



# **LANGUAGE RIGHTS OF BASQUE SPEAKERS**

**REPORT SUBMITTED TO:  
UNITED NATIONS SPECIAL RAPPORTEUR ON MINORITY ISSUES**

January, 2019

**EUSKARAREN GIZARTE ERAKUNDEEN  
KONTSEILUA**



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## A. ABOUT KONTSEILUA



# EUSKARAREN GIZARTE ERAKUNDEEN KONTSEILUA





KONTSEILUA, the Council of Social Organisations and Bodies of the Basque language, is an umbrella body for organisations active in all aspects of promotion of the Basque language.

Kontseilua's single central goal is to support the process of Basque language revitalization.

- Its mission is Basque language recovery on personal, social and official levels.
- Made up of forty key institutions supporting Basque in all walks of life, Kontseilua is widely representative of Basque language interests.
- Kontseilua aims to enable society to work towards the full development of the Basque language in day-to-day life.
- Kontseilua is a non-profit cultural organisations with no connexion with any political party, trade union... which has been acknowledged as a provider public services, performing activities of the first order of importance.

Founded in 1997, Kontseilua inaugurated its public presence with the 1998 Bai Euskarari campaign (Yes to the Basque language), which brought together 125,000 people in Basque Country's five major football stadiums.

Kontseilua strives to have an impact in a variety of areas:

- **Locally:** Kontseilua works in hand with people who are active at the local level everywhere and reaches out to the entire population through them.
- **In institutions:** Kontseilua works with different administrative bodies to develop better language policies. It carries out studies of language policies and puts forward proposals to improve them. Its proposals include "A new Effective Language Policy", a proposal for the creation of "Basque-speaking Multilingual Students", the report "Bringing Basque into the World of Work", proposals for language breathing spaces and so on.
- **Internationally:** Kontseilua also works internationally to carry the message from Basque speakers to the European and world's decision centres such as Council of Europe or United Nations Organizations. Kontseilua is a member of the European Language Equality Network – ELEN.

Finally we would like to remind that Kontseilua was the promotor of the Protocol to Ensure Language Rights presented in Donostia-San Sebastian in December 2016 as a project of the European Capital of Culture. That document was prepared with six international entities, a scientific committee and the proposals and signature of more than 100 entities representing more than 30 European minoritised languages.

