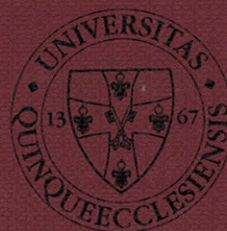


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CONTENTS

BALOGH, ZSOLT GYÖRGY – POLYÁK, GÁBOR – RÁTAI, BALÁZS – SZÓKE, GERGELY LÁSZLÓ Privacy in the Workplace.....	9
CZOBOLY, GERGELY Case differentiation in the Hungarian civil procedure.....	41
ERCSEY, ZSOMBOR The Current Personal Income Tax Regime in Hungary.....	57
HAÁSZ, VERONIKA The current and future relevance of the ‘responsibility to protect’ doctrine – The case of Libya.....	71
HERKE, CSONGOR – TÓTH, D. CSENGE DNA Analysis in Hungary.....	83
KIRÁLY, LILLA The theoretical approaches to the right of action – the implementation of right of action theories in legal practice	97
KOMANOVICS, ADRIENNE The Human Rights Council and the Universal Periodic Review: Is it more than a public relations exercise?	119
KULCSÁR, GABRIELLA Punitiveness and fear of crime in Hungary in the past 30 years	147
MESTER, MÁTÉ Developing broadband in the European Union: Digital Agenda and other endeavours of the Commission.....	167
NAGY, NOÉMI Linguistic Diversity and Language Rights in Spain	183
NÁTHON, NATALIE The post-war political and legal system of Hungary and its restitution policy regarding Holocaust survivors (1945 to 1948)	203

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Linguistic Diversity and Language Rights in Spain¹

NAGY, NOÉMI

ABSTRACT *The issue of Spanish linguistic policy is worth examining, not only because a quarter of the population of Spain speaks a minority language, but also because, after four decades of dictatorship, Spain succeeded in developing a reasonably well functioning system to accommodate its linguistic plurality. The current Constitution links the issue of linguistic minorities to that of the territorial organisation of the administration. Political power is shared between the centre and 17 autonomous communities which retain a significant degree of autonomy in different fields such as – in the case of the bilingual regions where the principle of 'co-officiality' is applied – the teaching of its own language. Although, after 35 years of democratic development, the Spanish "State of Autonomies" is almost unanimously considered successful, regional politics continue to dominate the Spanish constitutional debate and gain increasing weight on the European Union's agenda also.*

After a short introduction, the second chapter of this paper traces the historical background of three national minorities - namely, Catalonia, the Basque Country and Galicia. Linguistic regulation is covered in the third and fourth chapters on the bases of the current Spanish Constitution and the Laws of Linguistic Normalisation of the three autonomous communities respectively. Finally some comments are offered on the current situation of multilingual Spain.

1. Introduction

How to accommodate linguistic diversity in post-modern societies is one of the most important and most difficult tasks of contemporary linguistic policy, since Western states still heavily rely on national identities based mainly on one specific language. The issue of Spain is of particular interest, since it is home to very significant linguistic minorities.² In fact, some 25%³ of Spaniards have a

¹ The research presented in this paper was supported by the Research Institute for Linguistics, the Arian Academy of Sciences and the Faculty of Law of the University of Pécs.

² Ruiz Vieitez, Eduardo J.: New minorities and linguistic diversity: Some reflections from the Spanish and Basque perspectives. In: JEMIE 2007/2. p. 1. and 6.

mother tongue different from Castilian, the official language of the state.⁴ However, there is probably still an attempt on the part of central government to show Spain in the media and in politics as a monolingual state.⁵ The National Statistical Institute of Spain, for example, does not publish linguistic data on its website, although the census questionnaires have contained questions concerning language use since 1986.

Even today, more than three decades after the end of the Franco dictatorship, its negative effects are still alive in the language attitudes of minority speakers in Spain. The notion that a language is a unifying symbol of regional identity to resist Spanish hegemony is valid. "Nationalistic fervour and a sense of empowerment" continue to rise concomitantly with the increasing number of Catalan, Basque and Galician speakers.⁶ In spite of its widely admired constitutional arrangement, the *Estado de las Autonomías*, Spain still struggles with the issue of national minorities⁷ which provides the topicality of this paper.

The aim of the paper is three-fold: first, to reveal the historical background of the national / linguistic minorities in Spain, second, to elucidate the linguistic

³ According to one of the most reliable (independent) linguistic databases, the Ethnologue – which, unfortunately, contains data from different periods –, there are 11.200.000 Catalan, 3.170.000 Galician and 580.000 Basque speakers in Spain. See, www.ethnologue.com (search by language). The problem with language statistics is that they measure various things (e.g. mother tongue, usual/first language; competence of comprehension, speaking, reading, writing etc.) and so they can be interpreted differently, in accordance with what is to be proved. Different data are received depending on who undertook the surveys which, as the final blow, were made at different times. Nor is there any consensus in the academic world.

⁴ The 'standard' language of Spain, Castilian is itself not unified. Its main dialects are Aragonese, Leonese, and Andalusian. See, Keefe, Eugen K.: *Area Handbook for Spain*, Chapter 5, Ethnic Groups and Languages pp. 119-123. <http://home.heinonline.org/> [27.10.2011.]

⁵ Burgueño, Jesús: *El mapa escondido: Las lenguas de España*. In: *Boletín de la A.G.E.* 2002/34. p. 172.

⁶ Bostrom, Jay Gordon: *Which Way for Catalan and Galician?* The University of Montana, Missoula, 2006. p. 2. <http://etd.lib.umt.edu/theses/available/etd-03212007-110729/unrestricted/BostromJay.pdf> [27.10.2011.]

⁷ The term 'minority' is rather ambivalent and contested in Spain, as it does not refer to a locally confined group on the margins of the majoritarian society, but to one of Spain's equal 'nationalities'. Therefore, it is more appropriate to consider Catalonia, the Basque Country and Galicia as minority nations, rather than national minorities. Trenz, Hans-Jörg: *Reconciling Diversity and Unity: Language Minorities and European Integration*. In: *Ethnicities* 2007/7. p. 170. Furthermore, minority nations are not "displaced ethnic groups" having ties to another, kin state. Puig i Scotini, Pau: *Exercising self-determination without jeopardizing the rights of others: the Catalan model*. In: *St. Thomas Law Review* 2001-2002/14. p. 397. It somehow follows from this (and from the territorial nature of these languages, see footnote 7) that academia prefers to use the expression 'regional language' rather than 'minority language'.

regime of Spain on the bases of the current Spanish Constitution and the *Leyes de Normalización Lingüística* of certain autonomous communities and, third, to offer some evaluation on the current situation of multilingual Spain.

