

# **REPORT ON THE FAILURE OF THE SPANISH STATE TO IMPLEMENT THE ECRML IN THE CATALAN-SPEAKING AREAS OF SPAIN**

PREPARED BY THE ORGANIZATIONS OF THE CIVIL SOCIETY OF CATALONIA, THE BALEARIC ISLANDS, VALENCIA AND EASTERN ARAGON





**REPORT ON THE FAILURE OF THE SPANISH  
STATE TO IMPLEMENT THE ECRML IN THE  
CATALAN-SPEAKING AREAS OF SPAIN,  
PREPARED BY THE ORGANIZATIONS OF THE  
CIVIL SOCIETY OF CATALONIA, THE BALEARIC  
ISLANDS, VALENCIA AND EASTERN ARAGON**

## Contributors

Ciemen (Escarré International Center for Minorities)

Obra Cultura Balear (Balearic Cultural Action)

Acció Cultural del País Valencià (Valencian Cultural Action)

Escola Valenciana (Valencian School)

Moviment Franjolí (Eastern Aragonese Movement)

Juristes per la Llengua (Jurists for the Catalan Language)

Grup Barnils (Barnils Journalism Group)

STEI (Workers Trade Union of the Balearic Islands)

## Coordinators:



Plataforma per la  
Llengua (Platform for  
the Catalan language)



Catalonia Foundation –  
Funds for the defense  
of the rights of the  
Catalan people.

<b>Introduction</b>	<b>08</b>
<b>Recommendations from the Committee of Ministers in the previous evaluation cycle and Article 7</b>	<b>09</b>
<b>Assessment of compliance with the recommendations from the Committee of Ministers</b>	<b>09</b>
<b>General aspects regarding the provisions of Article 7</b>	<b>17</b>
<b>Article 8 education</b>	<b>19</b>
<b>Valencia</b>	<b>19</b>
<b>Prior considerations</b>	<b>20</b>
<b>Triple fragmentation of the Valencian education system</b>	<b>21</b>
<b>The current model</b>	<b>24</b>
<b>Infringement of linguistic rights: case studies from the 2013-2016 period</b>	<b>25</b>
<b>Cuts in public education and Valencian Public universities</b>	<b>27</b>
<b>Public universities</b>	<b>28</b>
<b>Catalonia</b>	<b>29</b>
<b>Judicial scope</b>	<b>29</b>
<b>Legislative scope</b>	<b>31</b>
<b>Harassment on the Catalan educative system and populist discourse</b>	<b>33</b>
<b>Illes Balears</b>	<b>35</b>
<b>The threat of the Trilingualism Decree and hate speech against the use of the Catalan language in the education system (2013-2015)</b>	<b>35</b>
<b>Challenges for the full implementation of the Charter beyond the repeal of the Trilingualism Decree (2015-present day)</b>	<b>36</b>

<b>Article 9 justice</b>	<b>39</b>
<b>Guarantee to conduct court proceedings in Catalan at the request of one of the parties by the legal, criminal, civil and administrative authorities</b>	<b>39</b>
<b>Implementation of legal measures and practical application aimed at guaranteeing that an appropriate proportion of legal staff in the Balearic Islands, Valencia and Catalonia have sufficient knowledge of Catalan to guarantee that legal proceedings can be conducted in Catalan</b>	<b>40</b>
<b>Publication of legal provisions in Catalan</b>	<b>43</b>
<b>Fear of using Catalan in the Justice System and reporting cases of linguistic discrimination in this area.</b>	<b>44</b>
<b>Article 10 public administrations</b>	<b>51</b>
<b>The use of Catalan by State administrative authorities</b>	<b>51</b>
<b>State forms and administrative texts</b>	<b>52</b>
<b>Use and introduction of place names in Catalan</b>	<b>55</b>
<b>Attention to the fact that Catalan is used when providing a service.</b>	<b>57</b>
<b>Specific problems for the case of the Valencian Autonomous Administration</b>	<b>57</b>
<b>Article 11 the media</b>	<b>59</b>
<b>Reciprocity of audiovisual media</b>	<b>59</b>
<b>Print media</b>	<b>60</b>
<b>Journalist training</b>	<b>61</b>

<b>Article 12 activities and cultural facilities</b>	<b>62</b>
<b>Common part: the cultural projection of the Spanish State abroad</b>	<b>62</b>
<b>Valencia</b>	<b>63</b>
<b>Cinema</b>	<b>63</b>
<b>Catalonia</b>	<b>64</b>
<b>Cinema</b>	<b>64</b>
<b>Music</b>	<b>66</b>
<b>Balearic Islands</b>	<b>66</b>
<b>Article 13 economic and social life</b>	<b>68</b>
<b>Legislation which limits the use of Catalan in documents related to economic and social life, particularly in technical instructions and labelling</b>	<b>68</b>
<b>Practices aimed at discouraging the use of Catalan</b>	<b>70</b>
<b>Guarantee on the use of the Catalan language in social facilities</b>	<b>71</b>
<b>Guarantee on the use of Catalan in safety instructions</b>	<b>73</b>

## **Introduction**

---

This report has been drafted by several organizations of the Catalan, Valencian and Balearic civil society which that have as a primary goal the promotion and the defense of the use of Catalan in all aspects of life. Each organization has been selected and assigned with tasks according to their functional specialty.

The paper compares the provisions set in the ECRML, along with the recommendations of its Committee of Experts for the 4th Evaluation cycle, to the legal acts adopted by the Spanish State and the concerned regional administrations. Aside the formal legal dimension, there is also room for analyzing the degree of real implementation of the measures foreseen in the legal texts.

In order to be as concrete as possible, only clear infringements have been exposed. This is the reason why there is no analysis of Article 14 or a detailed evaluation of every single point of the other articles. Where necessary because of the special incidence of regional law or regional administrations, a separate analysis for every Catalan-speaking territory is offered (Articles 8 and 12), while in the other cases you will find a comprehensive study for the overall Catalan-speaking area.

# Recommendations from the Committee of Ministers in the previous evaluation cycle and Article 7

---

## Assessment of compliance with the recommendations from the Committee of Ministers

Since the last report presented by the entities of the civil society to the Committee of Experts in 2014, and following the recommendations given by the Committee of Ministers of the European Council in January 2016 based on the report by the Committee of Experts, we can confirm that Spain has not taken into account any of the recommendations issued. Indeed, the most serious issue is that the European Charter for Regional or Minority Languages (ECRML) is not being properly implemented in Spain, as we will see throughout this report, based on the analysis of non-compliances in each of its articles.

The Committee of Ministers noted the following six recommendations to ensure full compliance with the ECRML. Each of these non-compliances with these recommendations will be duly analysed in the following sections in relation to the relevant articles of the Charter. In this section, however, we will highlight some key factors in relation to the Charter's implementation:

### **1. Amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the Autonomous Communities can conduct the proceedings in co-official languages at the request of one party;**

Art. 231 of the Organic Law of the Judicial Power (LOPJ) continues to have the same wording as in January 2016. It does not currently guarantee that legal proceedings can be conducted in Catalan at the request of one of the parties, but rather it requires there to be no opposition to this from any of the parties. As we will see in the compliance analysis for Art. 9 of the Charter, there have been no legislative initiatives aimed at changing this provision and, on the other hand, as we will also see later, Catalan speakers have to endure constant linguistic discrimination in the area of the Justice System.

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

### **2. Continue to implement legal and step up practical measures aimed at ensuring that an adequate proportion of the judicial staff posted in the Autonomous Communities concerned by the application of Article 9 of the Charter has a working knowledge of the relevant languages;**

There have been no changes to the legal regulations governing the Staff Regulations in the area of the Justice System. Art. 48.1b of the Regulation on Civil Servants in the Justice System emphasises that the Catalan language cannot under any circumstances rule out a candidate; it is always optional. Royal Decree 1451/2005, on the provision of civil servant staff posts in the Justice System, also restricts the value placed on knowledge of Catalan, even where it is the native language, while Spanish is a requirement throughout the State. As we will see in the analysis of the implementation of Article 9, the two legislative Chambers, the Congress and the Senate, rejected in 2016 and 2017 two legislative proposals to establish Catalan, Basque and Galician as a requirement to work in courts located in territories where these languages hold official status.

### **3. Continue to implement legal and step up practical measures aimed at ensuring the adequate presence of the co-official languages in the State Administration at the level of the Autonomous Communities;**

Over 98% of civil servant positions within the State Administration serving the Catalan-speaking territories do not list knowledge of Catalan as a valuable skill, and none of the over 33,000 positions on offer include the language as a requirement.

The analysis of public positions in all ministries carried out by *Plataforma per la Llengua* shows that the State only considers Catalan to be a valuable skill in 617 out of 33,167 positions, which represents 1.86% of the total.

The disdain with which the State Administration treats the Catalan language is even more obvious on seeing that none of these positions list knowledge of the language as a requirement for accessing a civil servant position. Furthermore, the salary supplements in place in this area promote linguistic secession, i.e., they differentiate between the value of “knowledge of the Catalan language” and “knowledge of the Valencian language”. The only two ministries which have a relatively higher number of such positions are the Ministry of the Interior (7.9%) and the Ministry of the Treasury and Public Function (1.18%).

#### **4. Continue to implement measures to ensure the presence of co-official languages in public services, especially in health care services;**

Catalonia and the Balearic Islands have regulations in place which set forth the linguistic requirement for healthcare staff. In the case of Catalonia, the regulation through which it is mandatory to have knowledge of the Catalan language is Art. 14 of Decree 107/1987, implementing Article 42 of Legislative Decree 1/1997 on the Civil Service of Catalonia. In the case of the Balearic Islands, the regulatory framework is determined by Art. 50.1f of Law 3/2007 of the Public Service of the Balearic Islands, but no regulations have been approved to implement this requirement in the healthcare area. On the other hand, there is no language requirement for healthcare staff in Valencia. The most surprising thing of all is that, even in the case of Catalonia, where the regulatory framework has guarantees regarding the right to be attended in Catalan, Catalan speakers continuously find themselves in many situations in which they are not attended in their language when required. As we will see in more detail in the compliance analysis for Article 13 of the ECRML, regarding social life, in the 2013-2016 period, various cases were observed in which citizens found themselves faced with this problem. Some of these cases led to serious situations of discrimination in the healthcare area which were not corrected by the public administration, despite the fact that complaints were filed.

In Valencia, Art. 53.2 of Law 10/2010, on Planning and Management of the Valencian Public Service, sets forth that the individuals who pass the selection tests for access to the Public Service will have to demonstrate their knowledge of Valencian by means of certificates, diplomas or by undertaking a specific exercise to this effect. If this knowledge cannot be demonstrated, the individual selected will have to undertake a language improvement course organised by the Government of Valencia. It should, however, be noted that individuals can access employment within the Valencian Public Service without having previously demonstrated knowledge of Valencian. The only requirement is that they undertake a course after being hired, and whether or not they pass the course will have no impact whatsoever on their civil servant position. Furthermore, in the healthcare area, Art. 14.1 of Decree 192/2017, which approves the Regulation on selection and provision of statutory staff for the public healthcare institutions of the Valencian Health System, only requires level B2 in Spanish to be demonstrated in order to access civil servant positions in the healthcare system, and makes no reference to the need to have demonstrated at least minimal knowledge of the Valencian language. There are also no provisions for carrying out courses in Valencian for civil servants in this area.

## **Report on the failure of the spanish state To implement the ecrl in the catalan-speaking areas of spain**

### **5. Continue to ensure that the offer of trilingual education does not adversely affect the protection and promotion of regional or minority languages;**

In 2015, the Valencian government undertook, as a priority, the reform of the educational model. In an aim to move forward towards multilingualism and encourage teaching in Valencian, the Ministry of Education, Research, Culture and Sport, led by Vicent Marzà, approved the so-called Decree on Multilingualism, which made it possible for centres to choose between three linguistic teaching models (advanced, intermediate and basic). In total, 54% of Valencian education centres opted for the model which put the most focus on Valencian as the vehicular language, 30% opted for the intermediate model and 16% opted for the basic model. Despite the participation and endorsement of the educational community, the judicial offensive orchestrated by the president of the District Council of Alicante, César Sánchez (PP), led to the decree being suspended by the High Court of Justice of the Community of Valencia (TSJCV). This decree brought together the increased presence of Valencian in the classroom and more hours of English. The TSJCV has already issued several rulings regarding this issue through which the Decree is partially annulled (Ruling 163/2018, of 25 April, Section Four TSJCV).

In order to rectify the situation in the school calendar, the Ministry approved an express decree with the amendments of the TSJCV which required six education levels, with official certifications of languages for pupils. These projects guarantee a specific level of competence and involve the acquisition by pupils, at the end of their schooling, of the equivalent official certifications by the Valencian Knowledge Qualification Board (JQCV) and the official language schools. With this incentive, Marzà intended to alleviate the discrepancies of part of the public and political opinion that he is against normalising the native language, with the PP and Ciudadanos leading the way, and the Association for the Defence of Spanish in Valencia.

With an express reform approved to break the deadlock, in 2017, the Valencian Parliament launched the process to create the new Valencian Education Law, approved by the Valencian Parliament on 14 February 2018 with the votes of the parties that support the Council—PSPV-PSOE, Compromís and Podem—and the “twinned” deputies (ex Ciudadanos). The so-called Law on Multilingualism guarantees a minimum of 25% of teaching hours in Valencian and in Spanish, and 15% in English. School boards will once again decide on how the rest of the hours are distributed, in accordance with the centre’s linguistic project. The regulation will come into force in the next school year (2018-2019) and will

replace the previous decree on multilingualism which the High Court of Justice of the Community of Valencia annulled. Nevertheless, the increased presence of the native language in education centres still depends on the decision of the community within the centre, i.e. the school boards. This is why it is not possible to guarantee that the trilingual model will not negatively affect the protection of Catalan.

Concerning the Balearic Islands, as we will explain in the analysis of article 8, the approval of Decree 15/2013 on the Integrated Treatment of Languages posed a very serious threat to the situation of the Catalan language in the Balearic school system. The replacement of the regional government in June 2015 entailed the derogation of the abovementioned decree. Nevertheless, as we will also show during the analysis of article 8, there has been a strong campaign on the part of the Spanish government led by Mariano Rajoy and some civil Spanish civil society organizations against the use of the Catalan language at school which has generated a wave of hate speech that needs to be tackled.

**6. Consider extending the recognition of those regional or minority languages with a co-official status in six Autonomous Communities to other Autonomous Communities provided that there is a sufficient number of users of the regional or minority language involved.**

Despite the fact that this recommendation makes very explicit reference to the need to give official status to the Catalan language in Aragon, given that it is the second largest non-recognized linguistic community after the Asturian language in Asturias, unfortunately the Statute of Autonomy of this Autonomous Community still fails to acknowledge Catalan as an official language.

Art. 7 of the Statute of Autonomy states the following, in relation to the native languages of Aragon: “1. The native languages and linguistic varieties of Aragon are one of the most noteworthy manifestations of the Aragonese historical and cultural heritage and a social value of respect, coexistence and understanding. 2. A law of the Courts of Aragon will set forth the areas of predominant use of the native languages and varieties of Aragon; will regulate the legal system and the usage rights of the speakers in these territories; will encourage the protection, recovery, teaching, promotion and dissemination of linguistic heritage in Aragon; and will promote, in the areas of predominant use, the use of the native languages in relationships between citizens and the Aragonese public administrations.

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

First of all, we can see that the Statute of Autonomy of Aragon includes the terms “linguistic varieties” and “languages and linguistic varieties”; but it has never been established which languages these are, and there is therefore no formal acknowledgement of the regional languages. In view of this text, it is clear that Catalan speakers are at a disadvantage in terms of treatment, despite what is stated in Point 3. Despite the good intentions stated in the first two points, there is discrimination in the fact that it does not specify what these languages are. The Aragonese people who have Catalan as their first language (language with which they identify or language of habitual use) are not reflected in this and, as such, the Statute puts the continued use and development of their language at risk. In 2013, the concept of “Catalan” was even removed from the law on cultural heritage. Given this, we can say that “Catalan” and “Catalan language” have been completely banished from the legal system of Aragon.

Generally speaking, we can say that there has never been any resolute action to promote and effectively protect the regional languages in Aragon. The denial by Spanish-speaking areas that the Catalan language is the native language of part of the Eastern Aragonese territory, the disdain towards the cultural and heritage richness of minority languages, and the denial of the linguistic rights of Catalan speakers are explicit reasons behind the current situation, in which there is a lack of official status and language policies aimed at dignifying, protecting and promoting the language.

