Linguistic Diversity and Language Rights in Spain*

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ABSTRACT: The issue of Spanish linguistic policy is worthwhile to deal with not only because one fourth of Spain’s population speaks a minority language, but also because, after four decades of authoritarian dictatorship, Spain managed to develop a more or less well-functioning system to accommodate its linguistic plurality. The current Constitution links the issue of linguistic minorities to that of the territorial organization of the administration. Political power is distributed between the central state and 17 autonomous communities holding a significant degree of self-government in different fields, such as – in the case of the bilingual regions where the principle of co-officiality is applied – the teaching of own language. Though after 35 years of democratic development, the Spanish “State of Autonomies” is almost unanimously considered as successful, regional politics continue to dominate the Spanish constitutional debate, and gain more and more weight in the European Union agenda, as well.

After a short introduction, in the second chapter of this paper, I trace the historical background of three national minorities, namely, Catalonia, the Basque Country and Galicia. Linguistic regulation is presented in the third and fourth chapters, in the bases of the current Spanish Constitution and the Laws of Linguistic Normalization of the three above-mentioned autonomous communities, respectively. Finally, I give some concluding remarks 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 policies, since the western states still heavily rest on national identities based mainly on a certain language. The issue of Spain is of particular interest, since it is home to very significant linguistic minorities.¹ In fact, around 25 percent² of Spaniards have a mother tongue different from Castilian, the official language of the state.³ However, probably there is still an endeavour on part of the central

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


² 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.), so they can be interpreted differently, in accordance with what is to be proved. Different data are received depending on who made the surveys which, to top it all, are made at different times. There is no consensus in the scholarship, either.

government to reflect Spain in the media and politics as a monolingual state. The National Statistical Institute of Spain, for example, does not publish linguistic data on its website, however, 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 affects 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 the Spanish hegemony is valid. “Nationalistic fervor and a sense of empowerment” continue to rise concomitantly with the increasing number of Catalan, Basque and Galician speakers. In spite of its widely admired constitutional arrangement, the Estado de las Autonomías, Spain still struggles with the issue of national minorities which gives the topicality of this paper.

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The aim of the author is three-fold. First, to reveal the historical background of the national / linguistic minorities in Spain, second, to elucidate the linguistic regime of Spain in the bases of the current Spanish Constitution and the Leyes de Normalización Lingüística of certain autonomous communities, third, to give some evaluation on the current situation of multilingual Spain.

2. The historical background of linguistic plurality of Spain

2.1. Nations and the State

During the long centuries of the medieval age, 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 with that after the reconquista, the Spanish monarchy was mainly engaged in the mission of Catholic restoration on the inside and expansion towards the outside. Spanish language was exported to the New World, where a surprisingly high level of language standardization was achieved, in turn, the consolidation of their own state territory and the political and cultural unification of the country were almost neglected. The situation changed radically after the loss of the American colonies. The political centralization of Spain

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6 The term ‘minority’ is rather ambivalent and contested in Spain, as it does not refer to a locally confined group at 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 then 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 somewhat follows from this (and from the territorial nature of these languages, see footnote 7) that the scholarship prefers to use the expression of ‘regional language’ instead of ‘minority language’.

7 Due to the extent limitations of this paper, I confine myself to the communities of the three main minority languages of Spain, i.e. Catalan (catalán), Basque (vascuense, 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. Also for the above-mentioned reason, I will examine the history and linguistic regulation of only three autonomous communities, namely Catalonia, the Basque Country and Galicia. However, where appropriate, I will give further details regarding the other minority languages / linguistic communities of Spain. I do not deal with the Gypsy minority and the issue of immigrants, either.