2. The historical background of linguistic plurality of Spain^{8,9}

2.1 Nations and the State

During the long centuries of the Middle Ages, the linguistic plurality of the Iberian Peninsula was almost untouched. The language of the central government (from 1492) and official contacts was Castilian, but, otherwise, the use of other languages was not hampered. Hans-Jörg TRENZ explains this phenomenon with the thought that, after the *reconquista*, the Spanish monarchy was mainly engaged in the mission of Catholic restoration on the inside and expansion towards the outside. The Spanish language was exported to the New World, where a surprisingly high level of language standardisation was achieved⁹ At the same time the consolidation of the territory of the home state and the political and cultural unification of the country were largely neglected. The situation, however, changed radically after the loss of the American colonies, and the political centralisation of Spain, which entailed majority nationalism, brought Castilian linguistic supremacy into conflict with the existing national languages of the territory.¹⁰

The nineteenth century found a constitutionally unstable¹¹ Spain with *golpes de estado*, *pronunciamientos*, and civil wars. Peripheral nationalism against the centralising efforts of the state, had, by the 20th century, led to deep cleavages in Spanish society, to the dictatorship of *Miguel Primo de Rivera* from 1923-1929,

⁸ Due to limitations on the length of this paper, the author has confined himself to the communities of the three main minority languages of Spain, i.e. Catalan (*catalán*), Basque (*vascuence*, *euskera*) and Galician (*gallego*). These can be considered as territorial languages, since their speakers are concentrated mainly (but not exclusively) in Catalonia and Valencia, the Basque Country and Navarra, and Galicia, respectively. For the same reason the history and linguistic regulation of only three autonomous communities, namely Catalonia, the Basque Country and Galicia are studied. However, where appropriate, further details regarding the other minority languages/linguistic communities of Spain are offered, with the exceptions of the Gypsy minority and the issue of immigrants.

⁹ This section deals with only the period before 1975, the death of General Francisco Franco.

¹⁰ Trenz, Hans-Jörg op. cit. pp. 168-169.

¹¹ The first Spanish Constitution adopted in 1812, Cádiz was followed by three others (1837, 1845, 1876) during the 19th century.

then culminated in a bloody civil war from 1936-1939.¹² The Franco regime could only bring about a temporary, authoritarian stand-off in respect of the unresolved language question. The dictatorship was based on the principles of total centralisation and monolingualism: the autonomies were abolished, and the territory of the country was divided into eight regions where power was exercised by delegates from central administration. The use of the three national (minority) languages was not only prohibited in education, in the media and in administration, but it was also attempted to prevent their use in everyday life.

The suppression of linguistic minorities during the four decades of the Franco dictatorship¹³ laid the grounds for militant nationalism which is not only strongly politicised but also institutionalised: it is not limited to cultural associationalism, but has succeeded in establishing influential regionalist parties.¹⁴

2.2 Catalonia

As PUIG I SCOTINI wrote, "Catalonia dates from the Marca Hispanica of the Empire of Charlemagne, when the north-eastern corner of the Iberian Peninsula was politically separated from Moslem Spain." Catalonia flourished as a trading nation of the Mediterranean Sea in the Middle Ages and early modern times. In the medieval era, it was the dominant part of the Kingdom of Aragon, a confederate state which, between the early thirteenth and mid-fifteenth centuries, became a Mediterranean empire. It consisted of four provinces – Aragonia, Catalonia, Valencia and the Balearic Islands – all of which had their own parliaments and governments (*Generalitat*). The kingdom was integrated into the Spanish monarchy in the 16th century, but its political position was marginal from the beginning. Under Habsburg rule, Catalonia maintained its political autonomy; it lost its ancient charters only in 1714 as a result of its participation in the British-led coalition against the victorious Bourbon dynasty in the War of the Spanish Succession. The Catalan losses were limited to the

¹² Ehrlich, Charles E.: Ethno-cultural Minorities and Federal Constitutionalism: Is Spain Instructive? In: Illinois University Law Journal 1999-2000/24. pp. 302-303.

¹³ See, for example, the announcement of the military governor, Alfonso Velarde, 16 April 1937; the announcement of General Franco, 29 May 1937; Order of 8 May 1938; Order of 21 May 1938. Reported by Abellán, Manuel L.: *Censura y literaturas peninsulares*. Amsterdam, Rodopi, 1987, pp. 90-92.

¹⁴ Trenz, Hans-Jörg op. cit. p. 169. In Catalonia, *Convergència i Unió* was the majoritarian party in government between 1980-2003; it regained power in 2010. In the Basque Country, *Euzko Alderdi Jeltzalea* (Partido Nacionalista Vasco, PNV) dominated the politics during thirty consecutive years, until the 2009 elections. "Galician nationalism has never been as strong as Basque or Catalan nationalism, perhaps because of Galicia's relatively poor economic position with regard to the rest of Spain." See, Block, Andrew Justin: Language Policy in the Basque Autonomous Community: Implications for Nationalism. In: Michigan Journal of Political Science 2005/4. p. 50.

fields of political institutions and culture, e.g. the public use of the Catalan language was forbidden. Nevertheless, the 18th century was a period of material growth and progress for Catalonia which, by the second half of the 19th century, had become the 'Factory of Spain'. Nationalism emerged at the end of the 19th century, nurtured by middle-class intellectuals, politicians and industrialists dissatisfied with their lack of influence in Spanish politics. In 1914 the four provincial councils of Catalonia were allowed to create a joint 'Catalan Office', *la Mancomunitat de Catalunya*, which was dissolved in 1923 by the military dictatorship. The wide regional autonomy conceded to Catalonia by the Second Republic in 1931 did not last too long: General Franco abolished Catalan autonomy in 1939 and this did not return until 1978.¹⁵