The Aragonese government, chaired by the People’s Party between 2011 and 2015, suppressed the recognition of the Catalan linguistic community of Aragon through Law 3/2013 on the protection and promotion of the languages and linguistic varieties of Aragon. This Law suppressed Law 10/2009 of 22 of December on the use, protection and promotion of the languages of Aragon, which had recognised that Catalan was one of Aragon’s own languages, together with Aragonese and Spanish. Catalan disappeared from Aragon following a decree and the new law refers to Catalan as “Eastern Aragonese”. This is a radical violation of the basic principles of the European Charter for Regional or Minority Languages and a serious regression compared to previous legislation, which conferred some recognition and rights to Catalan speakers, even though it had yet to be applied.

Law 3/2013 is a significant step backwards in the promotion of Aragon’s own languages, compared to the previous Law of Languages of Aragon, adopted in 2009 and which had not been fully implemented. The new law does not guarantee the language rights of Aragon’s Catalan speakers, nor does it guarantee the use

of Catalan in the local and regional councils where the language has traditionally been spoken.

Law 3/2013 does not recognise Catalan as one of Aragon's own languages. The negation of the unity of the language and of the existence of a Catalan linguistic community in Eastern Aragon puts in imminent danger the maintenance of relations with other groups in the same State that speak the same language in an identical or similar form.

It should also be noted that Catalan in Aragon has also been adversely affected by an artificial administrative division of districts, in which a total lack of respect has been shown to the natural and linguistic geographical area. If we look at the legislation in this respect, we have to go back to Law 8/1996, of 2 December, on the Aragon district boundaries, which in 2006 was repealed by Legislative Decree 2/2006, of 27 December, of the Government of Aragon, which approves the consolidated text of the Law on the Aragon District Boundaries. Its legislative criteria deliberately ignore the territory's use of language, blending Catalan into artificial districts which are formed by Catalan- and Spanish-speaking municipalities. This has a negative impact on the possible territorial linguistic unit and the subsequent adoption of positive linguistic measures in favour of Catalan. The only Catalan-speaking administrative district is that of Matarranya.

The adoption of Law 3/2013 was preceded by a government and media campaign that fostered intolerance, conflict and a lack of understanding between the three linguistic communities of Aragon and especially against the Catalan linguistic community of Aragon, the existence of which it does not even recognise. This political and media campaign was driven by the two parties in the Aragonese government, the People's Party and *Partido Aragonés* (PAR), and the two parties have used as a scapegoat the claim that Catalonia has "imperialist intentions". In this context, we have included a link to an article in *El Heraldo de Aragón*, the most widely read newspaper in Aragon, the author of which urges the Government of Catalonia to send the Catalan police into Eastern Aragon if it wants to manage to impose Catalan in Aragon. This newspaper has in recent years adopted a very critical position with regard to the promotion of Catalan, pointing to a "Catalan interference" that eventually aims, according to the paper, to dismember Aragon and annex the Catalan-speaking districts of Aragon into Catalonia.

In June 2015, a new government led by the Socialist Party took office in Aragon. During the electoral campaign, the socialist candidate (now President of Aragon),

## **Report on the failure of the spanish state To implement the ecrl in the catalan-speaking areas of spain**

Javier Lambán, promised to abolish Law 3/2013 in order to return to Law 10/2009. Nevertheless, no such abolition has taken place to date. The only remarkable legislative change is the current draft of Art. 4 of Law 3/1999 on the Aragonese Cultural Heritage, which recognises Catalan as a native language of Eastern Aragon. Apart from this detail, the linguistic rights of Catalan speakers in Aragon are not recognised at this time.

In terms of language teaching within the education system, the teaching of Catalan began in the 1980s as a voluntary, extracurricular activity. Nowadays, this idea of “voluntary” remains, much like a foreign or instrumental language. In recent years, primary and secondary schools have gradually started bilingual (Catalan-Spanish) or trilingual (Catalan-Spanish-English) courses in some specific centres. In 2016, the curriculums for Primary, Secondary (ESO) and Baccalaureate were approved, which included “Native Languages of Aragon. Catalan Language” as an elective subject which authorised centres were able to offer, as long as it was part of the optional course catalogue. As such, there is by no means a generalised and mandatory education in the Catalan schools in Eastern Aragon.

If we look at extracurricular teaching, in all of the Catalan-speaking districts in Aragon, only the Official Language School (EOI) of Fraga, which is a branch of the one in Monzón, offers access to regulated Catalan language teaching, with the highest level being B1 of the Common European Framework of Reference for Languages. Two other EOI centres in the Spanish-speaking area offer Catalan language teaching, with the highest levels being B2 and C1, respectively.

In terms of university education, the University of Zaragoza created the Catalan Philology Area in 1996. Over 15 years, there have been three professors assigned to this area, but currently there is only one. Studies on existing dialects, place names and sociolinguistics have been carried out with research in this area, although the effective promotion of these studies has been done in Catalonia, by the Institute for Catalan Studies (IEC) or the universities of Lleida and Tarragona, which are the closest ones to the Catalan-speaking part of Aragon. Furthermore, with the arrival of degrees, Catalan has lost presence in philology and teaching. Currently, only the degree in Hispanic Philology and English Studies remains, with a number of credits and level of competence which are very low compared to the foreign languages offered.

As such, all of these situations encourage the use of Catalan in Aragon to be confined to the private sphere among speakers, with the implication that it is an

informal register, and this phenomenon has worsened over the past 20 years. Its use in the private sphere is mainly in spoken form, given that more than half of the population do not know how to write in their native language. There are no incentives to use spoken and written Catalan in public life. In private life, it depends on the discretion or linguistic commitment of the person speaking. Every day, situations of diglossia, linguistic substitution and generational breakdown are making the status and use of Catalan in Eastern Aragon increasingly weaker.

It should also be noted that relationships with Catalonia are becoming increasingly difficult. The fact that Aragon does not protect Catalan and that, in past and now-repealed initiatives, the unit of the language and Catalan-speaking territories was not explicitly acknowledged, has led to estrangement. The misrepresentation of the history of the Catalan-speaking districts against Catalonia by the anti-Catalan sectors of Aragon has led to messages that would boycott any collaboration and continuation of stable relationships with Catalonia, particularly in linguistic terms.

## **General aspects regarding the provisions of Article 7**

During the period analysed, there have been constant messages of intolerance towards the Catalan language driven by both political leaders and the media in recent years.

One of the most common statements we find in the Spanish media is that Catalan is a tool used to discriminate against Spanish-speaking citizens. Media campaigns to this effect are constant. According to a report published in 2014 by Media.cat together with Fundació Catalunya, news regarding the Catalan language is shown to be intransigent or negative in 60% of Spanish headlines. Only 6% of the focus is positive, and 34% is neutral. In the 2017 update to this report, it is noted that hatred towards Catalonia appears vehemently when Catalan is mentioned. The following is a clear example of a media campaign against the Catalan language which is illustrative of the climate which the media is trying to generate: following the addition of Catalan to road signs in the city of Valencia in June 2016, television channel Antena 3, which has one of the highest audiences in Spain, made a report explaining that the fact that the road signs are in Catalan could cause accidents.

This disdain towards the Catalan language is not only present in the media; Spanish politicians also play an active role in this. As an example, and to show some of the more explicit declarations, in an interview carried out in April 2013,

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

Ciutadans deputy Toni Cantó compared linguistic immersion to paedophilia, and in June 2016, he stated that children educated in Catalan will not find work; ex-minister Maria Antònia Trujillo, a PSOE activist, publicly asked “What significant issues is Catalan useful for?”; Ciutadans deputy Carolina Punset stated in June 2015 that Catalan is not useful for finding work and that linguistic immersion is a step backwards; and president of the District Council of León, Juan Martínez Majo, said in March 2016 that he considers the use of Catalan at Senate to be embarrassing.

In terms of the specific provisions in Section Four, it should be noted that, in 2007, through Royal Decree 905/2007, of 6 July, the Official Languages Board was created within the State Administration. This body’s duties include preparing studies on the use of the official languages in the State Administration, promoting research related to the official languages, promoting their use within the administrative bodies, and disseminating values of multilingualism in society. However, the aforementioned body did not meet in the period between June 2010 and May 2017, as stated in the information included on the website of the Secretary of State for Territorial Administrations. As a result, as we will see throughout this report, the use of Catalan in the State Administration remains largely neglected.

In terms of the geographic area of each language, it should be noted that the Spanish Constitution is against this principle as it relegates the independent and fragmented regulation of the legal statute of the languages of the respective territories to the statutes of autonomy of the different Autonomous Communities, without taking into account the existence of linguistic communities which surpass the geographic and administrative area of the Autonomous Community. The result is a fragmented legal system and a variety of legal statutes which prevent unitary political structures from being developed. Furthermore, the state policy is specifically aimed at dividing and pitting speakers of a single language against each other, creating linguistic secession and artificial divisions supposedly based on dialectal differences which are elevated to the standard category.

# Article 8 education

---

## Valencia

The Committee of Experts' Evaluation Report considered Spain to be in partial fulfillment of the undertakings related to article 8 letters a, b and c, concerning primary and secondary education in the Catalan language. The Committee asked Spanish authorities "to provide specific information about the developments and the application of trilingualism in non-university education" and also "strongly urged the authorities to make Valencian-medium education available throughout the territory of Valencia where Valencian is used, and especially to ensure continuity from primary to secondary education". Spain's fourth Periodical Report on the application of the Charter –which corresponds to the period going from 2014 to 2016– conveys that a high percentage of schools have chosen a teaching model with a strong presence of Valencian. However, this piece of data refers to the application of a regional norm (Valencian decree 9/2017) that was suspended by Spanish courts and later repealed. Therefore, Spain's report does not offer any news as to how the learning of Valencian will be guaranteed. As a matter of fact, a subsequent regional norm (Valencian law 4/2018) abolished school learning integrally in Valencian and established a trilingual model that leaves it to schools to decide on the proportion of classes taught in the language, which must neither exceed 60% nor be inferior to 25%. This means that at least those students who studied in Valencian were negatively affected the approval of law 4/2018 and its implementation of a trilingual model because their right to schooling in this regional language was curtailed; this constitutes an infringement of the Committee of Ministers' Recommendation 5. It is because of this reason that we cannot consider Spain's undertaking of article 8 to be completely fulfilled.

As regards to article 8.d, about technical and vocational education, the Committee of Experts' Evaluation Report also considered Spain's undertaking to be "partly fulfilled, considering the estimated low numbers of students actually included in this education". Spain's report for the years 2014 to 2016 asserts that schooling in Valencian has not increased. The report predicts that teaching in this language will grow again on the basis of the aforementioned decree 9/2017, which was suspended and later repealed. Law 4/2018, which replaced the decree, only established Catalan to be the vehicular language of 25%-60% of the classes, depending on the decision of each school. Also, as of today Spanish authorities

## **Report on the failure of the spanish state To implement the ecrl in the catalan-speaking areas of spain**

have not provided an answer to the question on whether they provide any training to teachers to be able to teach in Valencian. Taking all this into account and considering the need to evaluate the 2014-2016 period and future expectations, we understand that Spain's undertaking of article 8.d to be only partly fulfilled. Although there is a relatively better legal framework (compared to the situation before both the current law and the repealed decree 9/2017), we still lack concrete measures to ensure the right to study in Valencian.

### **Prior considerations**

Since its approval, Organic Law 8/2013, of 9 December, on improving education quality, known as the LOMCE, has determined to a large extent the autonomous legislation which regulates language learning in Valencia and the rest of the territories in which it is applicable.

First of all, the only language which is explicitly named in the law is the Spanish language. The rest of the official languages of the Spanish State are not individually listed; instead, they are all included in the term "co-official language". Perhaps if there were so many languages other than Spanish that it would be difficult to quote them in the law on every occasion, we could consider this dichotomous generalisation (Spanish and "the others"). However, as we are talking about four languages (Aranese, Basque, Galician and Catalan/Valencian), we believe that the basic wording of the law already starts out with a very limited idea of Spain being a multilingual state with different languages which coexist in equal conditions.

As such, the "Spanish language" is considered to be the core subject in Primary and Secondary Education, while the "co-official language" is included in the block of elective subjects to be configured at the regional level.

Similarly, with regard to Secondary Education (ESO), it is stated that pupils cannot move onto the next year if they have failed three or more subjects, or only two, if the subjects failed are Spanish Language and Mathematics.

We believe that the philosophy behind this law is based on obsolete premises in that it places more focus on the concept of teaching than it does on learning. What the pupil learns is not as important as what must be taught.

This, applied to the knowledge of languages, is especially obvious when it mentions on several occasions "guaranteeing teaching in the Spanish language"<sup>4</sup> and not the need to place more focus on some languages or others as the vehicular language, according to the results of the practices which can lead to the linguistic

objectives of this and all the legal provisions in this regard: sufficient and balanced knowledge of the co-official languages, which are Valencian and Catalan in our case, and acquisition of other languages, such as English.

In other words, the need to guarantee the Spanish language as the teaching language in the Valencian education system and, by extension, in all the educative systems of the other Catalan-speaking territories is not based on having observed a deficit in the knowledge of Spanish in any pupils; not only have no studies ever shown such a deficit, but rather all evidence<sup>5</sup> and research on multilingualism indicate that the pupils who are taught in the minority or regional language acquire knowledge of the majority language which is equivalent to that of the pupils who are taught in the majority language, but they have vastly superior knowledge of the minority language. Indeed, it can be said that the only guarantee on multilingualism is given by the education systems which prioritise teaching (exposure) in the minority language and, subsequently, in a foreign language, as the vehicular languages; this is ignored by the LOMCE.

In terms of the sociopolitical context of the period analysed, it must be said that these years, as well as previous years, were marked not only by a lack of promotion of Valencian by the government at the time, but also by a linguistic counterprogramming strategy. There were no language promotion policies and the language experienced a setback.

More than 30 years have passed since the Law on the Use and Teaching of Valencian (LUEV) and developments towards normalisation of Valencian have been limited. The number of pupils taught in Valencian has increased, but this increase has been slow. The application of the law is therefore characterised by its slow nature, as well as the limited amount of growth in pupils studying in Valencian. In the 2010/11 school year, the percentage of pupils who were taught in Valencian was 29%, while in 2014, according to data from the Ministry of Education, pupils who studied in Valencian accounted for 30%; this represents only 0.25% annual growth.

### **Triple fragmentation of the Valencian education system**

In terms of education stages, there is no guarantee that pupils having been educated in Valencian in the Nursery and Primary stages will be able to continue their studies in their own language in Secondary and Baccalaureate. As such, while schooling in Valencian is 36.3% in Nursery Education and 37.1% in Primary Education, in Secondary Education (ESO) it is 32.4%. The difference is even greater after the second stage, as only 18.3% of Baccalaureate pupils continued the

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

teaching programmes in Valencian. What is even more striking is that teaching in Valencian in Professional Training was 1.6%.

We can therefore conclude that the Administration does not ensure the continuity of teaching programmes in Valencian between the different educational stages. Moreover, the opportunities disappear as the pupil moves through the education system. It is therefore difficult for Nursery and Primary pupils who have undertaken their studies in Valencian to continue to do so in Secondary Education (ESO) and particularly in Baccalaureate and Professional Training.

It is also worth noting the territorial fragmentation of the Valencian education system. According to data from the 2015/2016 school year, regarding the population schooled in the province of Valencia, 30.21% studied in Valencian; in the province of Alicante this was the case for 16.87% and in Castelló it was 69.79%. Nevertheless, this high percentage of pupils schooled in Valencian which was observed in the Castelló districts accounts for around 55,000 pupils, which represents only 7.24% of the school population in Valencia. This means that this incidence in terms of pupils as a whole is minimal.

Furthermore, as established by the LUEV in 1983, parents from areas which are predominantly Spanish-speaking still have the right to exempt their children from being taught Valencian. As such, an exemption from undertaking the Valencian Language subject was created in these districts. It should be noted, however, that the exemption was of a transient and exceptional nature. Nevertheless, over the years, and despite numerous demands from many entities around the country, no government has eliminated this regulation, something which has consolidated and normalised a situation which, in principle, was not supposed to last more than three decades. In these areas, the fact that the exemption has remained has only made the linguistic conflict worse.

There is therefore no uniformity throughout the Valencian territory with regard to the education system, which is an obstacle in terms of equal opportunities for pupils. We must condemn the fact that this transient situation has not been resolved and that no set objectives are in place for all Valencian pupils, without discrimination; quite the opposite is true, in that the gap has widened.

Thirdly, there is fragmentation between the public and private education systems. In 2014, only 6.5% of pupils who were taught in Valencian did so at private centres, meaning that 93.4% of pupils studying in Valencian did so at public schools. Furthermore, figures show that, over the years, the situation became worse; in

1998, pupils who studied Valencian in private centres represented 7.9% of the total number, which is a higher percentage than in 2014.

There are no known measures or data regarding social control and monitoring being undertaken by the private network of educational centres, even though it receives public funds. Moreover, funding for private centres increased by around 161% between 2000 and 2013, according to data from the Spanish National Statistics Institute (INE). Meanwhile, as previously mentioned, teaching in Valencian has halved: while almost 1 in 10 pupils studied in Valencian in the subsidised private education system in 1998, only 0.5 in 10 pupils did so in 2014.