8 This section deals with only the period before 1975, the death of General Fransisco Franco.
entailing majority nationalism brought Castilian linguistic supremacy in conflict with the existing national languages of the territory.\(^9\)

The nineteenth century found a constitutionally unstable\(^10\) Spain with golpes de estado, pronunciamientos, and civil wars. Peripheral nationalism against the centralizing efforts of the state, by the 20\(^{th}\) century, led to deep cleavages in the Spanish society, to the dictatorship of Miguel Primo de Rivera from 1923-1929, then culminated in a bloody civil war from 1936-1939.\(^11\) The Franco regime could only bring about a temporary authoritarian stand off of the unresolved language question. The dictatorship was based on the principles of total centralization and monolingualism: the autonomies were abolished, and the territory of the country was divided into eight regions where the power was practiced by the delegates of the central administration. The use of the three national (minority) languages was not only prohibited in the education, the media and the administration, but they sought to prevent it in everyday life, as well.

The suppression of linguistic minorities during the four decades of the Franco dictatorship\(^12\) laid the grounds for militant nationalism which is not only strongly politicized but also institutionalized: it is not limited to cultural associationalism, but has succeeded in establishing influential regionalist parties.\(^13\)

### 2.1. Catalonia

As Puig i Scotini describes, “Catalonia dates from the Marca Hispanica of the Empire of Charlemagne, when the northeastern 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 age, it was dominant part of the Kingdom of Aragon, a confederate state that between the early thirteenth and mid-fifteenth centuries became a Mediterranean empire. It consisted of four provinces – Aragonia, Catalonia, Valencia and the Balearic Islands – which all had their own parliaments and governments (Generalitat). The kingdom was integrated into the Spanish monarchy in the 16\(^{th}\) century; 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 English-led coalition against the winning Bourbon dynasty in the War of Spanish Succession. The Catalan losses were limited to the fields of political institutions and culture, e.g. public use of the Catalan language was forbidden. Nevertheless, the 18\(^{th}\) century was a period of material growth and progress for Catalonia which, by the second half of the 19\(^{th}\) century, became the ‘Factory of Spain’. Nationalism emerged at the end of the 19\(^{th}\) century, nurtured by middle-class intellectuals, politicians and industrialists dissatisfied with their lack of influence in Spanish politics. In 1914, the four provincial

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\(^{10}\) The first Spanish Constitution adopted in 1812, Cádiz was followed by three others (1837, 1845, 1876) during the 19\(^{th}\) century.


\(^{12}\) 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.

\(^{13}\) 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.
councils of Catalonia were allowed to create a joint ‘Catalan Office’, la Mancomunitat de Catalunya, which was dissolved in 1923 by military dictatorship. The wide regional autonomy conceded to Catalonia by the Second Republic in 1931 did not take too long: General Franco abolished the Catalan self-government in 1939 which did not return until 1978.\textsuperscript{14}

2.2. The Basque Country

The Basque Country (País Vasco, Euskadi) straddles the border between France and Spain in the western Pyrenees, and traditionally is comprised of 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 other 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.\textsuperscript{15} As early as the 10\textsuperscript{th} 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-jaunak, 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.\textsuperscript{16}

The final decade of the 19\textsuperscript{th} 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 forced into exile.\textsuperscript{17} The Basque militant organization ETA\textsuperscript{18} came into existence in 1959 in response to the brutal repressive policy of the Franco dictatorship, but continues its terrorist activity to this day.\textsuperscript{19}

2.3. Galicia

The people living in the northwest part of the Iberian Peninsula composed already 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 organization was based on independent states formed by several hill forts (that was the usual mode of inhabiting 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 the Suebi invaders in 411, then ruled by the Visigoths from the end of the 6\textsuperscript{th} century. The territory was occupied by the Moors in 711 from whom Alfonso I of Asturias

\begin{footnotesize}
\begin{enumerate}
\item Puig i Scotini, Pau op cit. pp. 399-400.
\item Murphy, Lindsay: EU Membership and an Independent Basque State. In: Pace International Law Review 2007/19. p. 337.
\item Carter S., Michael op. cit. pp. 70-73.
\item Euskuadi Ta Askatasuna = Basque Homeland and Freedom
\item Murphy, Lindsay op. cit. pp. 338-340.
\end{enumerate}
\end{footnotesize}
took it back soon. The kingdom was known as 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 wherein the kingdoms continued as administrative entities under the rule of a single monarch. 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 it 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 organization of the administration and the decentralization of power. It is impossible to understand the Spanish linguistic reality without considering the regional factor, and vice versa.