2.3 The Basque Country

The Basque Country (*País Vasco, Euskadi*) straddles the border between France and Spain in the Western Pyrenees and traditionally comprises seven provinces, three in France and four in Spain. The history of the Basque people dates back almost two thousand years, but the origin of their race and language, which has no connection to any other Indo-European language, remains a mystery to this day. Although the Basque people never existed as a single political entity prior to their integration into Spain, they have always maintained a unique identity.¹⁶ As early as the 10th century, when the Basque country belonged to the Kingdom of Navarra, the Basques developed local governing bodies called *biltzarrak* which were founded on the legal equality of their representatives, i.e. the *etxeko-janak*, the heads of households. A system of local customary laws developed in the Middle Ages. Originally an oral tradition, foral law came to be codified, and by the mid-twelfth century, written *fueros* were common throughout the Basque country. When the Castilian state sought to bring various Basque provinces under its control in 1512, the Basques were allowed to govern themselves in exchange for political loyalty to the Spanish monarchy. The *fueros* were abolished in 1876 as a consequence of the Second Carlist War.¹⁷

The final decade of the 19th century witnessed the birth of Basque nationalism founded by *Sabino de Arana y Goiri* under the motto of "God and the ancient law". The Basque nationalists attempted several times in the 1930s to establish an autonomous government. In 1936, the Republican *Cortes*, hoping for military assistance from the Basques, enacted an autonomy statute. Only three years later, as a result of Franco's victory, the Basque government was

¹⁵ Puig i Scotini, Pau op cit. pp. 399-400.

¹⁶ Murphy, Lindsay: EU Membership and an Independent Basque State. In: Pace International Law Review 2007/19. p. 337.

¹⁷ Carter S., Michael: Ethnic Minority Groups and Self-Determination: The Case of the Basques. In: Columbia Journal of Law and Social Problems 1986/20. pp. 66-70.

forced into exile.¹⁸ The Basque militant organisation ETA¹⁹ came into existence in 1959 in response to the brutal repressive policy of the Franco dictatorship but continued its terrorist activities almost to the present day.²⁰

2.4 Galicia

The people living in the northwest part of the Iberian Peninsula already composed a homogeneous cultural unity at the end of the Iron Age. They were originally a Celtic people whom early Greek and Latin authors called *Gallaeci*. Their political organisation was based on independent states formed by several hill forts (the common way of inhabiting a territory in the 'Castro Culture') and headed by a local king. After the collapse of the Roman Empire, Galicia was the first kingdom to emerge in the Iberian Peninsula. The Galician Kingdom was founded by Suebi invaders in 411 and then ruled by the Visigoths from the end of the 6th century. The territory was occupied by the Moors in 711, although Alfonso I of Asturias soon recovered it. The kingdom was known as the Kingdom of Asturias until the beginning of the 10th century when it became the Kingdom of León. In 1037, the Kingdom of León (including Galicia) became part of Castile. The southern part of Galicia, the County of Portugal separated in 1128. After short periods of independence, in 1230 Galicia was finally integrated into the Crown of Castile in which the individual kingdoms continued as administrative entities under the rule of a single monarch.²¹ From that time, Galicia was controlled by the central government.

Galician nationalist movements arose in the 19th century, and after the Second Republic was declared, Galicia became an autonomous region in 1936. During the dictatorship of Franco, as was the case with other minority nations in Spain, Galicia's autonomy and the use of the Galician language were suppressed.

3. The linguistic regime of the Spanish Constitution of 1978

After forty years of fascist dictatorship, Spain evolved into a stable democracy. The unique solution applied by the current Constitution is that it links the issue of (linguistic) minorities to that of the territorial organisation of the administration and the decentralisation of power.²² It is impossible to

¹⁸ Carter S., Michael op. cit. pp. 70-73.

¹⁹ *Euskuadi Ta Askatasuna* = Basque Homeland and Freedom

²⁰ Murphy, Lindsay op. cit. pp. 338-340.

²¹ Risco, Vicente: *Historia de Galicia*. Editorial Galaxia, Vigo, 1952. pp. 15-120.

²² Szajbely, Katalin: *Kisebbségi kérdés Spanyolországban*. p. 695.

<http://epa.niif.hu/00400/00462/00020/pdf/03tan03.pdf> [27.10.2011.].

understand Spanish linguistic reality without considering the regional factor, and *vice versa*.

By virtue of the Spanish model of the *Estado de las Autonomías*, political power is shared by the central state and 17 autonomous communities enjoying a significant degree of autonomy in different fields. This system is similar to a federal structure but corresponds most closely to a decentralised regional-state model. It mainly differs from a federal solution in that the competences within the state of the territories holding autonomy are different. The Spanish Constitution does not determine the extent of autonomy for the national communities, but ensures the opportunity for them to define the limits and content of their autonomy *themselves* - naturally, within the framework of the Constitution.²³

According to Art. 143-144, bordering provinces with common historic, cultural and economic characteristics, insular territories and provinces with a historic regional status may form self-governing communities. Furthermore, in the national interest, the Spanish Parliament (*Cortes*) may grant autonomy to those territorial units which cannot comply with the above criteria.

The Constitution establishes two procedures for achieving autonomy. The condition of creating an autonomous community in both cases is a Statute approved by the Cortes. The general route (Art. 143.2, 148.2) means that the autonomous community can assume only the powers listed in Article 148, and must wait five years to extend them. By contrast, in the case of Summary Proceedings (Art. 151.1), the autonomous community can immediately assume the powers which it wants, except the exclusive competences of the Spanish state (Art. 149.1).²⁴

The Constitution technically *recognized* the regions rather than *constituted* them, thus acknowledging their right to autonomy. Nevertheless, the unity of the Spanish State is strongly emphasized, denying any right to self-determination in the traditional sense of sovereignty.²⁵

The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions²⁶ of which it is composed and the solidarity among them all.²⁷

²³ Szajbely, Katalin op. cit. p. 697.

²⁴ See, Abad i Ninet, Antoni – Rodés Mateu, Adria: Spain's Multinational Constitution: a Lost Opportunity? In: *Constitutional Forum constitutionnel* 2008/1. p. 18.

