

# The use of the official languages in the Spanish parliament

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## 1. The Spanish Constitution

In Europe, the linguistic diversity is the general rule while the exception is the linguistic homogeneity<sup>1</sup>. Spain is placed in the general rule: inside **the Spanish State a great diversity of languages and dialects coexist**.

This multilingual reality has been regulated by Law to guarantee its existence and to protect the citizen's rights. Due to its own nature, linguistic regulation is in permanent evolution.

Language is, fundamentally, a basic instrument of communication, but it is also important in the development of the personality and a factor of social cohesion. For these reasons, **the Spanish Constitution of 1978 tackles the Spanish linguistic diversity, recognizing the plurality of languages in Spain and conferring to them constitutional consequences and protection**.

Although there are other constitutional provisions for multilingualism, it is article 3 of the Spanish Constitution of 1978 the one that contains the "Master guidelines" of multilingualism in Spain, following the terminology used by the Constitutional Court.

This article says that **the official language of the State is the Castilian** and the other Spanish official languages will be official in their Autonomous Communities according to their Statutes of Autonomy. This constitutional forecast means that the Spanish linguistic system shapes an impure territorial model<sup>2</sup>, in which the Castilian is the **only official language in all the State**, while *the other official languages* declared as such in the Statutes of Autonomy will be official just in their respective territories.

The Constitutional text defines as Spanish Languages, all the official languages spoken in Spain, not just the Castilian. The difference remains in the circumstance that **while Castilian is the official language of the State, the other are official languages**

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<sup>1</sup> AGIRREAZKUENAGA, Iñaki: "Fundamentos y realidad de la planificación lingüística en las Administraciones Públicas Vascas", *Revista de Llengua i Dret*, nº 31, siembre 199, Barcelona, p. 108.

<sup>2</sup> VERNET I LLOBET, Jaume: "La Planificación lingüística en las administraciones Públicas del Estado. En especial la administración periférica y de justicia", *Revista Vasca de Administración Pública*, nº 44, Enero-Abril 1996, p.82-83.

**in the territory of the State.** This normative difference is justified because Castilian is the only common language of all the Spanish citizens.

What does it mean that a language is declared as official in a country or in a part of a country? **The Spanish Constitution does not define what it is or what characteristics fit in this concept. In order to fulfill this void the Spanish Constitutional Court defined** “*Although the Constitution does not define but takes for granted what it is an official language, the regulation of the issue allows us to affirm that it is official a language, regardless of its reality and weight as social phenomenon, when it is recognized by the political powers as a normal way of communication in and between them and in their relationship with the private individuals, with full validity and legal effects (...)*”<sup>3</sup>.

Once established the definition of official language in the Spanish jurisprudence it is time to determine the legal reach of that declaration.

In general, the double linguistic official system has a territorial reach. For this reason, the other Spanish official languages, just produces legal effects inside the Autonomous Community where the language is declared as official<sup>4</sup>. Although the principle of territoriality limited the effects of the official declaration to the territory where that language is official, the Spanish Constitutional Court allows that some regional decisions “produce consequences beyond its territory”<sup>5</sup>.

Recently, **the Autonomous Statute of Catalonia of 20 July 2006<sup>6</sup> has established the citizen’s right to address to the constitutional and jurisdictional bodies in the official language that they choose.** This decision produces effects outside Catalonia, where the constitutional bodies are placed. Although this law is appealed before the Constitutional Court, what matters in this moment is that this law is still in force and produces all the legal effects. This linguistic right could not be exercised if the constitutional bodies -as the Parliament - had not the mechanisms (i.e. translators) to guarantee it, because the right to address a body in the official languages

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<sup>3</sup> Constitutional Court Judgement 82/86, 26 June.

<sup>4</sup> PUNSET BLANCO, Ramón: “El Senado como Cámara de las Comunidades Autónomas. Bases de un propuesta”, *El Senado, Cámara de Representación Territorial. LII Jornadas de la Asociación Española de Letrados de parlamentos*. Tecnos. Madrid 1996, p. 165.

<sup>5</sup> Constitutional Court Judgement 196/97, 13 November.

<sup>6</sup> ARTÍCULO 33.5: “The citizens of Catalonia have the right to communicate in writing, in Catalan language, with the State constitutional and jurisdictional institutions, according to the law. These institutions must deal and handle the submitted documents in Catalan which will have complete legal effectiveness”.

of the citizen's choice includes the right to receive the answer from the public administration in the chosen language.

According to the Constitution, the unique official language of all the territory of the Spanish State is the Castilian; **that means that, in principle, the language of the Spanish Parliament is, *ex Constitutione*, Castilian.**

Does this prevent the use of the other official languages in or before the Parliament? The answer just can be negative for two reasons:

1. The Catalan Statute states the right to address the Spanish Parliament in Castilian as well as in Catalan.
2. The Senate Rules already arranged the use of the other Spanish official languages.