We can therefore conclude that the increase in public funds for private education centres does not guarantee the extension of teaching programmes in Valencian, but rather the opposite, in that it plays a significant role in its decline. It should also be noted that, in the 2014/2015 school year, pupils who attended school within the private system represented 33% of all pupils. This means that 857,411 pupils would essentially be left out of teaching programmes in Valencian. Subsidised private education centres educate over 30% of the population, but they only account for just over 6% of pupils who study in Valencian. As such, these educational centres would not fulfil the obligation to promote and guarantee teaching in Valencian, as set forth in the legal framework on the education system and in the European Charter for Regional and Minority Languages.

To summarise, it has been noted that the lack of Valencian is much more significant in the higher levels of education, in the southern areas of the Valencian territory and in the subsidised or private education centres. The data shown confirm the theory of fragmentation of the Valencian education system and of the inequality with which our pupils are faced when accessing education in the native language; this right must be guaranteed, according to the legal framework in the area of education. Furthermore, we must condemn the fact that, over so many years, the legislation driven by the various governments was not aimed at correcting these imbalances, but rather the opposite: it consolidated and intensified them.

## **Report on the failure of the spanish state To implement the ecrl in the catalan-speaking areas of spain**

### **The current model**

In 2012, the publication of Decree 127/2012, which regulates multilingualism in non-university education, led to the end of the traditional linguistic plans and set out two new ones: the Multilingual Programme for Teaching in Valencian (PPEV), in which the core language for teaching is Valencian, and the Multilingual Programme for Teaching in Spanish (PPEC), in which the core language for teaching is Spanish. The curriculum for both plans includes Valencian, Spanish and English, and can include other foreign languages. With the publication of this decree, it is no longer possible to undertake studies entirely in Valencian. The new programmes require some subjects to be taught in Valencian and in Spanish, which means the disappearance of linguistic immersion. In short, it can be concluded that this decree is an attack against Valencian. Currently, this Decree is in force with the exception of Nursery Education.

In 2014, two years after the 2012 Decree on Multilingualism, another change took place, which involved placing more emphasis on Spanish as the language for all the courses, based on the argument that it was to comply with the requirements of the LOMCE. Specifically, it made it mandatory for two subjects to be taught in Spanish, including the Spanish Language subject.

With the formation of a new government following the 2015 elections, a new Decree on Multilingualism was published in 2017, which includes more hours of English in line with the increased presence of Valencian. It also sets out the automatic accreditation of languages in all levels except those for Spanish. This Law on Multilingualism was approved with a single linguistic programme, developed in various degrees, to overcome this situation and guarantee that all pupils master both official languages and one foreign language in the same conditions.

However, the Constitutional Court suspended this regulation as a precautionary measure before it could be implemented in the Valencian centres, even though the majority choice of the families at the time of enrolment was for levels which gave more hours of exposure to Valencian and English (Intermediate 2, Advanced 1 and Advanced 2).

The Council approved a Decree-Law in September 2017, a few days before the start of the school year, which maintained programmes based on the previous ones in Nursery, to avoid new enrolment.

In February 2018, a new law was published which regulated language learning in non-university education levels, Law 4/2018, of 21 February, of the Valencian government, which regulates and promotes multilingualism in the Valencian education system. This law sets forth a minimum number of subjects to be taught in Valencian (25%), Spanish (25%) and English (15%). However, the Spanish government declared its intention to file an appeal against this law on the grounds of unconstitutionality; it is therefore unclear whether it will apply to the 2018/2019 school year.

### **Infringement of linguistic rights: case studies from the 2013-2016 period**

During the 2013-2015 period, the Department of Education was led by M. José Catalá, from the Valencian People's Party (PP). From the linguistic perspective, the period was characterised by three basic factors: the application and development of Decree 127/2012, the application of the LOMCE to the Valencian education system, and a policy of financial cuts in infrastructures and, particularly, expenditure on education staff. These factors led to a climate of social tension and response from the sectors closest to the educational reform, the defence of the pupils' right to learn Valencian in the same conditions as Spanish, and the academic world, led by the Multilingual Education Units at the universities of Valencia, Alicante and Jaume I in Castelló.

#### **A) Multilingual Education Programmes**

With the bilingual education system in force until 2012, families could theoretically choose one of the three programmes in place: PIP (progressive incorporation programme), PEV (Valencian teaching programme) and PIL (linguistic immersion programme). In practice, however, the number of centres offering the three options, or even two of them, was very low, and the Administration had not made any attempt for many years to increase the offer, and cover the growing social demand which was increasingly requesting the programmes which put more emphasis on Valencian (PEV and PIL). In 2012, the new linguistic system aimed to incorporate teaching in English and saw the end of the linguistic immersion programme. The PEV and PIL programmes are brought together in the Multilingual Programme for Teaching in Valencian (PPEV) and the PIP programme has become the Multilingual Programme for Teaching in Spanish (PPEC).

In addition, partly due to the refusal to increase the educational offer that has Valencian as the core vehicular language, there is a tendency in many centres to request that the language programmes be unified towards the teaching programmes in Valencian, after observing that the pupils who studied the PEV or PIL finished

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

their schooling with an equivalent level of Spanish to the pupils who studied the PIP (which has a much lower presence of Valencian, being practically non-existent in some cases), and, on the other hand, their knowledge of Valencian and metalinguistic knowledge, to varying extents, were far superior.

The demand for a single centre not to separate pupils according to the family's linguistic choice and for the courses to be unified towards those that guarantee real multilingualism (PPEV) is systematically ignored by the Ministry of Education at the time, even though this request is in line with an agreement with the whole education community (the school board, which has the authority to request this, has representation from teachers, families and the community). This of course leads to a large number of complaints and legal action:

### **B) Organic Law 8/2013, of 9 December, on improving education quality (LOMCE), and learning of Valencian**

The entry into force of the LOMCE in Valencia revealed that the State Administration would not deal with cases of discrimination of families who were not able to exercise their right for their children to be educated in Valencian, for the simple reason that the Autonomous Administration, of the same political party as the one who prepared the LOMCE, was not willing to increase the available offer. There was even a case of a family who had to have their daughter educated at a private centre due to not having access to education in Valencian in the public system, and requested the same treatment that the Law guarantees for the opposite situation. This request was not honoured.

Moreover, Decree 108/2014, of 4 July, of the Council, was approved, which sets out the curriculum and the general order of the Primary Education system in Valencia, and the subsequent instructions, in which the hours of exposure to Valencian were reduced in all the linguistic programmes, both in the case of programmes with Spanish as the core language and in those which had Valencian as the main vehicular language. In other words, in order to comply with the requirements of the LOMCE, according to the interpretation by that Ministry, the decision was made to have more content in Spanish in the linguistic programmes in Valencian, and less Valencian in the linguistic programmes in Spanish, with an overall reduction in the time of exposure to Valencian in all cases. On the other hand, a new subject was created, known as Valencian Culture, which would take care of the aspects which, in theory, would shape the Valencian personality. However, the decision was not taken to assign the Valencian people's language to the content of this subject, meaning that it could be offered in either Valencian or Spanish.

## **Cuts in public education and Valencian**

Finally, the successive orders of school arrangements for these years according to which the distribution of pupils at each centre was regulated, on the grounds of a supposed financial requirement to reduce the number of jobs and staff expenditure, eliminated a large number of education units; almost all of these were public centres and a very high percentage of them had education courses in Valencian, without meeting the demand of the families, even when the majority requested education in Valencian in a particular centre.

It was also the case that centres in which there were two linguistic programmes and one unit was to be eliminated, the educational unit assigned to the Valencian linguistic programme was systematically eliminated.

This infringement of the rights of many families to be able to choose also led to a significant social response and many cases of legal appeals and action.

As of June 2015, the Ministry of Education of the Valencian government has been led by Vicent Marzà, from the Compromís party, with senior positions also held by individuals from the Valencian Socialist Party – Spanish Socialist Party.

The first legal provision approved by the new government in terms of education was Order 7/2015, of 17 September, of the Ministry of Education, Research, Culture and Sport, which regulates the bases that must govern the implementation of an experimental project for incorporating the education level from 2 to 3 years in specific Nursery and Primary Education centres belonging to the Valencian government.

However, even today, education in Valencian in the first cycle of Nursery Education (0-3) is not guaranteed by law for any family, whether in centres supported by public funds or in private centres, as the decision regarding the teaching language depends solely on the will and capacity of the educators or, where applicable, the decision made by the centres. Linguistic knowledge is not an established requirement under any circumstances when appointing staff to these centres, nor is the guarantee of education in Valencian covered in any legal provisions.

The 2-year experimental programme in public centres, governed by Order 7/2015, does not contain any reference to the vehicular language of teaching either, except for the fact that this must be covered in the Centre's Linguistic Plan.

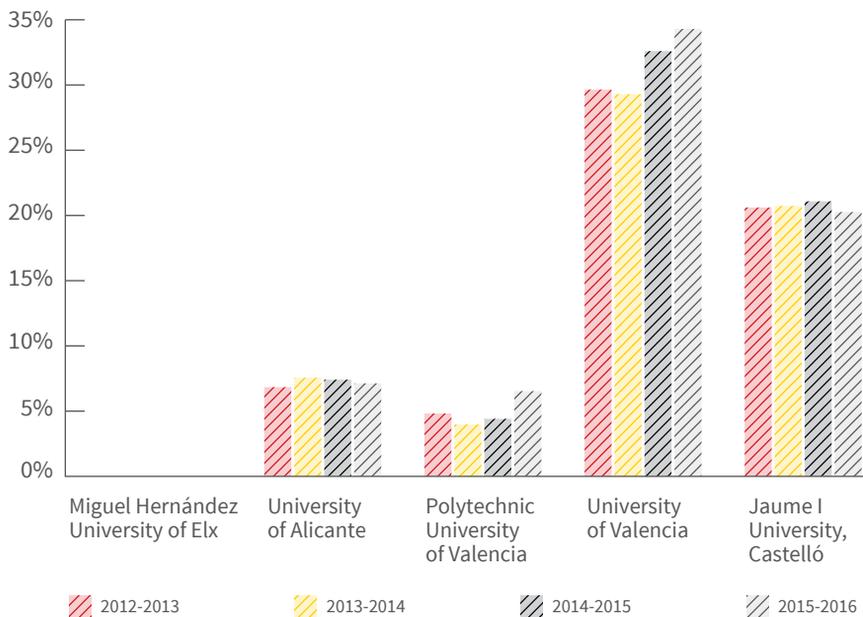
## Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain

### Public universities

Between 2013 and 2016, the growth in the teaching offer in Valencian was very slight and varied widely according to the university, but it did not exceed 35% in any case. Among other reasons, there have been no state or autonomous policies aimed at increasing the resources or incentives for teaching staff, and universities have used the regulatory autonomy in this area, according to the wishes of the rectoral teams and deans of the faculties.

The funds allocated to public universities have suffered large progressive declines for years. It is particularly worth noting Miguel Hernández University of Elx, which does not have any teaching options in Valencian. Taking into account that 37% of the Valencian population lives in the province of Alacant, the fact that its two public universities hold 7.13% and 0% of lectures respectively in Catalan demonstrates that the 8 hours goal has not been fulfilled.

TEACHING IN VALENCIAN IN NON-LINGUISTIC AREAS



## **Catalonia**

Despite the fact that the report by the Committee of Experts for the 2013-2016 period considers all of the objectives set out in the ECRML to have been met in Catalonia – which is indeed the case on paper –, the situation in Catalan schools is far from normal. As we mentioned at the last Committee visit, following the ruling of the Spanish Constitutional Court on the appeal of unconstitutionality filed by 99 deputies from the Popular Parliamentary Group against the Statute of Autonomy of Catalonia in 2006, a real legal (and media) battle began to (re)introduce Spanish as the vehicular language in schools; this battle has continued in recent years, and has worsened due to the situation of political instability caused by the fact that the Catalan government called for a referendum on self-determination (1 October 2017), which, de facto, led to the suspension of Catalan autonomy.

At the previous visit, a detailed report was already prepared on the main actions taken by the Department of Education in defence of the linguistic regime, from the 2011-2012 school year until the time of the visit (2014). In any case, it might be worth remembering the actions of the State which, in the period in question, have continued on the path to hindering the normal functioning of the Catalan school model. We can summarise these actions in two areas: judicial and legislative:

### **Judicial scope**

In the judicial area, at the previous visit we highlighted the five Supreme Court rulings in 2010 which acknowledged the right to be educated in Spanish and which were appealed until 2014. While none of the definitive rulings in 2012 made it mandatory to change the school's linguistic model in Catalonia, but rather only affected the individuals involved (personalised attention), in its ruling of 19 February 2013, the Supreme Court stated that particular cases had to be done “together with their classmates”. It was therefore necessary to ensure that Spanish was the vehicular language (i.e. that linguistic subjects be taught in Spanish) in the classroom of the children of the complainants, in the proportion that the Catalan government deemed to be appropriate. As such, five families – those who had made the request – caused the Catalan educational model to be changed (albeit only for their children and their group/class).

## **Report on the failure of the Spanish state To implement the ecrlm in the catalan-speaking areas of Spain**

Finally, in January 2014, it was the High Court of Justice in Catalonia which decided on the proportion of teaching of linguistic subjects in Spanish, which had to be done in the groups/classes affected by the ruling, and it decided on 25% (the ruling of the Supreme Court, on the other hand, said that this fell under the competence of the Catalan government).

This meant that:

- pupils requesting classes in Spanish could not be separated;
- they could not be dealt with individually, as had been the case until that time;
- and classes that pupil attended would be given in Spanish only.

Furthermore, it stated that the class in Spanish must be a core or analogous subject, such as mathematics, geography and history or environmental studies, until reaching 25% of the weekly teaching timetable, i.e. six or seven hours per week. This change came into effect one month before the end of the school year.

With these sentences, we believe that the rights of the families of the classmates of these complainants have been infringed, as they are affected by the linguistic regime of their children's classroom.

In an unprecedented manner, a court of justice assigned itself the pedagogical and curricular organisation functions, to the point of deciding the percentage of hours in which classes must be taught in Spanish where only one single pupil has requested to be schooled in this language, without taking into account the results in terms of Catalan and Spanish of these pupils.

What is baffling is that this Court requires directors to contravene the Catalan education regulation (Law 12/2009, of 10 July, on education), and the very nature and education project of the centre, which were formally accepted by the families whose children attend school there (four of the centres are privately owned, with an ideology and Centre Education Project (PEC) which the families accepted when enrolling their children at the school).

At the request of one single family, and without taking into account what the others had to say, the Court changed the characteristics of the education received by the children of another 24 families at each of the schools. At this stage, various solutions have been decided on by these centres: teaching a subject in Spanish which was previously taught in Catalan; introducing it into split groups; using it for specific tasks; and in some cases it was not even necessary to do anything, as Spanish was already used as the vehicular language in some subjects. Even though

this jurisprudence affected a very small number of centres, it is still a legal sword of Damocles, which questions and puts pressure on the Catalan school system in terms of linguistic conjunction.

At the same time, the number of requests to the Department of Education for bilingual teaching, which had been decreasing over the years (in 2011-2012, there were only 15 families and 32 pupils), began to increase as of 2012-2013: in 2013, there were 32 families and 48 pupils, and in 2014, there were 325 families and 472 pupils. From 2015, however, the trend changed again: 126 families and 196 pupils in 2015, 66 families and 201 pupils in 2016, and 39 families and 54 pupils in 2017.

The families' requests cover three different issues: bilingual teaching (this request is common to all of them); communication with the family also in Spanish; and a change in the school enrolment form language check-box. While the requests are signed by private individuals, the vast majority of them correspond to templates prepared in advance by two associations (*Convivencia cívica catalana* and, to a lesser extent, *Asamblea por una escuela bilingüe*) which encourage and incentivise this activity.

The response resolutions issued by the Department of Education repeatedly reject the request to change the linguistic regime of the education system in Catalonia and the change in the check-box; they do agree, however, to communication with the family also in Spanish.

### **Legislative scope**

In the legislative area, the provisions of the Spanish education law, the LOMCE, which came into force in 2014, can also pose a risk for the school model in Catalonia depending on which party is in power. On the one hand, by developing the curricular aspects, the Catalan language is excluded from the “core subjects” and considered to be an “elective subject to be configured at the regional level”, the teaching of which can be exempted by the Autonomous Communities in which it is official, together with other measures which impose a legal and academic status of Spanish over Catalan (and over the other official languages in the respective territories).