²⁵ Ehrlich, Charles E. op. cit. pp. 306-309.

²⁶ The dominant Spanish constitutional doctrine draws no legally relevant conclusion from the distinction made between 'nationality' and 'region'. However, we have to agree with ABAD I NINET and RODÉS MATEU that the two terms have different meanings. 'Nationality' implies a higher level of consciousness of collective identity than 'region' which describes mere historic and cultural or common economic links. According to the authors, this deliberate ambiguity is due to that the Constitution

The main linguistic rules are situated at the very beginning of the constitutional text. After the Preamble declares the will of the Spanish state to "protect all Spaniards and peoples of Spain in the exercise of human rights, of their culture and traditions, languages and institutions", Article 3 lays down the rights and duties associated with Spain's multilingual heritage:

- 1) Castilian is the official Spanish language of the State. All Spaniards have the duty to know it and the right to use it.
- 2) The other Spanish languages shall also be official in the respective self-governing communities in accordance with their statutes.
- 3) The richness of the different linguistic modalities of Spain is a cultural heritage which shall be specially respected and protected.²⁸

The first paragraph of Article 3 makes a key distinction between Castilian and the regional languages: Spaniards have a duty only to know Castilian, but no such duty is imposed regarding the other co-official languages. In fact, the Constitutional Court, in its judgment of 23 December 1994, held that Article 3 *prohibits* the imposition of a duty to know any language other than Castilian.²⁹

Through the second paragraph of Article 3, the State establishes the system of co-officiality in the bilingual regions. Furthermore, in practice it delegates the right to rule (in some aspects of) the linguistic question – in the framework of the Constitution, of course – to the competences of the autonomous communities. In the enumeration of the competencies that the autonomous communities may assume, the promotion of culture and research and the teaching of the Self-governing Community's language is explicitly stated (Art. 148.1.17). However, by this wording, the Constitution only prescribes a duty for

"attempted to combine two opposing traditions: one upholding a single Spanish nation, governed from the centre, the other claiming the existence of different nationalities with the right to self-government." See, Abad i Ninet, Antoni – Rodés Mateu, Adria op. cit. p. 23.

²⁷ Spanish Constitution of 1978, Article 2.

http://www.senado.es/constitu_i/indices/consti_ing.pdf [27.10.2011.]

²⁸ This text is very similar to that of the 1931 Constitution which is the first Spanish constitution to reflect a non-unitarian state and to contain linguistic rules. Specifically, its Art. 4 set out the following: "Castilian is the official language of the Republic. All Spaniards have the duty to know it and the right to use it without prejudice to the rights that the laws of the State recognize for the languages of the provinces and regions. Except as provided in special laws, no one shall be required to know or use any regional language." (*translation mine*) See the original text: http://www.congreso.es/docu/constituciones/1931/1931_cd.pdf [01.11.2011.]

²⁹ Kasha, Jeremy R.: Education Under Catalonia's Law of Linguistic Normalisation: Spanish Constitutionalism and International Human Rights Law. In: *Columbia Journal of Transnational Law* 1996/34. pp. 659-660.

the authorities, but does not ensure a fundamental language right for the members of linguistic minorities which they could rely on before the courts.³⁰

Finally, the third paragraph of Article 3 incorporates a guiding principle for public authorities, in line with the Preamble, which points out the need for building positive techniques to protect the wealth of the different linguistic modalities of Spain.

The linguistic regime adopted by the Constitution is a *mixed* one: It is neither entirely territorial, since it excludes the priority of the territorial language (except, of course, in the case of the Spanish-speaking territories), nor entirely personal, because it does not extend the exercise of individual linguistic rights, derived from the citizenship of a bi- or multilingual autonomous community, to all citizens wishing to exercise them regardless of location.³¹

4. *Leyes de Normalización Lingüística: the renaissance of minority languages*

The concept of linguistic normalisation is used in Spain to refer to the "recuperation by minority languages of their presence in the public space and giving them equality with the state language".³² This concept recognises a disadvantage on the part of these languages that require correction by public bodies in the public and the private spheres alike. For this reason, regional legislation does not focus strictly on the regulatory development of co-officiality, but also on establishing measures for the promotion and protection of the use of the regional language to overcome this actual inequality.³³

In accordance with the constitutional framework and their respective Statutes of Autonomy, six of Spain's seventeen autonomous communities currently have a regional co-official language. The six are: Catalonia, Valencia, Galicia, the Basque Country, the Balearic Islands, and Navarra.³⁴ For the reason already explained in footnote 7, this paper limits its scope to the introduction of the linguistic policy of Catalonia, the Basque Country and Galicia. Before that a brief overview of the origin and the situation of the regional languages themselves is given.

³⁰ Ruiz-Rico Ruiz, Gerardo: Los derechos de las minorías religiosas, lingüísticas y étnicas en el ordenamiento constitucional español. In: *Revista de Estudios Políticos (Nueva Época)* 1996/91. pp. 116-117.

³¹ Milian i Massana, Antoni: Los derechos lingüísticos en la enseñanza, de acuerdo con la constitución. In: *Revista Española de Derecho Constitucional* 1983/7. pp. 365-366.

³² Ruiz Vieytes, Eduardo J. op. cit. p. 7.

³³ Ruiz-Rico Ruiz, Gerardo op. cit. p. 122.

³⁴ Kasha, Jeremy R. op. cit. p. 659.