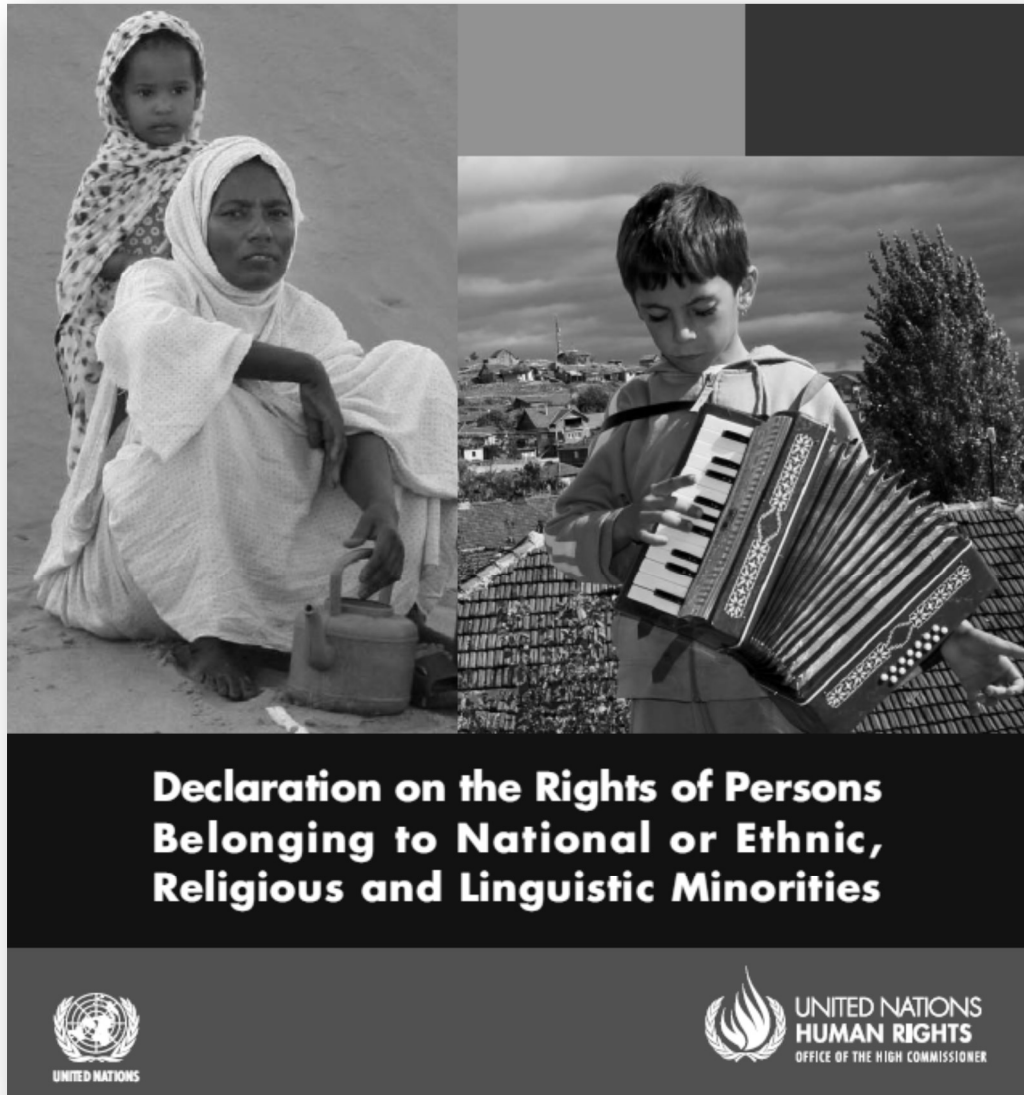


Paul Bilbao Sarria  
*Secretary-general*





**b. DECLARATION ON THE RIGHTS OF THE PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS OR LINGUISTIC MINORITIES**





## **1. General consideration about the Spanish State's attitude: Article 1**

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We think that the best way to show that the Spanish State does not take into account article 1 of the Declaration is its attitude concerning the fulfilment of the European Council's Framework Convention for the Protection of National minorities.

When ratifying the Framework Convention, the State stated that there is no national minority in the Spanish state, even though they had considered to apply the Convention to the Roma people. Anyway we must underline that Roma or any other minority are not formally recognised at national level as a national minority.

In the first evaluation of the Framework Convention and its connection with the information provided under Article 3 of it, the State Report referred to the Preamble to the Spanish Constitution of 1978, which recognises and protects "all Spaniards and all the peoples of Spain in the exercise of human rights, of their cultures and traditions, and of their languages and institutions". Several terms are used in the Constitution to designate the country's population in its entirety ("the Spanish people" in Article 1.2, "all Spaniards" in the Preamble, "the Spanish Nation" in the Preamble and Article 2) and its components ("the peoples of Spain" in the Preamble, "the nationalities" in Article 2).

In that way, the Advisory Committee noted that, when ratifying the European Charter for Regional or Minority Languages in April 2001, the authorities entered a declaration stating which languages were considered in Spain as regional or minority languages. In the absence of any express indication concerning the groups which the Government regards as national minorities and in so far as the linguistic dimension is a fundamental factor in identity for the "peoples" or "nationalities" of Spain, the Advisory Committee wondered what is the status of the groups so designated in relation to the Framework Convention.