On the other hand, in its additional provisions, the LOMCE reiterates the rights of parents or guardians for their children or pupils to be educated in Spanish, within the framework of the education programme, and sets forth that if “the annual programming of the competent Education Administration does not guarantee a

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

reasonable teaching offer supported by public funds in which Spanish is used as the vehicular language, the Ministry of Education, Culture and Sport [...] will fully undertake, on behalf of the corresponding Education Administration, the effective expenses for the schooling of these pupils in private centres in which there is an offer with the conditions and procedure set forth by the regulations; this Education Administration will be responsible for these expenses”, as “the measures involving personalised attention in Spanish or the separation into groups by language of habitual use are not considered to be adequate”. According to this regulation, the government would have to pay the sum of €6,000 to each family who wanted their child to be educated in Spanish at a private school.

In the first course in which teaching in Spanish could be requested, no one did so. However, in 2015-2016, it was requested by 39 families, as acknowledged in Parliament by the Minister of Education at that time, Meritxell Ruiz. Ruiz explained that all of them were sent a letter informing them that there were schools which teach non-linguistic subjects, such as Mathematics and Science, in Spanish, in case they wanted to enrol their children at said schools.

Nevertheless, it was unclear in which centre the children of these families could undertake this Spanish education, as the majority of the private centres in Catalonia teach in Catalan or in international languages.

However, it must be said that, eventually (February 2018), the Constitutional Court partially accepted, unanimously, the appeal by the government against the measure of the Spanish education law, particularly with regard to ensuring teaching in Spanish in private centres, as it encroaches upon the autonomous competences, and decided to annul the articles of the LOMCE which provided for an allowance of 6,000 euros for families who requested schooling in Spanish in Catalonia. The ruling considers that the system designed by the law to guarantee teaching in Spanish with public funds does not respect the separation of powers between the State and the Autonomous Community.

To date, 150 families have requested this and it has been granted to 50, although the Ministry has never actually passed the expense on to the government.

In 2018, the application of Article 155 of the Spanish Constitution, which has allowed the Spanish government to control the Government of Catalonia and try to curb the process of sovereignty, has also been used as an attempt to add a checkbox to school enrolment forms, through which parents would be able to choose between Catalan and Spanish; in other words, it has attempted to segregate

the education system in Catalonia. It did not manage to do so, however, as the Education Law in Catalonia protects the fact that teaching must be in the Catalan language as standard and that pupils cannot be separated by language of habitual use (Article 11).

Therefore, it is clear that the spirit of the central government is to attempt to break down an educational model which works, and it aims to do so without any educational criteria to back it up (the Spanish State's report on compliance with the Charter demonstrates that knowledge of Spanish in Catalonia is comparable to that of Catalan - p. 16-17), while jeopardising the social cohesion and consensus present in Catalonia in this regard.

### **Harassment on the Catalan educative system and populist discourse**

In addition to these actions by the State, in recent years we have also noted a constant attack on the education model of Catalan schools by the more Spanish-centric parties. The following are some examples:

In 2016, in order to reach an investiture pact with the People's Party, Ciutadans demanded compliance with a total of four points to respond to the "Catalan case", in which they included the defence of a trilingual education model, in Catalan, Spanish and English, as well as forcing the Government to comply with the rulings against linguistic immersion, stating that "there are mechanisms" for it to be like this, "such as the State inspection which is not being applied".

On an even more serious note, in recent times, there have been accusations by politicians that Catalan schools are "indoctrinating" pupils "towards separatist sentiment and against what Spain stands for", as stated in 2017 by the Catalan PP leader, Xavier Albiol. Literally (translated from the original statement in Catalan): "There has been [in recent years] an incredibly cruel use of what is part of the public school, which has become an instrument for indoctrinating towards separatist sentiment and against what Spain stands for". To this end, the decision was made for the PP, PSOE and Cs to include "corrective measures" in the legislation to prevent this phenomenon, something which it considers should have already been done when educational competences were transferred to Catalonia, if it had been foreseen that some schools would be used as an instrument to propagate the separatist theory.

In the same vein, in 2017, the leader of Ciutadans, Albert Rivera, presented a proposal to the Spanish Congress for a law to create an agency to undertake

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

educational inspections throughout the Spanish State, and particularly to control the content of text books and classes, and the work of teachers in Catalonia. He justified this by the cases of indoctrination and hatred which, according to him, are present in Catalan schools.

More recently, the President of Aragon, socialist Javier Lambán, defended the need to “correct sooner rather than later the unfair and illegal mistreatment” which the Government of Catalonia has inflicted on Spanish, which has been “relegated” in Catalan schools in an “unacceptable” manner. “The State, in terms of education, must go back to Catalonia if we want to prevent Catalonia from being a definitive problem which cannot be solved”, he warned in statements to the media when he left the Federal Committee of the PSOE.

Ultimately, we can see how the Catalan school model is suffering from three perspectives: legal, legislative and also political. This is the case to the point that, at this time, and as a result of the events that occurred with the referendum on 1 October (police action at the schools being used for voting), legal actions have begun against various schools in the country, accusing teachers of separatist indoctrination, incitement to hatred and xenophobia, for the mere fact of having discussed what had happened that day with pupils.

## **Illes Balears**

### **The threat of the Trilingualism Decree and hate speech against the use of the Catalan language in the education system (2013-2015)**

The main threat to education on the Balearic Islands until June 2015 was the implementation of the Trilingualism Decree, which compelled schools and colleges to teach approximately one third of subjects in Spanish and one third in English. The Decree was based on the idea, widely disseminated by the regional government then presided over by Joan Ramon Bauzá (Partido Popular), that Catalan was being overused in the education system and that this was the cause of the high rate of school failure in the region. Of course, no study was ever provided to corroborate such a claim.

The order governing the integrated treatment of languages (known as TIL) for forthcoming academic years was presented on 9 May 2014. This order specified that schools and colleges had to approve TIL plans (PTIL) to adapt their use of languages to the new regulations. On 31 July 2014, following decisions by teaching staff at many schools not to approve the TIL plans meeting the new regulations, the Balearic Islands Government made a new decree forcing schools and colleges to apply PTILs even without the approval of teaching staff.

On 3 July 2015, the new regional government resulting from the elections to the Balearic Islands Parliament in 2015 (consisting of the PSIB-PSOE, MÉS and MPM parties) abandoned the appeals to the Supreme Court by the previous government team, which amounted to repealing the Decree.

Beyond the repeal of a Decree that would have involved a blatant breach of article 8 of the Balearic Islands Charter, the climate of constant harassment to which education in Catalan in the Balearic Islands and the rest of the linguistic area has been subjected should be noted. The attempt to promulgate the TIL did not occur in isolation. It was the result of a discourse of hate against the use of Catalan as the vehicular language in the education system promoted by the Spanish government led by Mariano Rajoy until the beginning of June 2018 (with the promulgation of the Education Quality Improvement Act known as the LOMCE); by broad sectors of the Partido Popular of the Balearic Islands (like the former regional prime minister José Ramon Bauzá himself); and by organisations from Spanish civil society. One of these, “Hablamos Español” (We Speak Spanish), encourages the collection of signatures in the street throughout Spain to promote a popular legislative initiative

## **Report on the failure of the spanish state To implement the ecrl in the catalan-speaking areas of spain**

aimed at doing away with linguistic immersion in Catalan in schools. We believe it is fundamental for the Committee of Experts to take note of the existence of this climate of hate and to urge the new Spanish government to take measures to stop it.

### **Challenges for the full implementation of the Charter beyond the repeal of the Trilingualism Decree (2015-present day).**

The main breaches of the provisions of the Charter occur in the areas of pre-school education and higher education, but there are also general considerations to bear in mind with respect to other education systems.

In pre-school education there are no specific regulations governing the use of the Catalan language or requiring a minimum of activities in it although some nurseries do everything in Catalan, voluntarily and on their own initiative, as the demand from parents is so high. There are also groups of teachers who consider that their educational plans are more pedagogically coherent if they do everything in Catalan for reasons of integration, respect for the language of the region and social cohesion. There is a great deal of demand for private and public nursery schools that do everything in Catalan. Teachers who work in the pre-school sector must have an infant education teaching certificate (CCI), including level B1 of Catalan, and a 20-hour course in Catalan language and popular culture. However, the lack of regulation means there is also a considerable number of nursery schools where there are great deficiencies in the use of Catalan. A language survives in a territory if all the people who live and work there use it. However, a large part of the child population has no contact with the Catalan language during the pre-school phase. It cannot therefore be considered that this point has been complied with.

In higher education, there are no regulations guaranteeing that students can do their higher education entirely in Catalan. Lecturers have the right to choose the language they want to teach their courses in. Catalan is not a requirement for permanent teaching staff, it is merely an advantage. At the UIB, Catalan classes are given for students who do not know Catalan and want to learn it. But the same is not true at the other higher education institutions. We have the Balearic Islands Higher School of Art and Design in Palma, the Higher School of Dramatic Art and the Higher Music Conservatory. Catalan is not a requirement for permanent teaching staff and there are no Catalan classes for students who do not know the language. According to the data provided by the Statistics and Quality Service of the University of the Balearic Islands (SEQUA) regarding the language of teaching or language used in the UIB, in the 2014-2015 academic year Catalan had a presence

of 53.49%; Spanish, 38.53%; and English, of 7.47%; During the 2015-2016 academic year, the presence of Catalan dropped to 49.7%, that of Spanish is maintained at 38.6%, and English increases to 11.2%.

Considering all educational levels, knowledge of history and culture needs to be strengthened still further. We consider culture to be all artistic disciplines; the humanities, such as philosophy or Catalan literature (the presence of these two subjects has decreased recently in compulsory and post-compulsory education); and popular culture forged over the years (stories, serenades, songs, refrains, dances, etc.). These elements are not worked on sufficiently in primary and secondary schools and are clearly missing from adult education, vocational training and unregulated education. We consider that knowledge of the history and culture of the Balearic Islands is just as important as knowledge of the language and the normalisation of its use.

Concerning the challenges raised by migration, it must also be considered that the Balearic Islands is the region that has recorded the highest level of incorporation of foreign pupils in Spain. The islands' education system faces a great challenge and work must be done to achieve proper integration – without losing their origins – respect and interest for all languages and cultures and interculturality, meaning knowledge, understanding and the inter-relations between them. Linguistic and cultural reception schemes (PALICs) must be promoted in all schools and colleges. In order to include the population of newcomers properly and to break up and possible ghettos that could form it is important for the educational administration to distribute immigrant children in a balanced way between public and publicly-funded private schools. If this is done, we will be able to work for real social cohesion. However, the Government of the Balearic Islands is not currently working on this.

In 2018, there is a great educational debate on the Balearic Islands. The Pact for Education document, approved by a full session of the Balearic Islands School Council on 4 April 2017 and which in 2018 is being debated in Parliament has to include a specific reference to Decree 92/1997, of 4 July, and to Order 12 of May 1998 developing it. These regulations govern the teaching of and in Catalan in non-university schools and colleges; the areas covered and the minimum teaching that must be done in Catalan at all public and publicly-funded private schools and colleges on the Balearic Islands. They also allow teaching 100% in Catalan if the education community agrees. It also regulates the use of Catalan as a vehicular language for teaching and for internal and external communication.

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

With Decree 92/1997, current legislation establishes that all public, private or publicly-funded private schools and colleges on the Balearic Islands, including cooperative ones, should carry out 50% of teaching in Catalan. Many primary schools teach 100% in Catalan, particularly public schools and educational cooperatives. However, linguistic normalisation cannot be considered to be achieved with the implementation of 50% of education in Catalan, which is particularly common in secondary education. Measures must be established to maintain and gradually develop the use of Catalan as vehicular language for teaching and for internal and external communication to ensure the effective knowledge of the two official languages, as well as the learning of a foreign language, allowing equality of opportunity and social cohesion. When they complete compulsory secondary education, pupils not only need to be able to use Catalan, they have to be able to use it normally inside and outside school. It must be possible for Catalan to become their habitual language for communication.

Knowledge of Catalan history and culture must be increased at all educational levels, along with sociolinguistic content and work on linguistic attitudes. Knowledge of the history and culture of the Balearic Islands and the rest of the area where Catalan is spoken is just as important as knowledge of the language and the normalisation of its use. This goes along with knowledge and debate on sociolinguistic content and increased awareness and commitment to the Catalan language and culture.

Teacher training curriculums will have to increase the time devoted to learning the Catalan language as teachers are linguistic models, having a multiplier effect on students in terms of the proper use of the language, good diction, phonetics and lexis. This will ensure that future teachers will achieve the best possible level of linguistic and communicative competence in Catalan.

The creation of interdisciplinary working teams – with the corresponding budget – to draw up materials for teaching in Catalan is extremely necessary, as there is currently a notable gap in this respect. Specific teaching materials will have to be drawn up and the existing material updated for infant, primary, secondary and adult education, pupils incorporated late into the system, non-Catalan-speaking adults, parents, etc.

## Article 9 justice

---

### **Guarantee to conduct court proceedings in Catalan at the request of one of the parties by the legal, criminal, civil and administrative authorities**

Point 201 of the last evaluation report pointed at Article 231 of the Organic Law of Judicial Power as one of the most prominent obstacles to the full implementation of Article 9 of the Charter in Spain, since the co-official language will only be allowed if neither of the parties objects to it. This is why the committee of experts recommended to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in Catalonia will conduct the proceedings in Catalan at the request of one party;

As we mentioned in the introduction, the Spanish State has not changed the legal framework to guarantee the linguistic choice of citizens, thereby failing to comply with all of the recommendations made by the ECRML Committee of Experts. The parliamentary initiatives which have been presented in the Parliament and the Senate during this period to amend Article 231 of the LOPJ, which is the greatest obstacle for applying Article 9 of the ECRML, have been rejected by the majority of these legislative chambers. The first initiative was presented by MP Jaume Moya (Group En Comú-Podem) to the Justice Commission of the Congress on 18th October 2016, and it was immediately rejected without even making it to the plenary session. The second initiative was presented on 7th February 2017 to the Senate by Senator Celia Cánovas, and was rejected by an overwhelming majority of the plenary.

In law offices, it is the State judges or lawyers who determine the language to be used in their office. In this way, the language used in the office depends solely on the will of the staff working there, and not that of the citizen who approaches them. Generally speaking, in Spain, unlike in similar multilingual countries, the citizens are not the ones who choose which of the State's languages to use, while the judge adjusts accordingly; here, it is the judge who chooses the language. Furthermore, as the law states that the default language of use is Spanish, this language has a clear pre-eminence. As it has become a repeated practice for judges to state that they do not understand the Catalan language, speaking in Catalan has almost become an act of protest or defiance as far as these civil servants are concerned. As such, it is very difficult for people to keep using their own language

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

when addressing courts or tribunals, unless it is a tribunal which openly states the language option (something which is very rare). This situation has created an inertia which is difficult to break, through which all operators are aware that they have to carry out their professional duties in Spanish. As such, the imposition of Spanish means that there is little demand to use Catalan among legal professionals and that, in effect, legal civil servants do not regard the use of this language to be a requirement.

The State government, which is ultimately responsible for the competences in terms of the Justice System, and the General Council of the Judiciary, which has all the competences in terms of the organisation and actions of the judiciary (Art. 149 of the Spanish Constitution), has never shown any desire to rectify this situation. As such, beyond the effort that has been made in translating certain basic laws or regulations of the Official State Gazette (BOE), there are no projects to promote the use or prevent the growing decline in the use of the language in judicial proceedings.

We will now go back to what we explained earlier, in stating that the Spanish State dismisses the linguistic rights of citizens in the area of justice. This disdain and lack of sensitivity is clear through the lack of political will to amend the legislation. The Spanish State does not apply any linguistic policies to promote the co-official languages; these policies are made by the Autonomous Communities, and they are the ones who allocate budgets to fund language policies. However, in the area of justice, since this is largely within the competence of the Spanish State, there are no policies or incentives for promoting the use of Catalan.

Because of the facts that have been exposed, we understand that this point of the Charter must be considered to be unfulfilled.

**Implementation of legal measures and practical application aimed at guaranteeing that an appropriate proportion of legal staff in the Balearic Islands, Valencia and Catalonia have sufficient knowledge of Catalan to guarantee that legal proceedings can be conducted in Catalan**

Point 207 of the last evaluation report pointed out that there was no requirement for judges working in Catalonia to know Catalan. As a consequence, the committee of experts recommended to take the necessary measures to increase the proportion of judicial staff in Catalonia at all levels, and particularly among judges and prosecutors, who are able to use Catalan as a working language in courts.

There are no positions for Judges, Prosecutors or Lawyers of the Administration of legal staff at the service of the Justice System for which knowledge of Catalan is mandatory. Likewise, this staffs do not receive any kind of training in linguistic rights and they often do not take into account the regulation to be applied.