4.1 Catalonia

4.1.1 The Catalan language and its speakers

The Catalan language is spoken in Catalonia, the Balearic Islands, Valencia,³⁵ some parts of Aragon³⁶, Roussillon (France), Andorra, in an archaic form in the city of Alghero (Sardinia), and in the Americas by numerous expatriates. Catalan has always had a strong literary tradition, at first represented by southern French troubadours, later by 14th century chroniclers. The integration of Catalonia to the Spanish monarchy in the 16th century did not stop the use of Catalan as a mother tongue or in religious instruction. A literary revival in the 19th century promoted, and since the 1960s has continued to promote regional aspirations.³⁷

According to the most recent data gained from the 2008 survey of language use in Catalonia, the vast majority (95%) of people living in Catalonia understand Catalan, although the level falls to 67% in terms of perfect understanding. As for the ability to speak, 78% of Catalans say that they can speak the language, but in terms of the highest level of knowledge, this figure drops to 49%. The highest rate of proficiency in Catalan in all skill areas is found among the younger people - from 15 to 24 - since they are the first generation to be totally educated in Catalan.³⁸

4.1.2 The legal framework

In accordance with the constitutional framework, the Autonomy Statute of Catalonia, promulgated as the *Organic Law 4/1979*, 18th December,³⁹ made Catalan an official language and guaranteed its right of use (Article 3):

³⁵ Valencia maintains that *valenciano* is a separate language, although it is generally considered to be a dialect of Catalan. See, the (reformed) Statute of Autonomy of the Valencian Community (especially Article 6):

http://www.cortsvalencianes.es/cs/Satellite/Layout/Page/1260974741713/EstatutodeAutonomia.html?lang=en_GB& [27.10.2011.]

³⁶ According to the preamble of the *Ley 10/2009, de 22 de diciembre, de uso, protección y promoción de las lenguas propias de Aragón*, "Aragon is an Autonomous Community where - together with Castilian which is the majoritarian and official language in all its territory - in certain areas, other languages are spoken, i. e. the Aragonese and Catalan, all three with their own linguistic modalities of Aragon." (*translation mine*)

<http://www.boa.aragon.es/cgi-bin/BOAE/BRSCGI?CMD=VEROBJ&MLKOB=478436853737> [27.10.2011.]

³⁷ Keefe, Eugen K. op. cit. pp. 123-124.

³⁸ Language Policy Report 2010 of the Generalitat de Catalunya, pp. 240-244.

http://www20.gencat.cat/docs/Llengcat/Documents/InformePL/Arxius/IPL2010_EN.pdf [01.11.2011.]

³⁹ <http://www.gencat.cat/generalitat/eng/estatut1979/index.htm> [01.11.2011.]

- 1) The [own] language of Catalonia is Catalan.
- 2) The Catalan language is official in Catalonia, as also is Spanish, which is official throughout the Spanish State.
- 3) The Government of Catalonia will ensure the normal and official use of both languages, will take the measures necessary in order to ensure knowledge of them and will create the conditions which make it possible for them to achieve full equality in terms of the rights and duties of citizens of Catalonia.⁴⁰

The *1983 Law of Linguistic Normalisation*⁴¹ further evolved the linguistic rules of the Statute of Autonomy. It emphasized the character of the Catalan language as a sign of the cultural identity of Catalonia and secured the prohibition of linguistic discrimination (Art. 2). With regard to the regulation of official use, it established the habitual use of Catalan as the sole language of the different Catalan administrations (Art. 5), it gave legal validity to texts written in this language (Art. 6-7) and accepted Catalan as the language through which the citizens could relate to the different Catalan administrations (Art. 8). Furthermore, it determined that the Catalan toponymic forms would be the only valid ones in the whole region - except the Aran Valley, where the valid ones would be those in Aranese (Art. 12). As for the educational system, it founded the bases for the habitual vehicular use of the Catalan language, explicitly forbade the separation of students for reasons of language (*model of language conjunction* or *integral bilingualism*), and made Catalan the language of the educational system, as well as guaranteeing the presence of Castilian and the knowledge of both official languages by all students when they have finished their compulsory education (Art. 14-20). It also made Catalan the normally used language of the media (Art. 21).

The law was controversial from the beginning, especially concerning its educational provisions, and it was challenged several times on constitutional grounds. The 1994 decision of the Spanish Constitutional Court⁴² served as a guideline for the future in respect of the linguistic policy of other bilingual autonomous communities, and so it is worth examining in details. The four challenged provisions provide that (i) children in *primary* education have the right to be educated in their customary language (Art. 14.2); (ii) children must be able to use both Castilian and Catalan fluently by the end of their studies

⁴⁰ Article 3, par. 4. sets out that the *Aranese* language - which is a standardised form of the Pyrenean *Gascon* variety of the *Occitan* language spoken in the Val d'Aran - will be taught and will be the subject of particular respect and protection. The detailed rules of this protection are included in the *Ley 35/2010, de 1 de octubre, del occitano, aranés en Aran*.

⁴¹ *Ley 7/1983, de 18 de abril, de normalización lingüística en Cataluña*: www.parlament.cat/activitat/llei/c7_1983.doc [01.11.2011.]

⁴² *Sentencia 337/94, de 23 de Diciembre, del Tribunal Constitucional*: <http://www.vozbcn.com/extras/pdf/1994-337-Constitucional.pdf> [01.11.2011.]

(Art. 14.4); (iii) diplomas will not be awarded to pupils who do not meet a minimum proficiency level in both languages (Art. 15); and (iv) schools must make Catalan the vehicle of normal expression both for internal activities, including administration, and for external relations (Art. 20).

The objection to Art. 14.2 was that it implies that children *do not have the right* to receive their education in their usual language in the *later* years of education. In the Constitutional Court's view, the Constitution does not guarantee the right to choose one's language of education; nor does Article 3 include a right to be educated solely in Castilian. The Court found that the regime created by the Constitution and Catalonia's Statute of Autonomy establish a reasonable goal of linguistic development, with Catalan as the "centre of gravity". In respect of Art. 14.4, the objection was that Article 3 of the Constitution only imposes a duty to know Castilian. The Court made a distinction between an obligation on behalf of the authorities to *teach* the regional language, and an obligation on behalf of the students to *know* it. The Court concluded that Art. 14.4 merely establishes a *goal* to be reached by the authorities, and does not impose any duty on the students. Art. 15 has, on the one hand, to do with the previous reasoning of the Court, whilst, on the other, it raises the question of unconstitutional impingement on the central government's exclusive control over the granting of diplomas. According to the Constitutional Court, since the Catalan authorities can require the teaching of Catalan in schools, and since the receipt of a diploma is dependent on completion of all requirements, the challenged provision can be interpreted as not adding any *new* requirements for the issuing of diplomas. Art. 20 allegedly violated the Constitutional Court's previous contention that individuals have the constitutional right to address the public authorities in either of the official languages within an autonomous community. However, the Court pointed out that the challenged provision merely prescribes that Catalan will be the *usual* language of the administration, but it *does not exclude* the use of Castilian.⁴³

In the author's opinion, the reasoning of the Constitutional Court is not convincing at several points, and this is not because the Constitution itself includes contradictory articles. The intentional ambiguity of the constitutional text is a result of its nature, which is that of a political compromise.⁴⁴

The prevailing Catalan legal framework concerning linguistic rights includes the *Language Policy Act 1/1998*, dated 7 January⁴⁵ (reform of the Language Normalisation Act 7/1983) and *Organic Act 6/2006*, dated 19 July⁴⁶ (reform of the Statute of Autonomy). The 1998 law follows the line of action established in the previous one, but is more extensive and precise. The concept of 'own

⁴³ Kasha, Jeremy R. op. cit. pp. 661-669.