Finally, from the Spanish Constitution arises a **constitutional command to respect and protect the linguistic diversity** that shapes the cultural heritage of Spain.

## **2. The consecutive reforms of the Senate Rules extending the use of the other Spanish official languages**

Neither the provisional Senate Rules of 1977 neither the Senate Rules of 1982 contained any provision regarding the use of the official languages other than Spanish. Consequently and in accordance with article 3 of the Spanish Constitution, the Spanish language was the only language used.

This juridical situation started to change with **the Adapted Senate Rules of 3 May 1994 that allowed, for the first time, the use of the official language different from Spanish.**

This reform allows the use –although in a limited way- in a Constitutional institution of the Spanish State, of an official language different of the official language of all the State, helping the normalization of the use of the other official languages in a constitutional body as the Senate.

### **Which languages could a member of the Parliament use and in which situations?**

The **Senate Rules** of May, 3rd 1994 allowed the possibility of the use of the *other official* languages in three cases:

- 1) The use of the official languages by the elected President in his first speech.
- 2) The use of these languages in the debate of the Autonomous' State developed in the Autonomous Community General Committee.
- 3) The communications with the citizens and the public institutions if they address the Senate in an official language other than Spanish.

**These rules are framed in the development of article 3 and article 72.1 of the Spanish Constitution, which establishes the parliamentary autonomy.**

Due to the necessity of going deeply into the Spanish multilingual reality, the Senate promoted the extension of the use of these official languages and the Senate Rules were modified on September 1st 2005.

This new modification included three more cases in which the use of the official languages different than Spanish were allowed to be used in the Senate:

1. All the debates that take place at the Autonomous Community General Committee<sup>7</sup>.
2. The publication at the Sessions Diary in the official language used, if different of Spanish and together with it.
3. The parliamentary initiatives consisting in questions, interpellations or motions to the Government will be published in the Parliament Official Journal in both languages if they are presented in a language other than Spanish<sup>8</sup>.

The legal possibility to use all the official languages in Spain obeys, as the motivation of the reform explains, to the definition of the Senate as the Spanish territorial parliamentary body (article 69 of the Spanish Constitution of 1978) and to the necessity of extending the recognition of the linguistic diversity in the whole of the Spanish State. This reform makes the use of the official languages in all the sessions of the Autonomous Community General Committee possible because it is the body that better represents the autonomous character of the Senate, because it allows the intervention of the representatives of the government of the autonomous communities.

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<sup>7</sup> Article 56 bis 9.

<sup>8</sup> Article 191.2

Even if it is still a timid reform to allow the use of all official languages it is a big step in the recognition, in a regulation as the Rules of the Senate, of the multilingual architectural system applied in Spain.

It is important to remark that the proposal of the Senate Rules' reform was passed by unanimity of all the parliamentary groups of the Senate.

On May, 19th 2008, the parliamentary group of *Entesa Catalana de Progrés* presented a motion<sup>9</sup> to promote a new reform of the Senate rules with the goal of recognizing and allow, **in the Plenary Sessions and in the Committees, the oral and written use of any of the official languages**<sup>10</sup>.

In this new reform motivation it is stated that the faculty of using the languages which are recognized as official languages in an Autonomous Community together with Castilian is recognized in the Senate Rules, although this is too restricted so that the Senate could express the Spanish linguistic plurality.

Two amendments were presented to this motion: one from the *Mix* parliamentary group establishing a date for having this reform and one by the *Popular* parliamentary group framing this reform inside the Constitutional Reform of the Senate. The motion was debated and voted in the Plenary Session of 27 May 2008, and was passed with 136 positive votes and 116 negative votes. This motion does not modify the Senate Rules but obliges the Senate to promote the modification of its Rules during this legislature.

**As a conclusion, it can be said that from 1994 to 2008, the recognition of the use of all the Spanish official languages in the Senate has been increased and has supported the complete normalization of the use of these languages.**

In order to develop and exercise all these linguistic provisions, the Senate collaborates with the regional parliaments and has found its own translation services.

### **3. The linguistic criterion of the Speaker of the Congress of Deputies**

The Rules of the Congress of Deputies do not regulate which is its linguistic system, applying directly the linguistic provisions of the Spanish Constitution.

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<sup>9</sup> Published in the Official Journal on May, 26<sup>th</sup> 2008 (DOCG, Senado, Serie I, n° 22).

<sup>10</sup> The motion says that the Senate will promote the Rules reform with the goal of the recognition, in the whole ordinary activity of the plenary sessions and committees, of the oral and written use of any of the official languages in any Autonomous Community.

The **Congress of Deputies** also envisaged reforming their Rules in the VIII Legislature (2004-2008) to include, between others, a language regulation, but the lack of political agreement kept the problem of the use of the other official languages in the Lower Chamber unsolved. It has to be marked that never before a reform including the use of the other official languages was posed in the Congress of Deputies.