In virtue of the Spanish model of the Estado de las Autonomías, political power is distributed between the central state and 17 autonomous communities holding a significant degree of self-government in different fields. This system is similar to a federal structure but corresponds closest to a decentralized regional-state model. It mainly departs 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 a possibility for them to define the limits and content of their autonomy themselves, naturally, within the framework of the Constitution.

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 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 the summary proceedings (Art. 151.1), the autonomous community can immediately assume the powers it wants, except the exclusive competences of the Spanish state (Art. 149.1).

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.
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 regions of which it is composed and the solidarity among them all.\footnote{25}

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.\footnote{27}

The first paragraph of Article 3 makes a key distinction between Castilian and the regional languages: Spaniards have a duty only to know Castilian, meanwhile 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.\footnote{28}

Through the second paragraph of Article 3, the State establishes the system of co-officiality in the bilingual regions. Furthermore, it practically delegates the right to rule (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 the authorities, but does not ensure a fundamental language right for the members of linguistic minorities which they could rely on before the courts.\footnote{29}

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 \textit{mixed} one: It is neither entirely territorial, since it excludes the priority of the territorial language (except, of course, in the

\footnote{25} The dominant Spanish constitutional doctrine draws no legally relevant conclusion from the distinction made between ‘nationality’ and ‘region’. However, we have to agree with \textsc{Abad i Ninet} and \textsc{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 “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, \textsc{Abad i Ninet}, \textsc{Antoni} – \textsc{Rodés Mateu}, \textsc{Adria} op. cit. p. 23.

\footnote{26} Spanish Constitution of 1978, Article 2. \url{http://www.senado.es/constitu_i/indices/consti_ing.pdf} \[27.10.2011.\]

\footnote{27} 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.” (\textit{translation mine}) See the original text: \url{http://www.congreso.es/docu/constituciones/1931/1931_cd.pdf} \[01.11.2011.\]


\footnote{29} \textsc{Ruiz-Rico Ruiz, Gerardo}: \textit{Los derechos de las minorías religiosas, lingüísticas y étnicas en el ordenamiento constitucional español}. In: \textit{Revista de Estudios Políticos} (Nueva Época) 1996/91. pp. 116-117.
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.30

4. Leyes de Normalización Lingüística: the renascence of minority languages

The concept of linguistic normalization is used in Spain to refer to the “recuperation by minority languages in their presence in the public space and bringing them into an equal situation with the state language”.31 This concept recognizes a disadvantage on the part of these languages that requires correction by public bodies in the public and the private spheres alike. For this reason, regional legislations do 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.32

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.33 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, I will give a brief overview of the origin and the situation of the regional languages themselves.

4.1. Catalonia

4.1.1. The Catalan language and its speakers

The Catalan language is spoken in Catalonia, the Balearic Islands, Valencia34, some parts of Aragon35, 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.36

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, however, this level falls to 67 % in the case of understanding it perfectly. As for the ability of speaking it, 78 % percent of Catalans say that they can speak the language, but in terms of the

32 Ruiz-Rico Ruiz, Gerardo op. cit. p. 122.
33 Kasha, Jeremy R. op. cit. p. 659.
34 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):
35 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)
highest level of knowledge, this figure is reduced to 49%. The highest Catalan proficiency in all skill areas is found among the youngest people aged 15 to 24, since they are the first generation fully educated in Catalan.\textsuperscript{37}

### 4.1.2. The legal framework

In accordance with the constitutional framework, the Autonomy Statute of Catalonia, promulgated as the \textit{Organic Law 4/1979, 18\textsuperscript{th} December\textsuperscript{38}}, made Catalan an official language and guaranteed the right to use it (Article 3):

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 making it possible for them to achieve full equality in terms of the rights and duties of citizens of Catalonia.\textsuperscript{39}