Certainly the Advisory Committee took note of the fact that the Spanish authorities do not accept any inclusion of "nationalities" of Spain in the scope of application of the Framework Convention.<sup>6</sup> That being the case, in the absence of in-depth discussions with the authorities and contacts with the persons concerned, it is not possible, or even desirable, for the Advisory Committee to conclude whether it would be appropriate or inappropriate to treat these groups as national minorities. Moreover, since they are recognised as "peoples" by the Spanish Constitution, it may be that they would not wish to be designated nor treated as national minorities.

Even in the following monitoring of the Framework Convention different NGOs representing Basque, Galician, Catalan and Asturian language have claimed to be included as a national minority, the State has not changed its attitude.

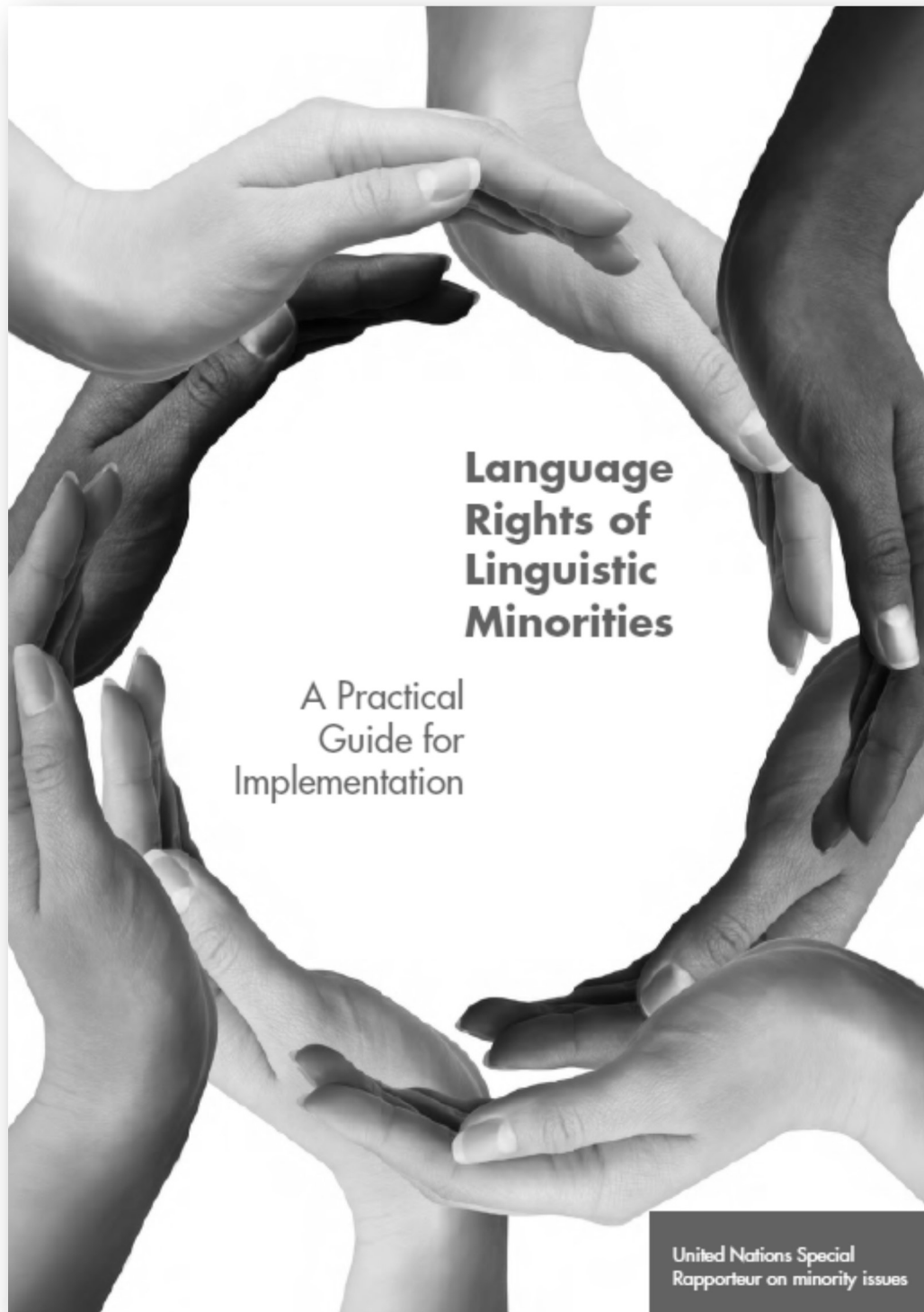
It is interesting to remind that in the last monitoring the Advisory Committee stated its concern and established, however, that the standards that are currently applicable in Spain do not in themselves make the protection of the Framework Convention superfluous. The Advisory Committee emphasises in this context the importance of the enjoyment of minority rights in practice, whether or not the persons concerned are officially recognised in the Spanish legal system as belonging to national minorities.

