “sine qua non” requirement.** This same philosophy imbues Article 431 of the Act, concerning the temporary filling of vacancies, and Article 483, as regards the selection of civil servants working for the Justice Administration.

PARAGRAPH F:

Current Spanish legislation, by virtue of Royal Decree 489/1997, dated 14th April, recognises that Acts, Royal Decree- Laws and Royal Legislative Decrees may also be published in the other official languages of the different Autonomous Communities, if the competent bodies in the respective Communities so decide.

To this purpose, there is a plan to sign cooperation agreements between the Spanish Government, through the BOE (Official Spanish Gazette), and the Governing Bodies of the Autonomous Communities, in order to cooperate in the translation, edition and distribution of publications.

To date, by virtue of this plan, Agreements have been signed with the *Generalitat* of Catalonia, with the *Xunta* of Galicia and with the *Generalitat* of Valencia. From 1998 to July 2005, 139 supplements with 2,255 provisions translated into Catalan and 94 supplements with 1,238 provisions translated into Galician, have been published. From 2001 to July 2005, 20 supplements with 271 provisions translated into Valencian have been published.

An Agreement was also signed with the Autonomous Community of the Balearic Islands, dated 4th December 2001, for subscribers to the BOE in Spanish to receive, free of charge, the edition in Catalan, which has been published since 1998.

PARAGRAPH G:

The special nature of the system of the judiciary career and the civil service is not considered a shortcoming in its internal structure, but an added plus that goes beyond exercising a right, and not an obligation imposed by Spain's ratification of the text of the European Charter. **The Spanish judicial system gives priority to access to justice, and promotes the action of justice without discrimination for reasons of language, thus not allowing this circumstance to paralyse in any case the handing down of justice in any area of the national territory.**

PARAGRAPH H:

As for the situation of the use of Basque in Vocational Training, the special nature of this training must be taken into account. Priority is accorded to professional placement over the mastery of a language, because business requirements are largely guided by professional competence.

PARAGRAPH K:

As regards the application of the Charter in the *Comunidad Foral de Navarra* (Autonomous Community of Navarre), the Spanish Government considers it necessary to recall the fact that the ratification of the Charter by Spain was effected with reference to the recognition of each of these languages in the relevant Statutes of Autonomy. **Therefore, extending the level of protection of Basque existent in the Basque-speaking zone to the territory of the mixed zone, as suggested in the Committee of Experts' report, would mean amending the menu of protection of Basque recognised in the legislation of the *Comunidad Foral de Navarra*, and accordingly, the terms of ratification by Spain.**

The Parliament of Navarre has debated during this last year the possibility of amending the Act on Basque and has reached the conclusion, with the majority support of the House, that: "In the area of Pamplona, a socio-linguistic study be made in the towns bordering the non-Basque-speaking area, in order to determine the situation after 20 years of the Act on Basque, and according to the results, either include or not some new towns in the area known as the mixed zone."

Spain believes that these considerations must be taken into account as regards paragraph 5 of the proposals for recommendations.

PARAGRAPH L:

Good note is taken of the experts' comments on the desirable increase in the offer of educational models essentially taught in regional or minority languages, and we restate the Government's great interest in this field. Progress in this regard has been outstanding in recent years, and is evidenced, for example, by the approval on 21st September 2004 of the *Plan General de Normalización de la Lengua Gallega* (General Plan for the Normalisation of the Galician Language). This Plan includes 445 measures to promote the use of Galician in different spheres. The general objective, as regards education, is to spread the use of Galician to all the levels of the educational system.

PARAGRAPHS N & O:

The concern expressed in the Committee of Experts' Report is understandable, because, indeed, at times the data required is difficult to obtain or, in some cases, very difficult to complete. It must also be borne in mind that the data provided in the report must be homogeneous for the whole country, and that the availability of data is different in each Autonomous Community.