The 1983 \textit{Law of Linguistic Normalization}\textsuperscript{40} further evolved the linguistic rules of the Statute of Autonomy. It emphasized the character of the Catalan language as a sign of cultural identity of Catalonia and secured the prohibition of linguistic discrimination (Art. 2). With regards 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 obligatory education (Art. 14-20). It made Catalan as the normally used language of the media, as well (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 Court\textsuperscript{41} served as a guideline in the future as regards the linguistic policy of other bilingual autonomous communities, so it is worthwhile to examine it in details. The four challenged provisions provide that (i) children in primary education have the right to be educated in their usual language (Art. 14.2); (ii) children must be able to use both Castilian and Catalan fluently by the end of their studies (Art. 14.4); (iii) diplomas will not be awarded to pupils who do not meet a minimum proficiency in both languages (Art. 15);

\textsuperscript{37} Language Policy Report 2010 of the Generalitat de Catalunya, pp. 240-244.  

\textsuperscript{38} http://www.gencat.cat/generalitat/eng/estatut1979/index.htm \[01.11.2011.\]

\textsuperscript{39} Article 3, par. 4. sets out that the Aranese language – which is a standardized 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 is included in the Ley 35/2010, de 1 de octubre, del occitano, aranés en Arán.

\textsuperscript{40} Ley 7/1983, de 18 de abril, de normalización lingüística en Cataluña:  
www.parlament.cat/activitat/lei/7_1983.doc \[01.11.2011.\]

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 levels 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 establishes a reasonable goal of linguistic development, with Catalan as the “center of gravity”. As regards 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, 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 receipt of diploma is dependent on completion of all requirements, the challenged provision can be interpreted as not adding any new requirements for the issuance of diplomas. Art. 20 allegedly violated the Constitutional Court’s previous holding 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.42

In my opinion, the reasoning of the Constitutional Court is not convincing at several points, and it is not because the Constitution itself includes contradictory articles. The intentional ambiguity of the constitutional text is a result of its nature of a political compromise.43

The prevailing Catalan legal framework concerning linguistic rights includes the Language Policy Act 1/1998, dated 7 January44 (reform of the Language Normalization Act 7/1983) and Organic Act 6/2006, dated 19 July45 (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 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. As regards the media, the Language Policy Act sets quotas for the number of radio stations, TV channels, and cinemas that must broadcast in Catalan, and prescribes that all signs must at least contain Catalan. It is important to note that this applies to the private media, as well.46

43 See the Conclusions.
45 http://www.parlament-cat.net/porteso/estatut/estatut_anglесes_100506.pdf [01.11.2011.]
The new Statute of Autonomy also contains much more details and emphasizes even more the role of the Catalan language than its ancestor did. Article 6 lays down that Catalan, as the own language of the Autonomous Community, is the language of normal and preferential 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 of paramount importance, as well, which 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 isolation have ensured the division of the Basque language into numerous dialects and some twenty-five subdialects. A standardized 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.48

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 an occasional difficulty, which means a four percent increase with respect to 2001. A distinction is made between the 775,000 Basque speakers who understand and speak Basque well, and the 459,000 almost-Basque-speakers with a good or medium level of comprehension but with difficulties when speaking.49

4.2.2. The legal framework

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

1. «Eusker», 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.

47 The phrase „preferential” was annulled by the decision of the Constitutional Court dated 16 July 2010.
49 http://www.eustat.es/elementos/ele0004700/bi/The_number_of_Basque_speakers_grows_by_118000_between_2001_and_2006/not0004712_i.html#axzz1cNbYMD03 [01.11.2011.]  
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 Normalizing the Use of Basque\(^{51}\) in 1982 which contains the details of how co-official status for Euskera is to be achieved. The preamble recognizes the Basque language “as the 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” (translation mine). 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 to the administration of justice, as well); 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, labor, 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 Basquization of personnel of the public administration. Chapter II regulates the use of Euskera in education. It recognizes 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 normalization process, as well as in the case of Catalonia, takes place mainly through the educational system. Meanwhile 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 in a balanced basis. Model D means that Basque is the language of instruction for all the subjects, except Spanish language and literature.\(^{52}\) Since 1983, Model A has been loosing students progressively in favour of Model B, while more than half of the students learn in Model D today.\(^{53}\)