Catalan, as set forth in Law 6/1985 of the Judiciary and Regulation 2/2011 on the legal profession, may only be considered as a valuable skill, but not a requirement, and it is always restricted to the territories in which it is an official language. In some cases, as with staff serving within the Justice System (Article 483 of Law 6/1981), it emphasises that Catalan cannot under any circumstances be a reason to rule out a candidate; it is always optional. Royal Decree 1451/2005, on the provision of civil servant staff posts in the Justice System, also restricts the value placed on knowledge of Catalan, even where it is the native language, while Spanish is a requirement throughout the State. This is precisely what happens within the civil service of Lawyers of the Justice System, through Royal Decree 1608/2005, or in the civil service of coroners, through Royal Decree 296/1996. Additionally, for prosecutors, Catalan can only be considered as a valuable skill and only where it is official (Law 50/1981, of the Organic Statute of the Prosecution Service). Article 13 of Royal Decree 634/2014, on substitutions in the legal profession, also emphasises the restrictive nature of the valuable skill, which is only valid in areas where Catalan is officially recognised.

The various State provisions emphasise the mandatory nature of Spanish and the optional nature, to be considered as no more than a valuable skill, of Catalan as far as the State Administration is concerned, even though the job will be undertaken where Catalan is an official language. Article 102 of the Statute of Catalonia set forth that knowledge of Catalan was equally mandatory as knowledge of Spanish to work in Catalonia, but the ruling by the Constitutional Court reinterpreted this in a way that its application was subject to an amendment of the Law of the Judiciary.

Spanish is also the only language which is a requirement for obtaining professional qualifications for lawyers and court solicitors, throughout the Spanish territory (as understood and interpreted in Law 30/2006, Royal Decree 775/2011 and Order PRE/1743/2016, of 27 October, which convenes the professional aptitude assessment test to practice as a lawyer in 2017). Catalan, on the other hand, is neither a requirement to practice nor an option in the mechanisms for obtaining the qualification.

## Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain

This complete lack of capacity to invest in the linguistic rights and duties means that, in Catalonia, we are faced with the death of Catalan at the Courts, and the future is far from encouraging. According to data, the data on the use of Catalan in rulings continues to have a clearly low percentage compared to the use of Catalan in other spheres. In 2017, this use was 8.2%, which was slightly lower than 2016 (8.4%).

Rulings in 2017	% Catalan	Catalan	Total
Barcelona, Ciutat Justícia and L'Hospitalet	8.0%	8,397	104,967
Barcelona Districts	7.5%	5,033	67,104
Girona	16.0%	3,187	19,921
Lleida	9.0%	937	10,406
Tarragona	3.6%	671	18,627
Terres de l'Ebre	3.8%	121	3,195
<b>Total in Catalonia</b>	<b>8.2%</b>	<b>18,346</b>	<b>224,220</b>

There is a worrying decline in the use of Catalan in the rulings issued. In the latest data which we provided in the last report we submitted to the Committee of Experts in 2014, the percentage reached only 12.4%, while in 2017 we are at 8.4%.

An even slightly worse situation takes place in the Justice Administration of Valencia and the Balearic Islands. With regards to the latter, we can find a clear example of the lack of resources for the Catalan language in the case of the head of the Court of Instruction nº 24 of Palma, who publicly stated in an interview for Ara newspaper published in June 2018 that there is only one translator of Catalan in all Mallorca. Since she always drafts all of her rulings in Catalan, a lawyer has submitted a complaint to the General Council of the Judicial Power due to the alleged indefension that he had suffered for the delays in receiving a translated sentence into Spanish. Instead of hiring more translators in order to solve the structural problem, the Council of the Judicial Power opened an inquiry on the judge which is has not been concluded on the date of the submission of this report. As it has been exposed, there are several structural impediments for the use of the Catalan language in court proceedings in all of the Catalan-speaking territories. Because of the facts that have been exposed, we understand that this point must be considered to be unfulfilled.

### **Publication of legal provisions in Catalan**

The official government gazette of Spain, El Boletín Oficial del Estado (BOE), constitutes the main instance of the absurdity of dividing the Catalan language into “Catalan” and “Valencian” variations, because it makes use of separate translation procedures that yield virtually identical results. You can see this practice in the attached document or by clicking on [www.boe.es](http://www.boe.es) and searching for the gazette’s supplements in “Valencian” and “Catalan”.

The continuation of this practice of dividing the Catalan language into regional variations as if they were separate language often leads to abuse by the court system and to the mistreatment of Catalan speakers by some judges that insist they translate documents written in Catalan into Spanish on the grounds that their particular dialect –treated as a distinct language– is not official therein, even though interdialectal differences are minimal. These attitudes show that the use of the Catalan language is seen as a nuisance and that it is often discouraged by an arbitrary judiciary marked by its State nationalism and refusal to treat Catalan speakers as equal citizens. This issue is, therefore, not only related to lack of knowledge but also to the use of the majority language as a tool at the service of the State and a means to discipline the population.

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

The General Council of the Judiciary –the governing body of Spanish judges– makes use of the arbitrary distinction of “Catalan” and “Valencian” to prevent knowledge of the Catalan language from being a single and unified merit across all the Catalan-speaking territories of Spain for workers of the justice system and those aspiring to work in it.

### **Fear of using Catalan in the Justice System and reporting cases of linguistic discrimination in this area.**

As evidence of what we have explained, the following are some specific examples of the serious infringement of the linguistic rights suffered by citizens and professionals wishing to use Catalan in the Justice System:

-Recently, at a session organised by the Illustrious Bar Association of Barcelona (ICAB), on 24 April 2018, entitled “Catalan in judicial proceedings. Practical situations.”, a conference by a judge at the High Court of Justice in Catalonia, some of the attendees expressed “fear” of writing reports in Catalan due to “fear” that judges will not read their documents or that they will be given a label for the mere fact of being written in Catalan. Using Catalan for legal proceedings at this time is an act of bravery.

-The judge of the Court of Instruction number 2 in Olot reprimanded the Lawyer for using Catalan. The lawyer reported this and filed a complaint with the High Court of Justice in Catalonia, and this body sanctioned her with a minor offence. The fact that such a serious infringement as the one that happened in Olot was reported, and that, when it subsequently reached the highest body (General Council of the Judiciary) the sanction was archived, increases the sense of infringement, aggravates the feeling that the Spanish authorities responsible for sanctions in terms of linguistic rights do not take them into account, and that judges, prosecutors and lawyers of the administration know this, and know that they will remain unpunished in the face of any infringement of these rights. We know that there are very few professionals or citizens who dare to report these infringements, because the reports are archived or not even processed. For this reason, it is difficult to obtain more information on this type of infringement as people are silent and afraid.

-Xavier Casanovas, Professor at the University of Barcelona, was fined for addressing a National Police Officer in Catalan. Mr Casanovas filed a complaint against these police officers and requested that the process be dealt with in Catalan. In this process, which began in 2016, the court only took a statement from Mr Casanovas

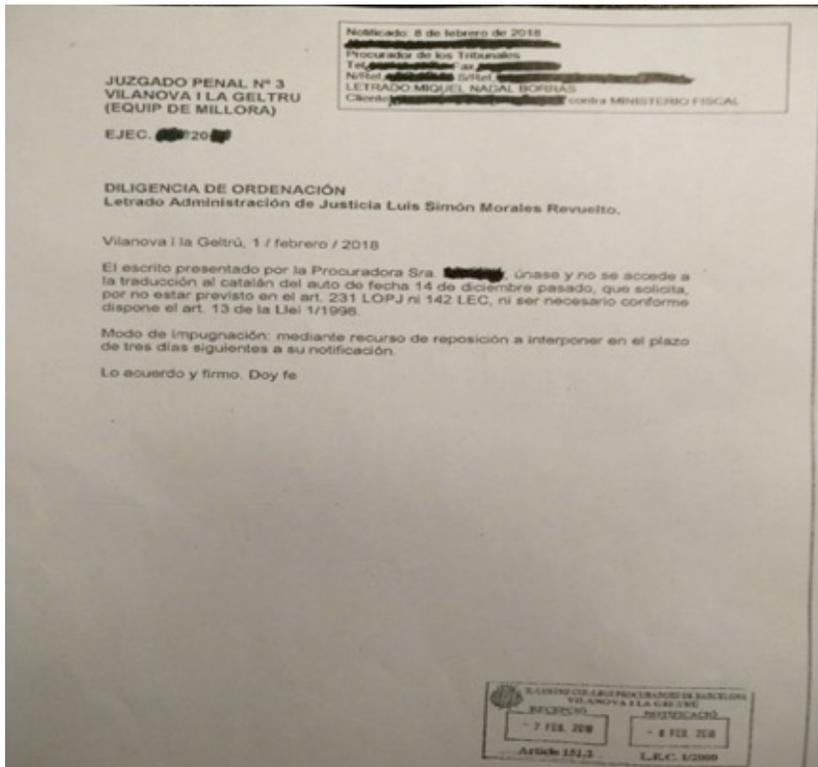
and did not undertake any legal actions. And, of course, it took no notice of the linguistic choice request and addressed the plaintiff in Spanish. This is a procedure in which, when an individual reports an incident such as this, the legal actions are paralysed, the defence has repeatedly stated that they be summoned to file a report with the police, but the actions are at a stand-still. Instead, Mr Casanovas was required to pay 601 euros, for failure to obey law enforcement officers.

-In Valencia, the contentious-administrative court of Elx, headed by the judge Carmen Casado Guijarro, issued a ruling on July 17th 2016 on a case brought by Lluís Olague, a Notary Public of Valencia, against the official College of Notaries Public of the same city. The origin of the conflict lay in the fact that the Official College had fined the Notary Public in question €21,000 after discovering an alleged double serious offence by him following an inspection that had been notified to him in Spanish, against the wishes of Olague, who for years, and also in this case in question, had been telling the College that he wished to receive notifications in Catalan. The judge decided that Olague was right and that the Official College should use Catalan in the administrative proceedings which led to the penalty. Nevertheless, she also found that use of Spanish did not constitute defencelessness on Olague part because he was obliged to understand Spanish, and she confirmed the 21,000-Euro fine on the Notary Public plus 500 Euros in legal costs.

The organizations that present this report have collected many more examples of cases where the right to hold proceedings in Catalan is denied and of cases that illegally order the party who has used Catalan to translate the documentation, subsequently justifying the action “to avoid delays in the procedure”, which is a cover acknowledgment of the fact that writing documents in Catalan originates a delay in the proceedings.

The following are some more examples of court decisions which infringe the linguistic rights of citizens:

# Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain



In this document, the party requests that the documentation be sent in Catalan. The Lawyer of the Justice System says that it is not translated because translation is not provided for in Article 231 of the LOPJ, Article 142 of the LEC or the Language Policy Law. This Diligence is a clear infringement of the linguistic rights of the individual having requested their choice of language.



Juzgado Primera Instancia 6 Vilanova i la Geltrú

Ronda Ibérica, 175

Vilanova i la Geltrú Barcelona

TEL.: 93871092

FAX: 93 887 18 84

NÚM. CUENTA BANCARIA DEL JUZGADO IBAN ES 6864 8600

N.I.C.: 98307-42 - I - 2016 - 8103032

Procedimiento Divorcio contencioso (art.770-773 Lec. 4ª) Sección 1ª

OBJETO DEL JUICIO : CIVIL

Parte demandante

Procurador

Parte demandada

Procurador



**PROVIDENCIA**

Magistrada Jueza que la dicta: Maria Luisa Pampin Pampin

Lugar: Vilanova i la Geltrú

Fecha: 27 de diciembre de 2017

El procurador Sr. [redacted] en representación del Sr. [redacted] ha presentado escrito de fecha 2/11/17, grase y respecto a requerir a S.Sª y a los funcionarios para que acrediten el nivel de catalán, no ha lugar. Respecto a la solicitud de recibir en catalán todos los actos resolutorios por parte de este juzgado, no ha lugar conforme el art. 231 LOPJ siendo el castellano lengua oficial del Estado y sin perjuicio del derecho de la parte a presentar sus escritos en catalán, si a su derecho conviene.

The party requested that the civil servants demonstrate their level of Catalan and that the resolution documents be in Catalan, and the Judge informed them that, in accordance with Article 231 of the LOPJ, Spanish is the official language of the State, and that documents can be submitted in Catalan, but the Administration will not translate the documents. Here we can see another infringement of the right to a choice of language.

# Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain

JUZGADO DECANO  
IGUALADA

Expediente Gubernativo 3/15

## ACUERDO

Igualada, 22 de febrero de 2015

### ANTECEDENTES DE HECHO

UNICO.- Por la Sra. [redacted], el Sr. [redacted] y la Sra. [redacted] se presentó queja contra el Juzgado de Primera Instancia e Instrucción nº 3, por los motivos que se contienen y que en lo mandado se dan aquí por reproducidos.

De conformidad con lo dispuesto en el art. 4.2 del Reglamento, se ha recabado el correspondiente informe de la Letrada de la Administración de Justicia de dicho Juzgado.

### FUNDAMENTOS DE DERECHO

UNICO.- Basan los Sres. [redacted] su queja en la vulneración de sus derechos lingüísticos cuando acudieron ante el Juzgado de Primera Instancia nº 3 en la celebración de la vista de incapacidad de su madre que se seguía en ese Juzgado bajo el ordinal 224/15.

Del informe remitido por la Sra. Letrada de la Administración de Justicia se infiere que la funcionaria perteneciente al Cuerpo de Auxilio Judicial, que no la oficial, a la hora de ser llamados a la vista en su condición de litigantes, tan solo les hizo una observación de usar la lengua castellana en sus exposiciones, toda vez que el Juez actuante era originario de Sevilla y tenía cierta dificultad a la hora de comprender la lengua catalana, no constando ninguna alegación en el acto de la vista por parte de los Sres. [redacted] del abogado, procurador de la presente incapaz Doña [redacted] madre de los referenciados.

No constan en este Decanato antecedentes por hechos similares, respetándose siempre el uso de las lenguas oficiales, por aplicación del art. 142.3 de la Lec.

Manifiestan los Sres. [redacted] haber recibido la citación al acto de la vista en lengua catalana, constando así en las actuaciones, pero no solo este acto de comunicación, sino también la contestación a la demanda, su admisión y convocatoria de las partes al acto de la vista, en su consecuencia y existiendo ninguna prohibición de usar la lengua catalana en sedes judiciales, debe desestimarse la queja presentada por no ser los hechos expuestos constitutivos de responsabilidad disciplinaria, ni de generar responsabilidad de otra naturaleza.

### PARTE DISPOSITIVA

DISPONGO.- El archivo de la queja presentada por la Sra. [redacted] y el Sr. [redacted] y la Sra. [redacted].

Notifíquese el presente acuerdo a los interesados, así como a las entidades a que se refiere el Reglamento 1/95.

Así por esta resolución lo manda y firma Doña Ana Torres González, Juez Decana de Igualada.

[redacted]

In this case, some individuals who attended the Civil Courts of Igualada filed a complaint as the civil servant warned them that it would be best if they spoke in Spanish. This complaint was simply dismissed.



PROCURADOR:  
 [Firma]  
 DATA RECEPCIÓ : 31/01/2018  
 DATA NOTIFICACIÓ : 01-02-2018  
 DATA TERMINI : 15-02-2018  
 (n.º ref: 18/0001) Art. 151.2 L.E.C.

**Juzgado de Primera Instancia nº 06 de Barcelona**  
 Avenida Gran Via de les Corts Catalanes, 131, Edifici C, planta 6 - Barcelona - C.P: 08075

TEL.: 935549406  
 FAX: 935549536  
 E-MAIL: instanciac06.barcelona@vj.gencat.cat

N.I.G.: 0801842130170170752

**Juicio verbal (2018) (VRB) [Firma]**

Materia: Juicio verbal (juicio de cuantía)

Cuenta BANCO SANXANDER:  
 Beneficiario: Juzgado de Primera Instancia nº 06 de Barcelona  
 Para ingresos en caja. Concepto: Nº Cuenta Expediente del Juzgado (16 dígitos)  
 Pagos por transferencia IBAN en formato electrónico: E350 0049 3500 0000 1274. Concepto: Nº Cuenta Expediente del Juzgado (16 dígitos)  
 Pagos por transferencia IBAN en formato papel: IBAN E350 0049 3500 0000 1274. Concepto: Nº Cuenta Expediente del Juzgado (16 dígitos)

Parte demandante/representante: [Firma]  
 Procurador/a: [Firma]  
 Abogado/a: [Firma]

Parte demandada/representada: [Firma]  
 Procurador/a: [Firma]  
 Abogado/a: [Firma]

**DILIGENCIA DE ORDENACIÓN**

**Letrada de la Administración de Justicia que la dicta:** María Rosario Martínez Paulano  
**Lugar:** Barcelona  
**Fecha:** 30 de enero de 2018

El anterior escrito presentado por la Procuradora [Firma] en nombre y representación de [Firma] queda incorporado al procedimiento, con entrega de las copias a las demás partes.

Habiendo alegado la parte actora su falta de conocimiento suficiente de la lengua catalana, requirase al demandado para que en el plazo de DIEZ DÍAS presente copia de la contestación traducida al castellano.