⁴⁴ See the Conclusions.

⁴⁵ http://noticias.juridicas.com/base_datos/CCAA/ca-11-1998.html [01.11.2011.]

⁴⁶ http://www.parlament-cat.net/porteso/estatut/estatut_angles_100506.pdf [01.11.2011.]

language' is more developed, and the law specifies that the language has preference in administration, business and public services and those that offer services to the public. It ensures the right for all the citizens of Catalonia to know of, to express themselves, and be attended in any of the two co-official languages, in a context which does not discriminate on linguistic grounds. It lays down that all civil servants and people working in the public sector (including the administration of justice) must be able to use both official languages. We can find references to the unity of the Catalan language, the documents and civil and mercantile contracts, industries of the language and information technology, client services in businesses, consumer information, signposting and publicity, and the relationship with other regions which speak Catalan, as well as the exterior projection of the language. With reference to the media, the Language Policy Act sets quotas for the number of radio stations, TV channels, and cinemas which must broadcast in Catalan and prescribes that all signs must at least contain Catalan. It is important to note that this applies to private media also.⁴⁷

The new Statute of Autonomy also contains much more detail and emphasises even more the role of the Catalan language than did its predecessor. Article 6 lays down that Catalan, as the own language of the Autonomous Community, is the language of *normal and preferential*⁴⁸ use in public administration bodies and in the public media, and is the language of *normal use* for teaching and learning. Art. 6.3 refers to the duty of the 'Generalitat' to undertake the necessary measures to obtain official status for Catalan in the European Union, and Art 6.5 makes the Occitan language official in Catalonia. The recognition of Catalan sign language (Art. 50.6) is also of paramount importance and this has led to the enactment of the Catalan Sign Language Act 17/2010, dated 3 June.

4.2 The Basque Country

4.2.1 The Basque language and its speakers

The Basque language is spoken in the three provinces of the Basque Autonomous Community (Bizkaia, Gipuzkoa, Álava), the Autonomous Community of Navarra, and in the western half of the French Département of Pyrénées-Atlantiques, i.e. Labourd, Lower Navarre and Soule. This is the only one among the languages of Spain that does not belong to the Romance languages; linguists classify it as an isolated language. Thousands of years of

⁴⁷ Milian i Massana, Antoni: Comentarios en torno de la ley del Parlamento de Cataluna 1/1998, de 7 de Enero, de política lingüística. Revista de Administración Pública, 2002/January-April pp. 337-366.

⁴⁸ The phrase „preferential” was annulled by the decision of the Constitutional Court dated 16 July 2010.

isolation have ensured the division of the Basque language into numerous dialects and some twenty-five subdialects. A standardised form of the Basque language, called *Euskara Batua*, was developed by the Basque Language Academy in the late 1960s, and this is taught and used as a teaching language at most educational levels.⁴⁹

According to the most recent data, elaborated by the Basque Statistics Office in 2006, 59.5% of the population aged over 2 in the Basque Autonomous Community understand or can speak Basque well or with occasional difficulty, which means a four percent increase in relation to 2001. A distinction is made between the 775.000 Basque speakers who understand and speak Basque well, and the 459.000 near-Basque-speakers with a good or medium level of comprehension but with difficulties when speaking.⁵⁰

4.2.2 The legal framework

The Statute of Autonomy of the Basque Country, promulgated as *Organic Law 3/1979*⁵¹, was adopted on the same day as its Catalan counterpart. Article 6 contains its most important linguistic provisions:

- 1) «Euskera», the language of the Basque People, shall, like Spanish, have the status of an official language in Euskadi. All its inhabitants have the right to know and use both languages.
- 2) The common institutions of the Autonomous Community, taking into account the socio-linguistic diversity of the Basque Country, shall guarantee the use of both languages, controlling their official status, and shall effect and regulate whatever measures and means are necessary to ensure knowledge of them.
- 3) No-one may suffer discrimination for reasons of language.

Furthermore, Article 35 prescribes that, in the course of the appointment of judges, magistrates and secretaries, the knowledge of the Basque language shall be a qualification for which preference shall be given.

The Basque parliament passed the *Basic Law Normalising the Use of Basque*⁵² in 1982 which contains the details of how co-official status for Euskera is to be achieved. The preamble recognises the Basque language “as the

⁴⁹ Keefe, Eugen K. op. cit. pp. 122-123; <http://www.kondaira.net/eng/Euskara.html> [01.11.2011.]

⁵⁰ http://www.eustat.es/elementos/ele0004700/ti_The_number_of_Basque_speakers_grows_by_118000_between_2001_and_2006/not0004712_i.html#axzz1cNbYMDO3 [01.11.2011.]

⁵¹ http://www.basques.euskadi.net/t32-448/en/contenidos/informacion/estatuto_guernica/en_455/adjuntos/estatu_i.pdf [01.11.2011.]