The government’s most recent comprehensive language policy is contained in the General Plan for Promoting of the Use of Euskera, approved in 1998. The document reviews the accomplishments and shortcomings of previous policies, as well as makes further recommendations. BLOCK summarizes the language revitalization strategy in seven points: to normalize 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 rhetoric of bilingualism, to create demand for goods and services in Basque, and to focus on infants and the youth.\(^{54}\)

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\(^{52}\) Ruiz Veytze, Eduardo J. op. cit. pp. 7-8.


\(^{54}\) Block, Andrew Justin op. cit. pp. 27-30.
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, 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 called Sécuros Escuros (Dark Ages). The Galician cultural renewal movement, the Rexurdimento took place throughout the 19th century; it was that time when the first Galician grammar and dictionary appeared. However, the consolidation of the language did not occur until the 20th century.

According to the 2008 survey of the Galician Statistical Institute, 56.4% of the Galician population speak more Galician than Castilian from which 30% speak only Galician. It is only 10.9% who cannot speak Galician at all. As for the comprehension of the language, 66% percent understand it very well and an additional 28.8% understand it quite well. It is important to note that, in contrast to the Catalan and Basque speakers, the number of Galician speakers show a decrease which is due to the fact that the majority of Galician speakers is composed of the members of the older generations.

4.3.2. The legal framework

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

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. (translation mine)

The preamble of the 1983 Linguistic Normalization Act emphasizes, 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).

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 the 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 in every non-university education levels, 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. 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 aforementioned, use Galician in a regular and progressive basis (Art. 19).

Along the almost thirty years of implementation of the Linguistic Normalization Act, crucial progress has been made in the process of normalization of Galician. The knowledge of Galician is a requirement for entry into public employment, as established in the Act of civil service; likewise, its status has been enhanced through the 1997 passing of the Act of local regime and other acts on the linguistic rights of consumers, product labelling, etc. 61

5. Concluding remarks

After three and a half decades of democratic and constitutional development, the Spanish ‘State of Autonomies’ is almost unani mously considered by scholarship as innovative and generally responsive to minority demands, as a successful example of ethnic accommodation within a multinational state. 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 unilateral recognition of the minority through 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 the national government and its 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.” 64

Nevertheless, it seems to be too optimistic to say that “the battle about the status of minority languages has been won”, since regional politics continue to dominate the Spanish constitutional debate, and gain more and more weight in the European Union agenda, as...
well. I agree with Keating that there is a constant tendency to outbidding by the minority nationalist parties, while the central government – fearing the dissolution of the country’s territorial integrity and the separatist ambitions of the minority nations – would undo whatever concessions made.\textsuperscript{67} Szajbely points out that the effective participation of autonomous communities in the state legislature is unresolved, and the lack of financial autonomy remains an ongoing concern, as well.\textsuperscript{68} Other authors claim that those communities that had enjoyed a greater degree of historical autonomy should have been granted more powers under the constitution.

As regards the legislation of the autonomous communities, all the three examined linguistic policies share the goals of normalizing the use of the language and increasing linguistic competency. In the regulation of the education system which is the most important area of language normalization, 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 between the three linguistic 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 just think of the regulation of the private media.\textsuperscript{69} This is one of the main arguments of the opponents of this system, besides that, according to them, the normalization 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 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.\textsuperscript{70} Furthermore, the successful examples of autonomous legislation show 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.

\textsuperscript{67} Keating, Michael op. cit. p. 23.
\textsuperscript{68} Szajbely, Katalin op. cit. p. 695.
\textsuperscript{69} Block, Andrew Justin op. cit. p. 52.
\textsuperscript{70} “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 government, and that… should be deemed a success.” Ehrlich, Charles E. op. cit. p. 315.