Taking into account the difficulty of managing administrative data in a decentralised State, the Spanish Government has promoted the creation of specialised Statistical Committees, with the participation of the State and the 17 Autonomous Communities, attached to the Sectorial Conferences, which are the main bodies for cooperation between the State and the Autonomous Communities. Currently, this type of body exists in Agriculture, Health, Labour and Labour Affairs, and Education; and in 2005 they have also been set up in Environment and Culture. With these measures, it is expected that more complete data will be made available soon.

In addition, as a second measure promoted by the Spanish Government to improve statistical data, a new methodology has been designed in the Annual Statistical Programme approved by the Government at the end of each year. Thus, by 2006 a marked improvement will have taken place, as each statistical operation will reflect the type and manner of cooperation, if applicable, by the Autonomous Communities.

PARAGRAPH R:

The Government of the Autonomous Community of Aragon has already carried out the necessary prior studies for the forthcoming regulation in a single Act of the different languages spoken in its territory. The great differences between Catalan, a socially well-established language with a solid literary tradition, and Aragonese *Fabla*, with a very limited number of speakers and limited standardisation and literary use, undoubtedly explain why this bill has not yet been passed.

PARAGRAPH S:

As for the application of the Charter to the languages listed in this paragraph, the Spanish Government considers it necessary to recall the fact that the ratification of the Charter by Spain was carried out with reference to the recognition of each of these languages in the relevant Statutes of Autonomy. Therefore, the recognition of the protection this Charter offers these languages would mean amending the regime of protection of regional languages in Spain and, accordingly, the terms of ratification by Spain.

PARAGRAPH T:

As regards the comments made on the existing difficulties for the use of regional languages by the political institutions of the State, it must be pointed out that it is a gradual process, which must be considered as one of progressive incorporation.

In this respect, this gradual process has taken a further step in recent months, with the amendment of the Bye-laws of the Senate, passed on 4th July 2005, by virtue of which, as of next 1st September, the different regional languages may be used in the debates of the Senate's General Committee for the Autonomous Communities. Subsequently, the debates shall be published in the Senate's Journal of Sessions in the language in which the contribution was made, as well as in Spanish. Parliamentary initiatives in this House shall equally be processed in any of the co-official languages and shall be published in the corresponding languages.

Finally, in recent months, the Spanish Government has presented a Memorandum and has fostered a process so that regional languages recognised as co-official in any of the EU Member States may be

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recognised by the Community Institutions. The results of this process are the Conclusions adopted by the European Council held on 15th -16th June 2005, which cleared the way for the Spanish Government to sign agreements with the different institutions so that citizens may address them in the different co-official languages of Spain, and so that the members of the Spanish delegation to the different institutions may express themselves orally in their respective languages, with the Spanish Administration covering the financial costs of this measure.

With regard to the presence of regional or minority languages in the media, it is worth noting that practically all the State radio channels disconnect at times from the national programme in each of the Autonomous Communities and broadcast in its co-official language. In addition to stations owned by regional Governments, which usually broadcast in Spanish and/or the co-official language, the National Public Radio (RNE) has, for example, a radio station of its own (Radio Cuatro) broadcasting entirely in Catalan (8,800 hours per year).

The efforts of the National Public Radio (RNE) to contribute towards defending these languages has materialised in the broadcasting of 28 hours per week in Galician, 29 hours in Catalan for the Balearic Islands, 25 hours in Catalan for Catalonia in its general and news programmes, and the combination of the treatment of news in Spanish and the co-official language in the Basque Country, Navarre and the Valencian Community, the choice being up to the participants.

As for television, Spanish Public Television (RTVE) disconnects daily from the national programme in all the Autonomous Communities of Spain, broadcasting all its programmes during that disconnection in the co-official language wherever there is one. Thus, over 125 hours in Basque, 237 hours in Valencian/Catalan for the Valencian Community, 323 hours in Galician, 271 hours in Catalan for the Balearic Islands and 1,000 hours in Catalan for Catalonia are broadcast yearly.