⁵² *Ley 10/1982, de 24 de noviembre, básica de normalización del uso del euskera*: http://noticias.juridicas.com/base_datos/CCAA/pv-110-1982.html [01.11.2011.]

most visible and objective sign of the identity” of the Basque community, and lays down that “the character of Euskera as the own language of the Basque people and as an official language together with Castilian should not in any case prejudice the rights of those citizens who, for various reasons, cannot use it” (*author's translation*). Title I ensures the linguistic rights of citizens: the right to know and use the official languages, both orally and in writing; the right to relate in Euskera or Castilian to the administration (Article 8 specifies that it applies also to the administration of justice); the right to be taught in both official languages; the right to receive periodicals, radio and television programmes and other media in the Basque language; the right to carry out professional, labour, political and trade union activity in Euskera; and the right to speak Euskera in any meeting. Title II regulates the actions of public authorities. Chapter I deals with the use of Euskera in public administration (registration of documents, publication of legal provisions etc.), empowers the government and local authorities to establish the official place names in the region, and provides for the progressive Basquisition of personnel in public administration. Chapter II regulates the use of Euskera in education. It recognises the right of all students to be taught in Euskera, and prescribes the compulsory teaching of the non-elected official language. Chapter III deals with the use of Euskera in the media, while Chapter IV refers to the social use and other institutional aspects of the Basque language.

The normalisation process, as also as in the case of Catalonia, takes place mainly through the educational system. Whilst in Catalonia the education is based on integral bilingualism, the Basque Country follows the *model of linguistic separation*. As a basic principle, parents are free to choose the linguistic model (A, B or D) they want for their children. Model A corresponds roughly to Spanish-speaking teaching, having Basque as a compulsory subject. Model B combines Basque and Spanish as vehicular languages on a balanced basis. Model D means that Basque is the language of instruction for all subjects, except Spanish language and literature.⁵³ Since 1983, Model A has been losing student numbers progressively in favour of Model B, whilst today more than half of all students study in Model D.⁵⁴

The government's most recent comprehensive language policy is contained in the *General Plan for the Promotion of the Use of Euskera*, approved in 1998. The document reviews the accomplishments and shortcomings of previous policies, and also makes further recommendations. BLOCK summarises the language revitalisation strategy in seven points: to normalise the use of the language, to frame the use of Euskera as a right, to promote the integrative value of Euskera, to increase the instrumental value of Euskera, to invoke the

⁵³ Ruiz Vieytes, Eduardo J. op. cit. pp. 7-8.

⁵⁴ Languages in the European Information Society – Basque. META NET White Paper Series. META-FORUM, Budapest, 2011. p. 13.

rhetoric of bilingualism, to create demand for goods and services in Basque, and to focus on infants and youth.⁵⁵

4.3 Galicia

4.3.1 The Galician language and its speakers

The geographical territory of the Galician language (*gallego*) is delimited by the Autonomous Community of Galicia, the western areas of Asturias,⁵⁶ León and Zamora, and three small places in Extremadura. Galician belongs to the family of Roman languages, and it is a result of the evolution of Latin introduced by the Romans. Linguists tend to treat it in conjunction with Portuguese, from which Galician separated in the middle of the 14th century. The oldest literary document we know is the satirical ballad „*Ora faz ost'o senhor de Navarra*”, written in the late 12th century by *Joam Soares de Pavia*. Gallego was not used in writing during the 16th-18th centuries, which were known as *Los Séculos Escuros* (the Dark Ages). The Galician cultural renewal movement, the *Rexurdimento*, took place throughout the 19th century, and it was at that time that the first Galician grammar and dictionary appeared. However, the consolidation of the language did not occur until the 20th century.⁵⁷

According to the 2008 survey of the Galician Statistical Institute, 56.4% of the Galician population speak more Galician than Castilian, of which 30% speak only Galician. It is only 10.9% who cannot speak Galician at all. As for understanding the language, 66% understand it very well and a further 28.8% understand it quite well.⁵⁸ It is important to note that, in contrast to Catalan and Basque speakers, the number of Galician speakers shows a decline - due to the fact that the majority of Galician speakers are members of the older generation.

4.3.2 The legal framework

The Statute of Autonomy of Galicia⁵⁹ contains very similar linguistic provisions to that of Catalonia and the Basque Country. Article 5 sets out that

⁵⁵ Block, Andrew Justin op. cit. pp. 27-30.

⁵⁶ However, Asturias considers *bable* and not Galician as its traditional language. See, *Ley 1/1998, de 23 de marzo, de uso y promoción del bable/asturiano*: http://noticias.juridicas.com/base_datos/CCAA/as-11-1998.html [01.11.2011.]

⁵⁷ <http://www.xunta.es/a-lingua-galega> [27.10.2011.]

⁵⁸ http://www.ige.eu/estatico/pdfs/s5/notas_prensa/com_galego_2008_es.pdf [01.11.2011.]

⁵⁹ *Ley Orgánica 1/1981, de 6 de abril, Estatuto de Autonomía de Galicia*: http://noticias.juridicas.com/base_datos/Admin/lo1-1981.html# [01.11.2011.]

- 1) The own language of Galicia is Galician.
- 2) The Galician and Castilian languages are official in Galicia, and everyone has the right to know and use them.
- 3) The public authorities of Galicia shall ensure the normal and official use of both languages, foster the use of Galician in all spheres of public, cultural and informative life, and provide the necessary means to facilitate its knowledge.
- 4) No one shall be discriminated against on the ground of language.
(author's translation)

The preamble to the 1983 Linguistic Normalisation Act⁶⁰ emphasises, perhaps even more solemnly than its Catalan and Basque counterparts, the role of own language as a “vital core” of the Galician identity. The Act prescribes that both Galician and Castilian are official languages of the institutions and administration of the region (including justice), the local government, and public entities dependent on the Autonomous Community (Art. 4 and 7). For this purpose, the authorities promote the progressive training in the use of Galician of the personnel assigned to public administration and companies of public character (Art. 11). The laws and official decisions should be published in both languages (Art. 5). The official version of geographical names is the Galician one (Art. 10). Galician is an official language of education at all education levels (Art. 12). As in Catalonia, children have the right to receive primary education in their mother tongue, and students cannot be separated into different schools for linguistic reasons (Art. 13). However, Art. 14 only stipulates that Galician is a compulsory subject at every non-university education level, but does not say a word about the language of instruction. At the end of their studies, students must have equal proficiency in both official languages.⁶¹ Galician is the usual language of radio, television and other media managed by the institutions of the Autonomous Community (Art. 18). The Galician government provides financial and material support to the media which, in addition to the above, use Galician on a regular and progressive basis (Art. 19).