**Modo de impugnación:** recurso de REPOSICIÓN ante la Letrada de la Administración de Justicia, mediante un escrito que se debe presentar en el plazo de CINCO días, contados desde el siguiente al de la notificación, en el que se debe expresar la infracción en que haya incurrido la resolución. Sin estos requisitos no se admitirá la impugnación. La interposición del recurso no tendrá efectos suspensivos respecto de la resolución recurrida (artículos 451 y 452 LEC).

Lo acuerdo y firmo,

Este documento genera un registro en el sistema de gestión documental de la Administración de Justicia. Para más información consulte el sitio web de la Administración de Justicia: www.gencat.cat/justicia. Fecha de emisión: 30/01/2018 10:30.

The court gave a deadline of 10 days to the party which presented the document in Catalan to have it translated, unaware of the fact that the Administration is the one who has to have an official translation carried out when requested by one of the parties.

# Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain

Num/Procedim: 2018/001208/0008  
Magist. Esp. Castell. + 4377(879-3)  
Tel. 937991212 - Fax. 937980704  
magist@tribunacatalana.com

PROFESOR MIGUEL CAYREDA  
Tel. 93306677 - Fax. 930481799  
MADRINA, COCA GRACIA

24/02/2018

**FINE REQUERIMIENTO 22/02/2018**

**Juzgado de Primera Instancia nº 11 de Barcelona**  
Gran Via de les Corts Catalanes, 151, edifici C, planta 7 - Barcelona - C.P. 08075

TEL: 935549611  
FAX: 935549611  
EMAIL: m11n000111.barcelona@j.gencat.cat

N.I.G.: 08054212017905374

**Procedimiento ordinario** [REDACTED]  
Materia: Juicio ordinario (resto de casos)

Cuenta BANCO SANTANDER:  
Beneficiario: Juzgado de Primera Instancia nº 11 de Barcelona  
Para ingresos en caja. Concepto: Nº Cuenta Expediente del Juzgado (28 dígitos)  
Pago por transferencia IBAN en formato electrónico: E305 0049 3369 9300 0300 1274. Concepto: Nº Cuenta Expediente del Juzgado (28 dígitos)  
Pago por transferencia IBAN en formato papel: IBAN E305 0049 3369 9300 0300 1274. Concepto: Nº Cuenta Expediente del Juzgado (28 dígitos)

Parte demandante/requeriente: [REDACTED] Parte demandado/obligado: [REDACTED]  
Procurador/a: [REDACTED] COCA, MIGUEL CAYREDA  
Abogado/a: [REDACTED] Procuradora: [REDACTED]  
Atorgada: [REDACTED] Atorgada:

**DILIGENCIA DE ORDENACIÓN**

**Letrado de la Administración de Justicia que la dicta:** Juan Sanabra Gafarot  
**Lugar:** Barcelona  
**Fecha:** 14 de febrero de 2018

El anterior escrito presentado por el Procurador **[REDACTED]** en nombre y representación de **[REDACTED]**, queda incorporado al procedimiento.

Viso lo manifestado y con suspensión del plazo para contestar la demanda reconvenzional formulada, **requiero** a la parte demandada **[REDACTED]** a través de su representación procesal, para que en el plazo de CINCO DIAS, presente la contestación a la demanda y la demanda reconvenzional en idioma castellano y verificado, se acordará lo procedente.

**Modo de impugnación:** recurso de REPOSICIÓN ante el Letrado de la Administración de Justicia, mediante un escrito que se debe presentar en el plazo de CINCO días, contados desde el siguiente al de la notificación, en el que se debe expresar la infracción en que haya incurrido la resolución. Sin estos requisitos no se admitirá la impugnación. La interposición del recurso no tendrá efectos suspensivos respecto de la resolución recurrida (artículos 451 y 452 LEC).

Lo acuerdo y firmo.  
El Letrado de la Administración de Justicia

Administración de Justicia y Catalunya - Administración de Justicia en Catalunya

Página 1 de 1

The party who presented the documents in Catalan was required to present them in Spanish within 5 days.

## Article 10 public administrations

---

### The use of Catalan by State administrative authorities

Point 217 of the last evaluation report pointed that there did not seem to be any overall policy or strategic approach to guarantee that there is sufficient staff with an adequate knowledge of Catalan. As a consequence, the Committee of Experts urged the Spanish authorities to substantially increase the number of Catalan-speaking staff in the competent state administration offices and to develop adequate training schemes.

*Plataforma per la Llengua* analysed in a recent report the lists of jobs in the various ministries of the Spanish State in December 2017 and the requirements and valuable skills required of public employees appointed to the Catalan-speaking administrative territories: Catalonia, Valencia and the Balearic Islands. The conclusion was that over 98% of the jobs in these territories do not list Catalan as a valuable skill, and none of the over 33,000 jobs appointed to the territories in which Catalan is an official language list the language as a requirement.

The analysis of public positions in all ministries carried out by *Plataforma per la Llengua* shows that the State only considers Catalan to be a valuable skill for obtaining the job in 617 of 33,167 positions, which represents 1.86% of the total.

The only two ministries which have a higher number of such positions are the Ministry of the Interior (7.9%) and the Ministry of the Treasury and Public Function (1.16%), but these figures are still trivial. This is explained by the provision of considering Catalan to be a valuable skill in some of the positions allocated mainly at the Directorate-General for Taxation (DGT) and the administrative departments of the Treasury. It is worth noting that the Ministry of Foreign Affairs and Cooperation and the Ministry of Health, Social Services and Equality do not appear because the State Administration does not allocate civil servants to the territories analysed. Nor do State civil servants appear who occupy positions designed by the competences in the Autonomous Justice Systems of Catalonia and Valencia. These obviously do not include public employees of autonomous and local public administrations either.

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

The list of positions in December 2017—with no public positions requiring Catalan and under 2% listing it as a valuable skill—demonstrates that the State is unable to respect the provisions of compliance with the ECRML or the new Basic Law of the Statute for public employees (approved in 2015), which sets forth that the public administrations “must guarantee to attend to citizens in the language they request, as long as it is official in the territory”, and, to this end, it sets forth that “the public administrations, within the area of their competences, must plan to hire public employees who are duly capable of covering positions in the Autonomous Communities which have two official languages”.

However, according to the latest data provided by the State in the last ECRML compliance report, in 2016, 1.12 euros per civil servant in Catalonia was allocated to learning or improving Catalan (16,924 euros allocated for a total of 14,982 public employees). The budget allocated to this matter is the equivalent of 28 euro cents per worker in the Balearic Islands (1,122 euros among a total of 14,197 public workers) and 0 euros in the case of Valencia.

The right to a choice of language is only guaranteed when all civil servants are capable of speaking the official languages of the territory in which they work. The alternative options, such as partial training of civil servants or translation services, do not work, since they involve extraordinary actions such as moving citizens to another table to be dealt with or having specific documents translated so that certain civil servants can understand them. These difficulties mean that on many occasions it is a lot more convenient to ask a citizen to give up his or her right to choose their language than to comply with the law. Such requests, as well as being illegal, lead to a general feeling among speakers that preventively giving up their language is useful and discourages the use of Catalan.

### **State forms and administrative texts**

Point 223 of the last evaluation report pointed that there was an inadequate proportion of state administration texts and forms for the population available in Catalan or in bilingual form. In addition, point 222 stated that there had been some improvements in several bodies of the General State Administration, most of them related with the presence of Catalan in the information and the documents provided on the websites of Ministries.

The developments stated by the Spanish government in its fourth report on the application of the European Charter are, in 2017, largely non-existent. It is not true that the Ministry of Employment’s website has the majority of the documentation

in Catalan: the documents related to common issues, such as Youth Guarantee, configuration of the electronic signature and the Labour Guide, are only available in Spanish. In fact, the website only has the static menus and first browsing level available in Catalan, and the resources it has posted on this level usually redirect to Spanish versions of the content. Furthermore, the websites of the bodies which are under the authority of the Ministry usually only function partly in Catalan, then change to Spanish when trying to process a request. With regard to the Ministry of the Treasury, while it has one of the few websites partially translated into Catalan (that of the Tax Agency), the majority of requests cannot be processed in this language. With regard to the websites of the Ministry of the Interior, the main website in Catalan is residual; the website of the State police does not exist in Catalan; and the website of the Civil Guard, once again, can only be browsed in Catalan at the initial levels. Finally, statements by the Spanish government that the AENA website and the RENFE train ticket purchasing site are available in all the “co-official” languages are, in 2017, quite simply untrue: the AENA site can only be accessed in Spanish and English, and the RENFE ticket purchasing site must be accessed in Spanish.

Contrary to that stated by the Spanish government, the AENA website and the RENFE train ticket purchasing site are not available in Catalan. It is also clear that the RENFE site in Catalan contains numerous mistakes and mixtures of Catalan and Spanish. Aside from the fact that the statement by the Spanish government in its report is highly inaccurate, we must also highlight the dire state of the Catalan language throughout its websites. Of the websites analysed by *Plataforma per la Llengua*, 64.2% had no Catalan version and 19.7% of them had a Catalan version that was completely residual. In many cases, the Catalan version has simply been thrown together: tabs on the home page and some of the other pages are in Catalan (albeit badly written, in some cases), but all of the content is in Spanish. A total of 14.2% of the websites were found to be partly in Catalan: they have a part (or, in a few cases, all) of the static content in Catalan, but the documentation, news and variable content are only available in Spanish. Only 1.6% of the websites analysed (4 out of 254) are completely in Catalan, which is an extremely disappointing figure.

Furthermore, in addition to the very low number of State websites which are fully accessible in Catalan, those that do have a version translated into Catalan (to one degree or another) often have significant issues. The two most common issues are linguistic secession and the constant presence of spelling mistakes, errors

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

and significant omissions. With regard to secession, it should be unthinkable that a disruptive political doctrine rejected by the whole scientific community would often be adopted naturally by the State. Indeed, the fact that Catalan should be torn apart in a way that would be unthinkable for Spanish, which has much more variety in terms of dialect, shows that the Spanish State does not see the Catalan language as its own, which is constitutive and should be protected and promoted. It should be noted that 30.1% of the official websites studied by *Plataforma per la Llengua* which had a version in Catalan (as a reminder, this was only 35%) differentiated between “Catalan” and “Valencian”. In many cases, we even found the absurd situation of having two identical versions of the same page.

The neglect, apathy and disdain with which the State Administration treats the Catalan language is even more obvious when we see that almost 75% of the websites translated into Catalan are full of spelling errors, omissions and mixtures of languages, which would be unthinkable for the Spanish version. As mentioned above, the State treats Catalan more like a burden which should not be given much attention, rather than a right or an element of heritage. This would be unthinkable in a state which treated the citizens of its various linguistic communities equally.

Finally, it should also be mentioned that all of these attitudes (the non-presence of Catalan, the partial translations, the linguistic secession and the constant errors and omissions) are cross-sectional, and are found to similar extents in all areas of the Central Administration: legislative, judicial and executive power, and, within the latter, in each of the ministries This once again shows that these attitudes are by no means circumstantial or coincidences; they derive from a very specific view of the world and the State, in which Spanish is superior and Catalan is inferior.

This situation in which Catalan is not present, invisible, fragmented and residual leads to many Catalan speakers and other habitual users of Catalan being forced to use the Spanish version of the official websites (the main version and the only one guaranteed in full). This fuels discussions and attitudes that relativise the importance of treating the different speakers equally: “If they already use the Spanish version, why do we have to make an effort to provide them the service in Catalan?” One of the most harmful consequences for the interests of Catalan speakers in this twisted logic is that the most important requests can only be processed in Spanish, even when the websites have a Catalan version. Many websites have the generic information translated into Catalan but do not allow users to carry out the procedures in Catalan. Others are in Catalan until the user tries to carry out a procedure or fill in a form, at which time the Catalan disappears.

Some others even have the initial levels of browsing in Catalan, but they automatically jump to the home page in Spanish when going further, particularly when trying to start a process. A clear example of this practice is the process for requesting the Working Life Report (*Informe de Vida Laboral*), found on the Social Security website, which has two versions in Catalan (with the titles “Catalan” and “Valencian”). However, when processing the request, the website changes to Spanish with no warning. In addition to this example, in the first annex, readers will find ten examples of very common requests which citizens of the Spanish State carry out online and which must be done in Spanish, whether they like it or not.

To summarise, we can say that the most important administrative processes which cannot be carried out in Catalan are: checking the cadastral reference of a property, which is required for the annual tax return declaration; the download of the report on the work life (essential document to prove working experience), the consultation of the main subsidies provided by the State; and the payment of VAT, which is a mandatory process for most companies.

Because of the facts that have been exposed, we understand that this point must be considered to be unfulfilled.

### **Use and introduction of place names in Catalan**

With regard to place names, Article 14 of the Basic Law of Law 7/1985, which regulates the Bases of the Local Regime, specifies that wherever Catalan is an official language, the place names can be in Catalan, Spanish or both languages; wherever Spanish is an official language, Spanish is always guaranteed. Given that Catalan is not official in the Eastern Strip of Aragon, it is not possible for there to be a single official form in Catalan, even if it is the only native language. Furthermore, there are issues which do not allow the official use of Catalan, even in cases in which it is the official native language and there is a will in the autonomous regulation for it to be the single form. Certain State bodies have the capacity to establish official designations for what it considers to be geographical entities of national interest, even if these are local, and therefore cause them not to follow the parameters of the autonomous regulations. This is the case with the place names designated by AENA (Spanish Airports and Air Navigation), State Ports (Puertos del Estado), National Parks (Parques Nacionales) and ADIF (Administrator of Railway Infrastructures). In practice, these entities often use the Spanish form alone outside the official forms determined by the communities. This is particularly the case with entities such as AENA, State Ports and ADIF, which can use only the Spanish forms

## Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain

“Alicante”, “Mahón”, “Ibiza” and “Castellón” in the official names of the airports, ports and in the destinations. If they are to appear in Catalan as well, these entities have to give their permission, and Spanish must always appear in first position. It is not possible to state “*Port de Barcelona*” in Catalan alone as the official name; it must state “Puerto de Barcelona” in Spanish, or if allowed by this authority, “*Puerto de Barcelona/Port de Barcelona*”. On the other hand, these bodies are never given Catalan versions of official place names in Spanish.

Despite the fact that the designation of place names for municipalities and smaller local entities can be the decision of the Autonomous Communities, which choose the language and the official form in accordance with what is set forth in their respective statutes, this is not the case with some of the most significant territorial units, in which, once again, there is an imbalance with special privileges for the Spanish language in terms of the official forms set forth by the State law. This is established in the Resolution of 28 July 2005. Spanish has a clearly favourable treatment compared to Catalan in all of these cases. The Aragonese provinces have the official form in Spanish alone, even though there are Catalan-speaking parts of the territory. This is not the case when it is the other way round, such as in Valencia. Here, they even use double denominations, such as “Alacant/Alicante”, “Castelló/Castellón” and “València/Valencia”. Furthermore, even though the official name of the province of the Balearic Islands is “Illes Balears” in Catalan, the official names of the islands are in Spanish only, meaning that “Ibiza” is the only official legal form acknowledged for the island, and not the Catalan form “Eivissa”. With regard to the Autonomous Communities where Spanish is the native language, the forms are always in Spanish. For Catalonia, the official form of the State laws is only “*Comunidad Autónoma de Cataluña*”, in Spanish. This is also the case for “*Comunidad Valenciana*” and “*Comunidad Autónoma de Aragón*”. The Balearic Islands are known by a strange combination of Spanish and Catalan: “*Comunidad Autónoma de las Illes Balears*”. The official forms used by the State to refer to the governments of the islands, Catalonia and Aragon are in Spanish only (e.g. “*Comunidad Autónoma de Cataluña: las instituciones de autogobierno forman la Generalidad de Cataluña, que integra el Parlamento, el Consejo Ejecutivo o Gobierno y el Presidente de la Generalidad*”); however, in Valencia the official designations are also allowed (beyond the Spanish translation) for Corts and Consell.

### **Attention to the fact that Catalan is used when providing a service.**

Even though Spain undertook this commitment towards the Catalan language when it ratified the Charter in 2001, every year there are cases of discrimination against Catalan speakers in public services, as well as those managed privately. In 2017, for example, there were cases of refusal to provide service due to linguistic reasons all throughout the territories in which Catalan is official, and Spain undertook the maximum level of protection, according to the Charter. A report by *Plataforma per la Llengua* on the cases of language discrimination in the sector and public services in general, corresponding to 2017, described several of these cases. For example, in April, a member of the Catalan Federation of Winter Sports who had suffered an injury saw how the Federation's medical management department, for which the service is outsourced to a private insurer, refused to provide care, even though they had an insurance policy with them, due to the fact that they did not understand when then person spoke in Catalan. Furthermore, in November, a taxi driver in Palma (Balearic Islands) verbally abused a women and her young children and forced them to leave the vehicle because the woman had addressed him in Catalan. In 2018, *Plataforma per la Llengua* also detected other cases. For example, in February this year, another taxi, this time in Valencia, refused service to users if they spoke in Catalan, because he did not understand them. All of these cases refer to public services (and entities of public interest) managed privately and demonstrate that the administration does not properly ensure compliance with the Charter, in the sense that Catalan-speaking citizens often encounter difficulties in using these services in their own language. In most cases this has no repercussions, nor are any disciplinary or corrective actions taken.