**As the question of the use of the languages was raised by different parliamentary groups, the Speaker presented a “temporal interpretative criterion” to the Board, on February 8th 2005.**

This “criterion of the Speaker” was not a General Resolution of the Speaker, contemplated on article 32.2 of the Rules, neither a decision adopted in the exercise of the function of the Speaker of directing the Plenary Sessions (art. 32.1 of the Rules).

It was not a Resolution, even if the Board knew and agreed with this criterion, because of its temporality (it would be in force just until the reform of the Rules) and because it was not published in the Official Journal of the Parliament; and it was not a function included in the direction of the Sessions because it was not adopted in the Plenary Session to resolve a concrete problem of that session. It is not a rule but a use.

So this criterion had the nature of a parliamentary use but is more institutionalized: it's a *tertium genus* that was set up in the search of an agreement between all the parliamentary groups regarding the use of the official languages.

This parliamentary use established the possibility for the MP's to use their mother tongue (declared official in an Autonomous Community) just in a short way, followed by the translation to the Castilian done by the parliamentarian himself.

The objective of this criterion was to provide the Chamber with some criteria that allowed a space of respect and coexistence in the use of these languages until a definitive agreement regarding the linguistic regimen was reached in the frame of the future revision of Rules of the Chamber.

**With this limited use of February 8th 2005, the use of the official languages in the Low Chamber was opened. This solution would be in force until the modification of the Rules.**

The Speaker warned that the inobservance of this criterion could carry the loss of the speech of the members of Parliament. Some MP's failed to fulfill the criteria (exceeding it) and, for this reason, the Speaker removed this parliamentary use on March 1st 2005<sup>11</sup>. Since that moment, the situation has remained unsolved in the Congress of Deputies, waiting for a reform of the Rules including the use of the languages.

However, **even if the use of the other official languages different from Spanish is not permitted *in* the Congress of Deputies nor included in their rules, the use of the other official languages *before or in the written communication with the Congress of Deputies is a right and is a fact***, since the Catalan Statute establishes the citizen's linguistic right to address – for writing purposes - the constitutional bodies in both languages, Catalan and Spanish. To guarantee this right, the Congress of Deputies collaborates with the Senate and the Autonomous parliaments, as it has not its own translators.

#### **4. The other Spanish official languages and the European Parliament**

The Spanish Government presented to the Council, December 13<sup>th</sup> 2004, a petition concerning the formal recognition of all the official languages in Spain by the European Union, asking for a modification of the Council Regulation 1/58 of April 15th which, developing article 290 of the Treaty establishing the European Community<sup>12</sup>, which contains the European linguistic framework.

The Council did not accept the Spanish petition but allowed, through the Council Conclusions of July 13th 2005<sup>13</sup>, the possibility of concluding administrative agreements between the States – for the moment just Spain has done it - with the European institutions. That implies that the lesser used languages constitutionally

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<sup>11</sup> Some other authors talk about “Resoluciones de la Presidencia” as PÉREZ FRANCESCH, Joan LLuís: “L’us de les llengües cooficials al Congrés dels Diputats i al Senat”, *Revista de Llengua i Dret*, nº 45, juliol 2006, p. 272.

<sup>12</sup> “*The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously*”.

<sup>13</sup> OJ C 148/1, 18 de June 2005.

recognised inside a State can have the possibility of having some type of legal recognition in the European Union.

Following the agreements signed with other European institutions, the Spanish government addressed a petition to the European Parliament to conclude an administrative agreement in order that the other Spanish official languages could be used in the European Parliament and before the European Parliament.

This petition was rejected on April 26<sup>th</sup> 2006 by the Board of the European Parliament.

**But, the Board took finally an agreement<sup>14</sup> that considers that the citizens could address their written communications in one of these additional languages to the European Parliament. This linguistic right also contains the right to receive the answer from the European parliament in the language chosen by the citizen.**

It is the European parliament which provides the translation but it is the Spanish State who pays for it.

**The agreement does not refer to the use of the co-official languages in the MP's speeches in the Plenary Sessions of the European Parliament,** as initially asked by the Spanish Government

## **5. Conclusions:**

a. The fact that Castilian is the unique official language in the whole territory of the Spanish State does not involve that the other Spanish official languages could, according to the Constitution, produce legal effects outside the territory in which they are declared as official.

b. The Spanish Senate, the territorial representative chamber, has introduced in its Rules the possibility to use all Spanish official languages, developing article 3 of the Spanish Constitution and using its own autonomy for establishing its rules.

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<sup>14</sup> Agreement of 3 July 2006.



c. It is also constitutionally possible to develop the Constitutional linguistic provision through the Rules of the Congress of Deputies, but it is still a political question of finding an agreement to modify it.

This lack of development has two consequences:

a) The use of the other official languages different from Spanish in the Plenary Sessions is not permitted.

b) The citizens have the right to address the Lower Chamber in the official language that they chose for written purposes.

d. In the European Parliament it is not possible to use the official languages other than Spanish, as the European Parliament has not concluded an administrative agreement with Spain, but the Spanish citizens have the right to address the parliament in these languages.