Throughout the near thirty years of implementation of the Linguistic Normalisation Act, crucial progress has been made in the process of the

⁶⁰ *Ley 3/1983, de 15 de junio, de normalización lingüística*:

http://noticias.juridicas.com/base_datos/CCAA/ga-13-1983.html [01.11.2011.]

⁶¹ The Galician educational legislation constantly emphasises this equality of language competences instead of promoting the knowledge of Galician. The most recent law for example divides the subjects into two groups. In the first group (social sciences, geography, history, natural sciences, biology, geology) the language of instruction is Galician, in the second (mathematics, technologies, physics and chemistry) the language of instruction is Castilian. See, *Decreto 79/2010 para el plurilingüismo en la enseñanza no universitaria de Galicia*: http://libertadlinguistica.com/index.php?option=com_content&view=article&id=374&Itemid=29 [01.11.2011.]

normalisation of Galician. Knowledge of Galician is a requirement for entry into public employment, as established in the Civil Service Act; likewise, its status has been enhanced through the 1997 passing of the Local Government Act and other Acts on the linguistic rights of consumers, product labelling, etc.⁶²

5. Concluding remarks

After three and a half decades of democratic and constitutional development, the Spanish 'State of Autonomies' is almost⁶³ unanimously considered by academia as innovative and generally responsive to minority demands, as a successful example of ethnic accommodation within a multinational state.⁶⁴ Citing the words of HANS-JÖRG TRENZ, "the story of language minorities in Spain goes from violent confrontation and resistance to enhanced cooperation, tolerated diversity and enforced, but not yet peaceful, coexistence. Instead of the unilateral recognition of the minority by the majority, we can speak of a case of multilateral recognition of different nationalities within the new framework of the Spanish multinational state, where all sides are involved in collective learning processes. Despite ongoing violent expressions of regional nationalism and unresolved conflicts between national government and autonomous regions..., the consolidation of Spanish democracy has contributed to a redefinition of majority-minority relations and the growth of... trust in a multilingual Spanish society."⁶⁵

Nevertheless, it would be too optimistic to say that "the battle about the status of minority languages has been won",⁶⁶ since regional politics continue to dominate the Spanish constitutional debate and gain more and more weight on the European Union agenda⁶⁷ also. KEATING's assertion that there is a constant

⁶² http://www.xunta.es/linguagalega/an_overview_of_the_galician_language [01.11.2011.]

⁶³ For an opposite opinion, see Abad i Ninet, Antoni – Rodés Mateu, Adria op. cit. p. 17: "[T]he possibilities offered by the Spanish Constitution to recognise and accommodate the multinational character of the Spanish state have been lost."

⁶⁴ Paoletti, Jorge Martínez: Rights and Duties of Minorities in a context of Post-Colonial Self-Determination: Basques and Catalans in Contemporary Spain. In: Buffalo Human Rights Review 2009/15. p. 159.

⁶⁵ Trenz, Hans-Jörg op. cit. p. 168.

⁶⁶ Ibid. p. 170.

⁶⁷ Spain did not bring out its cultural and linguistic diversity during the negotiations of the Accession Treaty, but only in 2004, due to the pressure of Catalan political forces. (However, the European Parliament, having regard to the petitions of the Catalan Parliament and the Parliament of the Balearic Islands, accepted a *Resolution on Languages of the Community and the Situation of Catalan*, as early as 1990.) The Spanish government claimed that "these [Catalan, Basque and Galician] are living languages in the fullest sense of the term, widely used by several million citizens (a

tendency to outbid by minority nationalist parties, whilst central government – fearing the dissolution of the country's territorial integrity and the separatist ambitions of the minority nations – would undo whatever concessions were made⁶⁸ is attractive. SZAJBÉLY points out that the effective participation of autonomous communities in the state legislature is unresolved, and the lack of financial autonomy also remains an ongoing concern.⁶⁹ Other authors claim that those communities which had enjoyed a greater degree of historical autonomy should have been granted more power under the constitution.

In respect of legislation of the autonomous communities, all of the three linguistic policies examined share the goals of normalising the use of the language and increasing linguistic competency. In the regulation of the education system, which is the most important area of language normalisation, policies in Catalonia reflect the greater preponderance of regional language speakers in that Community. The Basque three-model system produces slower progress in language acquisition, but responds more adequately to the Basque Country's demographic profile. Seemingly, the least successful is the moderate Galician linguistic policy. Another difference among the three policies is the extent to which each government regulates language use in the private sphere. The Catalan government is more interventionist than its Basque and Galician counterparts; let us simply think of the regulation of the private media.⁷⁰ This is one of the main arguments of the opponents of this system. Moreover, according to them, the normalisation process often results in an opposite tendency, i.e. when the language of the 'minority' is the official language of a region, regional language politics create 'minorities within the minority', repressing the non-speakers of minority languages. On the other hand, if we consider that the speakers of minority languages cannot use their own language in communications with central state institutions, we see that they are still at a disadvantage compared to the monolingual Castilian-speakers.

Indeed, there are shortcomings and contradictions in the constitutional text which, according to EHRLICH, were necessary in order to gain a political consensus and, in fact, we should be happy that the Constitution was adopted at all.⁷¹ Furthermore, the successful examples of autonomous legislation show

quarter of Spaniards employ them regularly in their daily lives)". Finally, the official use of regional languages in the European Union was authorised on the basis of an administrative arrangement concluded with Spain. Morata, Francesc: European Integration and the Spanish "State of the Autonomies". In: *Zeitschrift für Soziologie der Erziehung und Sozialisation* 2006/4 pp. 519-521.

⁶⁸ Keating, Michael op. cit. p. 23.

⁶⁹ Szajbély, Katalin op. cit. p. 695.

⁷⁰ Block, Andrew Justin op. cit. p. 52.

⁷¹ "Whether the Constitution of 1978 works or not is largely – if not completely – irrelevant... [T]he process which created the constitution resulted in a functionally stable democracy in a country which did not have a history of a stable democratic

that, even in such constitutional basis, language rights of citizens in the bilingual communities are strengthening, and the prestige of minority languages – at least in their respective autonomous communities – is growing.

government, and that... should be deemed a success.” Ehrlich, Charles E, op. cit. p. 315.