### **Specific problems for the case of the Valencian Autonomous Administration**

While in the Autonomous Administrations of Catalonia and the Balearic Islands the respective laws on public service set forth that it is mandatory to demonstrate a sufficient level of Catalan to be able to access a civil servant position (with the exception of certain positions in the healthcare system, which will be analysed in the section dedicated to Article 13), in Valencia this linguistic requirement is non-existent; Article 53 of the Law on the Valencian Public Service only requires that individuals who pass the selection tests, after having acquired the position as civil servant, undertake a Valencian course, which by no means guarantees that they will reach a sufficient level.

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

To solve this problem, the Valencian government approved Decree 61/2017, of 12 May, which regulates the institutional and administrative uses of the official languages in the Administration of the Government. This regulation improves the legal position of Catalan within the Valencian Administration through an impulse in its use in the institutional image, internal administrative uses, and relationships with citizens, with special attention to guaranteeing the use of Catalan in the attention to the citizens, and institutional relations. Nevertheless, it should be mentioned that the decree does not provide for guaranteeing attention in Catalan by making it mandatory to reach a sufficient level in this language, which is the measure which would truly guarantee that civil servants have knowledge of the Catalan language. Instead, it does so through an improvement in the courses aimed at civil servants in the Administration of the Generalitat. To this effect, it is worth highlighting that, according to the survey on the usage of Valencian in the Valencian regional administration carried out by the Valencian government in 2016, 24.3% of Civil Servants do not reply in Valencian when a citizen uses this language in oral communications, a percentage that rises to 49.6% in the province of Alacant. With regards to written communications, 28% of Civil Servants state that they always reply to the letters that are sent to them in Spanish and 15.9% refuse to say whether they answer in Valencian or Spanish; in the province of Alicante, these percentages rise to 43.6% and 13.9% respectively. As a consequence, citizens cannot fully exercise their right to use Valencian before the public administration.

Despite its functionality, the decree has already been challenged in court. The State law of the delegation of the Spanish government in Valencia has filed a contentious-administrative appeal in the understanding that some provisions are contrary to the law and the Constitution, specifically, those that set forth that notifications from the Administration of the Government of Valencia are written in Valencian when addressed to “Autonomous Communities belonging to the same linguistic area” because they say that Valencian is only official in this community. They also maintain in the appeal that the provision to contemplate that Valencian be used in administrative papers goes against freedom of movement, Article 139 of the Constitution, and the principle of freedom to access tenders, as set forth in Article 1 of the consolidated text of the Law on Public Sector Contracts. Along the same line, the People’s Party (PP) and the CSIF union have contested the decree. They did not achieve its preventive suspension, however, despite have requested this, as the High Court of Justice understood that the requesting parties had not demonstrated the irreparable damage of it being maintained while the appeals were resolved.

# Article 11 the media

---

## Reciprocity of audiovisual media

The commitment to guarantee the freedom to receive live radio and television broadcasts and the free flow of information in a regional or minority language is significantly deficient due to technical and political obstacles.

In terms of the technical dimension, the rearrangement of the radioelectric space by the Spanish government in 2015 reduced the margin of manoeuvre for the autonomous television channels, which lost a multiplex. The state government argued the need to make space for 4G technology. Televisió de Catalunya has to rent channels to private companies which have channels on the Catalan multiplex aimed at private operators. TVC lost one of the two multiplexes it had for the provision of public service. Due to Spanish government policies, it lost one of them, and is renting spaces to private operators to broadcast through their broadcast points. This has an impact on the Catalan ecosystem, and some competences do not depend on the autonomous governments.

Regarding the political side, fear of media and electoral attrition has led some leaders to paralyse reciprocal agreements in the broadcasting of public television channels. The aggressiveness of the People's Party and Ciutadans in Valencia in terms of incentives in favour of the Catalan language and contact with Catalonia, and of the biased media capacity to instrumentalise them and fight against them, makes it very difficult. The current situation of the Catalan language media reflects the acceptance of the different languages and cultures within the State. There are many political obstacles, and the difficulty in establishing reciprocity of broadcasts of Catalan and Valencian public television channels is just one example. These discourses reflect a State logic that is also present in the linguistic education of citizens.

The lack of reciprocity in audiovisual broadcasts between territories has led to a particular grievance for citizens of Valencia, for whom in 2013, with the disappearance of Canal 9 and the lack of signal reception for TV3, there was no media in Catalan in Valencia, despite the fact that Spain had undertaken a commitment to create at least one radio and television broadcaster for each language protected by the Charter. While the entry of the new Valencian

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

coalition government between PSOE and Compromís in 2015 led to the start of a process to reopen a new autonomous television channel in Catalan, known as “À Punt”, it must be noted that this has been a very slow process, to the point that broadcasts did not begin until June 10th 2018. Furthermore, it remains to be seen whether in the near future it will be possible for an agreement to be signed between the Catalan and Valencian governments to enable full reciprocity of the broadcasts of this new channel with TV3 and the Mallorca public television channel, IB3.

In the case of reciprocity of broadcasts between Catalonia and the Balearic Islands, there is partial reciprocity which is limited to the reception of international signals from TV3 and IB3 in each of the respective territories. While the situation is better than the one in Valencia, where reciprocity was already non-existent before the disappearance of Canal 9, this situation is still a clear failure to comply with the commitment to enable the freedom to receive live radio and television broadcasts in Catalan.

### **Print media**

The situation in Valencia is a clear non-compliance with the commitment to promote at least the creation of one print media in Catalan, as there are currently no daily print media in this language which cover the whole territory. The paper version of the Catalan newspaper ARA began to be distributed in Valencia in 2012. However, it stopped being distributed daily in early 2014 and is currently only available at Valencian news stands at the weekend.

With regard to online press, it is worth noting the emergence of two news initiatives: the online newspaper *La Veu del País Valencià* ([diarilaveu.com](http://diarilaveu.com)) in 2013, and more recently, in 2017, the online newspaper *Jornada* ([diarijornada.coop](http://diarijornada.coop)), which is also available in paper format every Saturday. Both of these are in addition to the veteran online newspaper Vilaweb, and its Valencian editions.

### **Journalist training**

Journalists and other media staff who use the Catalan language in Valencia have not only failed to receive any assistance in their specific training to improve the use of Valencian in the media, but the closure of Ràdio Televisió Valenciana (RTVV) also led to almost 1,500 journalists and employees losing their jobs.

Staff numbers for the new À punt channel are much lower (approximately one-third) than for RTVV, and most of them are former employees of the public entity, meaning that young professionals have great difficulty in finding employment in Valencian media. The Valencian Journalist Union has challenged the selection process because it considers that there is an excessive preference for former employees of RTVV which could be discriminatory.

## **Article 12 ACTIVITIES and cultural facilities**

---

### **Common part: the cultural projection of the Spanish State abroad**

There is a clear case of disdain towards Catalan in the foreign policy, leading to an obvious case of linguistic subordination. The main example of cultural and linguistic projection of the State, the Instituto Cervantes, blatantly favours the projection of the Spanish language over the Catalan language. Projection of the Catalan language is relegated to the determination of the Autonomous Communities, while the State apparatus clearly opts in favour of one of the languages. Projection of the Catalan language requires another institute, in this case the Institut Ramon Llull, which does not receive proportional funding from the State to compensate for the State's commitment to the Instituto Cervantes in terms of Spanish.

In short, the website of the Ministry of Foreign Affairs only contains a link which leads to the Instituto Cervantes; there is no link to the Institut Ramon Llull. In the State's bilateral and representation agreements, only Spanish is taken into account, as well as in the agreements between countries or cultural alliances. Apparently, Spain would have to sign agreements with Andorra, France and Italy to undertake joint actions to disseminate Catalan, as it does with Mexico, Argentina and Chile for Spanish. However, the foreign policy shares the linguistic mentality which has Spanish as the single point of reference. In the alliances, meetings and Ibero-American agreements, Spain presents itself as a monolingual state; Catalan is completely non-existent. Catalan has never represented Spain next to Spanish, and much less so at the same level, in entities such as the Organisation of Ibero-American States and the Ibero-American Summits.

Given the State's lack of activity in relation to Catalan and the sole promotion of the Spanish identity, some Autonomous Communities have attempted to compensate for this situation. This is the case in Catalonia, with Law 16/2014, on foreign action and relationships with the European Union. However, the State has taken it to the Constitutional Court so that some articles do not take effect, such as Article 4, through which one of the aims of the foreign action and the relationship of the Government of Catalonia relationship with the European Union is "international promotion of the Catalan language and culture". The Spanish government not only ignores Catalan in foreign relations, but also strives for others to do the same.

Another example of regional action to compensate the of projection of the Catalan culture in the international arena is the Ramon Llull Institute, which is jointly participated by the Catalan government, the Balearic government –since 2015- and the Valencian government –since 2017. The Institute’s main objective is to promote Catalan language and culture abroad, in all its variants by carrying out several activities including promoting the establishment of Catalan language classes in educational institutions beyond its natural linguistic area, holding certifications tests for students of Catalan and promoting Catalan literature by endorsing translations into different languages.

## **Valencia**

Despite the fact that the Ministry of Education, Research, Culture and Sport of the Generalitat Valenciana has been dedicated, since 2015, to promoting Valencian in these areas, specifically those of theatre, music, cinema and new technologies, the Spanish State has made no commitment whatsoever to promote Valencian in cultural activities and spaces. Instead, it has attempted to politically repress the use of the language in this area. The most noteworthy non-compliance is without a doubt in the area of cinema.

### **Cinema**

Cinema in Valencian does not have access to the commercial circuit of screens and the Generalitat Valenciana has not, to date, promoted the dubbing and/or subtitling of films in this language. Recently, however, public grants have been made available for the promotion and visibility of Valencian in cinema exhibition halls, theatres, book shops and advertising campaigns.

Until now, the only initiatives to promote cinema in Valencian have been driven by social entities, such as the Escola Valenciana, which offers schools a range of children’s films in Valencian, and by the Valencian public universities, together with other institutions, which promote the offer of cinema in Valencian to the populations where they have a campus. Despite this, the offer is residual and marginal, and Valencian remains essentially banished from billboards.

The closure of Ràdio Televisió Valenciana (2013) left Valencia without any audiovisual productions in Valencian. With the launch of À Punt Mèdia (2017), the Valencian media corporation is leading to a revival of the Valencian audiovisual industry in the native language.

## **Report on the failure of the spanish state To implement the ecrrl in the catalan-speaking areas of spain**

Moreover, the figures from the Spanish government are shocking. Radio Televisión Española (RTVE), a public communication entity, has invested 0 euros in cinema productions in Valencian over the past four years. Specifically, Valencia is the only territory with its own language which has not received any cash injections in the audiovisual sector in recent years, and it also has the honour of being the Autonomous Community with two co-official languages which, over a decade, has been left with no investment in budgets on six occasions.

### **Catalonia**

#### **Cinema**

In January 2015, the cinema tax came into force, which applied to operators of electronic communications to promote the audiovisual sector. The application of the digital fee was proposed as a solution to the endemic problems of lack of resources for the audiovisual sector, and to achieve a stable funding model. This strength would also help to build up a production in Catalan, which had been very fragile until then due to the high risks involved in producing in this language, as it has a much smaller market than the Spanish- and English-speaking markets. The creation of specific lines for promoting films shot in Catalan is guaranteed with greater security with this model. This tax was approved in Parliament with no votes against it and was applied for two and a half years with no issues.

During this period, and until mid-2017, the tax raised 33 million euros, contributed to bringing the industry out of the financial crisis and was confirmed to be a key instrument in guaranteeing the industry's viability in the present and future. The need and coherence of this tax was backed not only by its application in other European countries, but also by the logic behind it. A total of 75% of the legal and illegal content consumed online is audiovisual, and therefore the same operators would be the first beneficiaries.

However, the Spanish government appealed against this tax and, in July 2017, the Constitutional Court (despite the fact that 5 of the 12 judges voted against it) annulled the tax. This has involved a return to a fragile model once again which is barely able to reinforce the public policies in terms of promoting cinema in Catalan, among other things.

In terms of the Law on Cinema 20/2010, which is in force but not applied, it is affected by different political and legislative obstacles:

- There have not yet been any amendments made to the Law on Cinema, which would have to be approved by the Parliament, as required by the Ruling motivated by the European Commission, no. 2010/4135, due to the fact that it infringed the regulations on free movement of goods and services. The reason given for this was that the Catalan law gave privileges to Spanish films in Spanish ahead of the rest of the films in other European languages, as it was the only language for which films did not have to be dubbed or subtitled in Catalan.

- The Catalan government has not yet approved a regulatory proposal to apply the Law on Cinema, as set forth in the same Law.

- In 2017, a ruling was issued by the Constitutional Court which dismissed the appeal on the grounds of unconstitutionality, no. 7454-2010, filed by deputies from the Popular Parliamentary Group of the Congress of Deputies against certain provisions of Law 20/2010, of 7 July, on cinema, but in which there was also a restrictive and random interpretation of the Law. The new obligation set forth by the Constitutional Court states that the screens must show at least 25% Catalan cinema. The Constitutional Court acted, paradoxically, as a legislative body given that, even though it considered the Law on Cinema to be constitutional, it randomly determined that the distribution of cinema dubbed or subtitled in Catalan could not exceed 25%. This ruling prevents the objective of equal conditions between Catalan and Spanish cinema from being established, with an arbitrarily chosen limit.

On the other hand, the grants from the Department of Culture do not guarantee that the films supported will have an offering that is anything more than trivial (with the exception of 2012, no year has surpassed 3.5%). For example, in 2017, despite 61 films having been subsidised to be dubbed or subtitled in Catalan, the offer available to spectators (i.e. the sessions in Catalan) accounted for only 2.9% of the total offer in cinemas in Catalonia. It should be noted that this very low percentage of Catalan in cinema is not only due to the fact that there is a relatively low number of films in Catalan (the total number of films released in Spanish that year was 572), but rather the fact that, of the films supported by the Department of Culture, the versions in Catalan only had a presence of 13.53% in cinemas. As such, the few films which were translated had very few showings once again that year (despite there also being a specific subsidy for cinema screens for showings in Catalan). Catalan citizens are therefore rarely able to choose their language at the cinema, even though they pay for the film twice (the value of the ticket in taxes).

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

There is no standardised presence of films translated into Catalan in the area of online platforms for renting films and series either. For example, platforms such as Netflix and Amazon Prime do not include many of the versions which already exist and have been funded with public grants. The commitment by distributors to show all the digital copies existing in Catalan is not complied with, as set forth in Article 18.1 of Law 20/2010: “when it is in digital format, all copies distributed must have access to the Catalan language included”. The recent ruling by the Constitutional Court endorsed this obligation. As such, distributors have to guarantee that all the digital media distributed has the Catalan version: this affects cinemas as well as DVDs, Blu-Ray and on-demand video platforms.

### **Music**

An offence has been detected in the promotion of music in Catalan based on the grants from the Government of Catalonia through the Catalan Institute of Cultural Enterprises (ICEC). A study carried out by *Plataforma per la Llengua* concluded that, in 2015 and 2016, the public grants to the music industry had mainly been allocated to music projects (concert halls, record labels, festivals, etc.) in which Catalan was not present or had very little presence (under 25% presence). On the other hand, less than 20% of financial resources have been allocated to musical projects in which the language is predominant (presence over 75%). Furthermore, *Plataforma per la Llengua* would like to highlight the fact that many of these public grants contain the restriction of Catalan authorship, which means that projects in the Catalan language from other Catalan-speaking territories are not allowed to access it, even if they meet the rest of the requirements.

### **Balearic Islands**

The regional government has a direct impact on the language. As it is shown in other parts of this report, the 2011-2015 legislature chaired by José Ramón Bauzá was especially harmful in several areas related to the Catalan language.

Francina Armengol took office in 2015 thanks to the support of her party, PSIB, along with Podemos, MÀS for Mallorca, MÀS for Menorca and People for Formentera. In the discursive plan Armengol presented a legislative plan which included a recovery of the situation previous to the Bauzá stage.

The Ministry of Culture, previously suppressed under Bauzá’s government, was reinstated. Furthermore, the channels of the Catalan Audiovisual Media Corporation

are partly broadcasted in the Balearic Islands, thus increasing the offer of TV channels in Catalan in addition to the regional TV IB3. However, we must insist on the fact that audiovisual reciprocity is only partial, since several contents of the Catalan public broadcasting network are restricted in the Balearic Islands.

The government also reincorporated the Balearic Islands to the Institut Ramon Llull (IRL) after Bauzá's government retired from the institute in 2011. In spite of the important symbolic effect, it is very important to highlight that it did so with a lesser budgetary contribution to the IRL and without decision-making power over the Institute's guidelines. Moreover, in 2017 the delegate of the government to the IRL decided to retire and, instead of replacing him, his post absorbed by the general management of Culture, thus reducing even more the focus of the regional government on the IRL.

The Ministry of Culture has suffered several crises throughout this period. In May 2016, Armengol entrusted the second Minister with a Culture Plan to prepare the axes of the Ministry. Nevertheless, the Plan was embedded in various studies and ended up highlighting a corruption plot linked to party interests that caused the resignation of the second Minister. The third counselor resumed the order and currently we are witnessing the second draft of the plan, where we can observe several intentions: to promote positive attitudes towards Catalan, to increase knowledge and use among the diverse and diverse communities that make up the citizenship and promote cultural creation in the Catalan language, such as to transversal axes enrolled in the Plan of Performances in Matter of Linguistic Policy for the 2016-2021 Period, which consists of 136 measures of which 90 are related to the cultural field. A second important statement is the Palma Declaration, which shows the desire to create a common market linked to cultural industries.

In any case, although the plans of the regional government are headed in the good direction, its action lacks effective implementation.

## **Article 13 economic and social life**

---

### **Legislation which limits the use of Catalan in documents related to economic and social life, particularly in technical instructions and labelling**

In late 2014, a report by Plataforma per la Llengua detected as many as 161 provisions which, at that time, protected the official State language on the labelling. Every year, new regulations are approved which make it mandatory for Spanish to be present on specific products. In any event, however, in this area there are three key regulations which stand out in terms of the imposition of linguistic inequality in the Catalan linguistic domain. The first regulation is Legislative Royal Decree 1/2007, of 16 November, on consumer and user defence, which regulates the fact that all products marketed in Spain must be labelled, at least, in Spanish (Article 18.3). The other two provisions refer specifically to labelling of food products, and their combined effect means that Spanish is mandatory on the labelling of food products marketed in Catalonia and the rest of the Catalan-speaking territories, while leaving Catalan in a disadvantaged position. In other words: Spanish is mandatory on food labels, while Catalan must be optional.

The first of these two food labelling standards is Regulation (EU) No. 1169/2011 of the European Parliament and of the Council, of 25 October 2011, on the provision of food information to consumers. Article 15.2 of this European Regulation sets forth that Member States can “stipulate that the particulars shall be given in one or more languages from among the official languages of the Union”. Through pure logic of interpretation, the fact that the regulation provides for the power to impose official EU languages rules out the possibility of the authorities demanding others (if not, neither the specification that the languages must be official EU languages nor Article 15.2 would make any sense), and it will always be the producers who decide whether or not to include additional languages (an option provided for in Article 15.3). Indeed, this is how the Spanish authorities understand it, as well as the Government of Catalonia, as we will see now.

While European Regulation 1169/2011 prevents the Catalan authorities from making Catalan labelling of food products mandatory, there is a Spanish regulation which sets forth that Spanish must always be present on labels. Specifically, Article 18 of Royal Decree 1334/1999 sets forth that “the mandatory instructions on the labelling of food products which are marketed in Spain will be formulated, at least, in the

official Spanish language of the State”, with the only exception being “traditional products made and distributed exclusively in the area of the Autonomous Community with its own official language”. Ultimately, as usual, the State only takes an interest in one of its linguistic communities, the only one with which it identifies and the only one for which it sets forth rights.

In 2010, the Parliament of Catalonia approved a law which aimed at giving Catalan speakers the right to have information in their own language which had been taken away from them by Franco. Article 128-1 of Law 22/2010, of 20 July, of the Consumer Code of Catalonia, sets forth that consumers have the right to receive the following in Catalan, among other things: “the necessary information for the appropriate consumption, use and handling of the goods and services, in accordance with their characteristics, and regardless of the medium, format or support used, and, particularly, the mandatory information related directly to protecting health and safety”. Although this law is in force, it is largely ignored by many companies, which do not label their products in Catalan and thereby market illegal products, and it originally affected both food and non-food products. However, the 2011 European Regulation we mentioned earlier meant that the Consumer Code lost its effect in the area of food products. Since authorities can only impose official languages of the European Union on food labelling, and Spain has vetoed Catalan from being an official language of the EU, the Consumer Code cannot demand that Catalan be used in the labelling of food products. It is a simple rule of three.

This is also the conclusion reached by the Spanish Constitutional Court in its Ruling 88/2017. First of all, it should be noted that this court validated the effectiveness of the mandatory nature of Catalan on labelling in general, although it did so with its usual supremacist rhetoric: “the intended purpose [...] cannot be the guarantee for consumers to obtain clear, precise and understandable information”, “in the case of national consumers, obtaining understandable information is always achieved when said information is given in Spanish, as it can be assumed, regardless of factors related to residence or vicinity, that all Spanish citizens have knowledge of it”, “the intended purpose [...] must be something else, in this case the intended purpose would essentially be to promote the Catalan language”, “the Constitution refers to the need to protect and respect the different language varieties of Spain as part of our cultural heritage” (in other words: Spanish is a language of the people, with associated rights, and Catalan is a nice piece of folklore to be promoted).

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

Despite these specious reasons which finally validated the general obligation to label in Catalan as set forth in the Consumer Code, the Spanish Constitutional Court also indirectly confirmed that the European Regulation had invalidated this obligation in the specific area of food labelling: the provisions in favour of Catalan are valid “in the absence of regulatory harmonisation on the matter by the State through its areas of competency [...] and without prejudice to indicate the possibility that in each case there is a possible limitation of the exercise of powers by the European Union regulations on the matter”. In short: the Consumer Code is only valid if it is not contradicted by a State or European regulation; if a European regulation prohibits the authorities for imposing labelling in non-official EU languages, which is the case for Catalan as the Spanish State denies this, the Consumer Code has no effect on the labelling of food products. In Catalonia, Spanish is mandatory and Catalan can only be optional.

In the case of the Balearic Islands, Article 30 of Law 7/2014, which regulates consumers’ rights, does not set forth any mandatory terms for using Catalan on product labels, and merely states that it guarantees the use of one of the two co-official languages.

With regard to Valencia, Article 8 of Law 1/2011, of the Consumer Statute, has also failed to guarantee that the safety instructions for products and services include Valencian. As such, no regulations have been developed to promote or guarantee the gradual presence of Valencian in this area. Although grants have been put in place for companies which promote the use of Valencian on labelling and instructions for use, among other areas, in recent years, the total amount of such grants has been reduced by over 90%.

### **Practices aimed at discouraging the use of Catalan**

Plataforma per la Llengua has received complaints from employees of private companies informing us that their companies have clauses, both in writing and otherwise, which ban or restrict the use of Catalan with Catalan speakers and with customers who speak the language. These employees, who are mainly from large and multinational companies, highlight that they suffer from infringement of their linguistic rights as employees, despite the fact that this is a non-compliance with Article 36 of Law 1/1998, on the Language Policy of Catalonia, and Article 2.2 of Law 3/1986, on Linguistic Normalisation in the Balearic Islands. They also state that these restrictions prevent them from dealing with Catalan-speaking customers in their own language.

To this end, it is important to highlight the lack of reaction by the competent administrative bodies in view of these practices. On the one hand, public complaints which have been made against these practices have never been officially investigated by the Labour Inspectorate, which is under the authority of the State Administration, with a view to clarifying possible infringements of linguistic rights. Furthermore, there have not been any inspections carried out when these have been explicitly reported to this administrative body.

As an example, in 2016, Plataforma per la Llengua reported a case of occupational linguistic discrimination to the Labour Inspectorate which was witnessed publicly and became a notorious case for everyone through the media. After a league match, Real Madrid goalkeeper, Kiko Casilla, gave an answer in Catalan to a question asked in Catalan by the Catalan public television channel, TV3. When he started to answer, the Real Madrid Press Officer immediately cut him off by telling him that he had to answer in Spanish, while other players answered questions asked in languages other than Spanish in the mixed area with no kind of restrictions. No response was received from the Labour Inspectorate regarding the complaint filed in relation to this.

In Catalonia and the Balearic Islands there are legal regulations which, despite not being fully implemented, guarantee the use of Catalan in the economic and social spheres. The legislation in Valencia, on the other hand, specifically Law 4/1983, on the Use and Teaching of Valencian, does not include any mention of the right to have employment contracts, instructions for use of products and services, and other documents related to economic and social life available in Valencian; it merely makes a generic reference to the right to use Valencian in the public and private spheres, but without including any procedures to guarantee this right.

The practical consequence of this legislation is the marginal or directly non-existent presence of Valencian in the documentation related to economic and social life. Compared to the other two Autonomous Communities in which Catalan is an official language, the situation in Valencia is much more precarious.

### **Guarantee on the use of the Catalan language in social facilities**

Point 243 of the last evaluation report of the Committee of Experts states that during the on-the-spot visit to Catalonia the civil society representatives drew the attention of the Committee of Experts to the fact that in some sectors, notably in health care, services in Catalan need to be improved. Nevertheless, the Committee of Experts considered the undertaking to be fulfilled. We believe that this consideration should be reconsidered because of the facts that will be exposed in this section.

## **Report on the failure of the spanish state To implement the ecrlm in the catalan-speaking areas of spain**

As we mentioned in the introduction, when referring to Recommendation 4 by the Council of Ministers in the last evaluation cycle, there is a remarkable deficit in terms of the attention in Catalan in the healthcare establishments in all Catalan-speaking territories. This lack of attention in the Catalan language leads to a large number of cases of linguistic discrimination in this area, beginning with the fact that citizens are often forced to speak in Spanish to be attended (such complaints are constant) and ending with very serious cases of linguistic discrimination.

As an example, a very serious case took place at the Drassanes Primary Care Centre (CAP) in Barcelona, where a patient asked a nurse attending to him if they could have the conversation in Catalan. According to the victim, the nurse was offended and asked him to leave the Primary Care Centre, even though he was only there to collect the results of some tests. This is a clear infringement of the linguistic rights of the complainant, as recognised in Article 14 of Decree 107/1987 of the Government of Catalonia: “civil servants will address citizens in Catalan as standard in oral communications, and will respect their choice of language in which they wish to be attended”.

The most worrying thing of all is not the fact that such discrimination takes place within the Catalan Health System, which is a big enough problem, but rather the lack of reaction by the Administration of the Generalitat de Catalunya when the discriminatory behaviour is reported. In this respect, the response given in 2016 by the head of the Citizens' Care Unit at the Department of Health, Isabel Albó, is very telling; she did not admit to any legal infringements and merely made excuses for civil servants with the argument that “the current employment market” is a delicate issue and that foreign professionals “obviously” require a “period to adapt to and learn our language” (a period which Albó seemingly did not expect them to undergo before joining the public service). This evasive response by the civil service is by no means uncommon, and, such as the case with Albó, it is often accompanied by big statements of respect to other legal provisions or principles taken at random, which have not been mentioned by anyone, such as that “under no circumstances would an employee who declared that they are unable to understand Catalan be accepted”; that “the most important thing for us is to ensure the best communication to provide effective help as immediately as possible”; or that the doctor “could have been more empathetic”.

The lack of action taken in similar cases by the Valencian and Balearic Islands Administrations is exactly the same. In the case of Valencia, the inaction is due to there being no legal regulations governing the linguistic competencies of healthcare

staff. In the Balearic Islands, the situation occurs despite the enactment of Law 4/2016, of 6 April, on the measures for linguistic training to restore the use of Catalan in the public sector. In fact, it is necessary to highlight that Law 4/2016 has been deployed by Decree 8/2018 on linguistic requirements for public health system workers, which establishes linguistic requirements that do not match the provisions set in the law. Indeed, the decree establishes a general exemption of the requirement to learn Catalan, which is totally at odds with the precepts laid in Law 4/2016. It is obvious that as long as the knowledge of Catalan is not compulsory, an important number of citizens won't be able to use Catalan at health centers and linguistic discriminations like the ones we have exposed above will continue to take place on a regular basis.

In the case of Valencia and the Balearic Islands, point 530 of the last evaluation report of the Committee of Experts acknowledges that the article remains only partly fulfilled, though we consider that due the number of complaints expressed by citizens, which are very similar to those in Catalonia, the commitment should be considered to be unfulfilled, especially because in the case of Valencia there is not even a legal regulation to guarantee linguistic rights in the public health system.

### **Guarantee on the use of Catalan in safety instructions**

Law 22/2010 of the Consumer Code of Catalonia was approved by a significant majority in the Parliament of Catalonia in 2010. This regulation gave legal equivalence to the Catalan and Spanish languages in the area of instructions for use and labelling of commercial products, and aimed to put an end to the abnormal situation of the Catalan language in this area. It is important to remember that all European languages of similar dimensions to the Catalan community have their presence fully normalised and guaranteed for labelling and instructions for use of products distributed in their territory.

The Spanish Constitutional Court resolved in two rulings (Ruling 88/2017 and Ruling 7/2018) the appeals against Catalan Law 22/2010, of the Consumer Code of Catalonia, presented by the Spanish Ombudsman and the parliamentary group of the People's Party, respectively. Among other things, the appeals attacked the provision of the Consumer Code that labelling and mandatory information (particularly that related to safety) of the products marketed in Catalonia be written at least in Catalan (Legislative Royal Decree of the Spanish Parliament 1/2007 sets forth the same for Spanish, throughout the whole State). The rulings by the Constitutional Court set forth that the obligation to label and offer safety information

## **Report on the failure of the spanish state To implement the ecrml in the catalan-speaking areas of spain**

in Catalan was valid and in force, as long as there were no restrictions on this obligation by the State and European legislation. The problem with this vision is that this limitation already exists in a very significant field of products: the obligations of the Consumer Code are not applicable to food products, as EU Regulation 1169/2011, on the provision of food information to consumers, prevents the authorities from requiring labelling of food products in non-official EU languages. As the Spanish State refuses to request that Catalan be official in the European Union, Catalan cannot be used on the labelling of food products.

In any event, the fact that the second section of Article 128-1 of the Consumer Code Law is maintained means that companies do not have any excuse for not labelling in Catalan, or for not providing manuals, information for use, contracts and other documentation of this type in the native language of Catalonia.

However, despite the fact that the law has remained valid and that the introduction of Catalan in safety instructions and labelling is not detrimental to the presence of the official language of the State, the Generalitat de Catalunya has not taken the appropriate measures to enforce the regulation and guarantee the linguistic rights of consumers. Good evidence of this is the almost non-existent presence of Catalan in this area.

In 2018, Plataforma per la Llengua published a study on the labelling of the main brands of products found in supermarkets in Catalonia, which revealed that less than half of products are labelled in Catalan, specifically 38.4%, which is 4 in every 10 products. Interestingly, Catalan was still less present among products for which it is a legal obligation, i.e. non-food products (40%) than among those exempt from this obligation, i.e. food products (32.4%). These data demonstrate the failure to comply by the Catalan regional authorities in having the necessary zeal to ensure compliance with Article 13.2, Point d, of the ECRML, which obliges them to ensure that product safety instructions are written in Catalan.

It should also be highlighted that the majority of large and multinational companies present in Catalonia have failed to comply with the Catalan regulation in a generalised and conscious manner. Furthermore, the Catalan Consumer Agency, which is a body of the Generalitat de Catalunya, has not processed the reports filed by consumers on failure to comply with the linguistic requirements set forth in Law 22/2010 of the Consumer Code of Catalonia.

With regards to the Balearic Islands, article 30 of Law 7/2014 on the protection of consumers establishes that “all the information given to consumers must be at least

in of the official languages of the autonomous region”. When it comes to information having special relevance to public health, the law states that it should be provided at least in Spanish. As we can see, the use of the Catalan language is not compulsory.

In the Valencian region the legislation concerning language rights in consumption affairs is even scarcer. Even though article 9 of Law 1/2011 on the Statute of Consumers states that consumers have the right to use both official languages of the region, it nevertheless establishes as the only measure to guarantee this right that “the Valencian government will boost the use of Valencian in the relations between companies and consumers”.

Because of all the facts that have been exposed, we consider that this point cannot be considered to be fulfilled.





PLATA  
FORMA  
PER LA  
LLENGUA

**L'ONG**  
**del català**

Plataforma per la Llengua  
C/ Sant Honorat, 7. Principal 1a  
08002 Barcelona  
Tel.: 93 321 18 03  
[info@plataforma-llengua.cat](mailto:info@plataforma-llengua.cat)  
[www.plataforma-llengua.cata](http://www.plataforma-llengua.cata)