Therefore, there was a new recommendation concerning that issue:

*The Advisory Committee again recommends that the authorities actively raise awareness among groups other than the Roma of the protection offered by the Framework Convention. It recommends that the authorities undertake consultations with representatives of such groups in order to ascertain whether they are interested in such protection and that the authorities rapidly designate a structure or body with clear competences in this field.*

So, we can conclude that the Spanish State continue not recognizing the national or ethnic, cultural, religious and linguistic identity of minorities as it is established in article 1 of the Declaration of the Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

**B. LANGUAGE RIGHTS OF LINGUISTIC MINORITIES: GUIDE FOR IMPLEMENTATION:**  
*A comparative study between the Guide and the real situation of Basque speakers*





In 2017 it was published the book ***Implementation of Specific Linguistic Rights: A Practical Guide for Implementation***. In the part of the guide concerning the purpose and scope, it says that in 2013 the (former) United Nations Special Rapporteur on Minority Issues expressed concern that challenges to enjoyment of the rights to linguistic minorities exist in all regions. It seems that she warned that globally, many minority languages are under threat of significant decline or disappearance due to such factors as the dominance of national and international languages, processes of assimilation, and a decline in the number of minority-language users.

The most interesting thing in the Guide is that, among other issues, it clarifies the obligation of the state authorities towards linguistic minorities. For that reason, in our opinion this Guide has been a huge step forward, and we have used this Guide to prepare a brief report concerning the situation of the Basque language community's rights.

## 1. ABOUT OUR REPORT

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In 2001, KONTSEILUA created BEHATOKIA, the Observatory of Linguistic Rights of Basque-speakers.

BEHATOKIA, the Observatory of Linguistic Rights deals with the language rights of the Basque speakers in the Basque Country, and aims to guarantee that these rights are respected in the whole of the Basque Country, both in the public and private areas.

As far as the language issue is concerned, citizens in the Basque Country do not have the same rights recognized, and their rights are constantly being breached. In view of BEHATOKIA:

- Added to protecting and defending the language rights of Basque speakers, it condemns the occasion when they are breached.
- Attempts to guarantee the rights of Basque speakers to speak Basque to contact the administration and to receive its services in Basque (healthcare, education, justice, information or any other service and in general to take advantage of the opportunities offered by society in Basque.

For that issue BEHATOKIA has established a free service called “Euskararen Telefonoa – Basque Language Hotline” just to receive the citizens’ complaints when their language rights have been breached. Once a citizen phones to BEHATOKIA, it opens a “dossier” and send the complaint to the administration or institution which have violated their right, to make them aware of this new perception from citizens who feel that their rights have been affected and who want to apply measures so that it does not happen again.

We have produced this report based on that information: citizens’ own experience.

Since that service was set up in 2001, BEHATOKIA has dealt with more than 18.000 complaints and therefore, we believe that it provides very valuable material to assess the linguistic rights situation. What is more, even the administrations or institutions do not share our point of view, they know that all the information is based in real experiences.

And for that reason we have used “dossiers” or experiences from the period 2014-2016 to prepare this report.

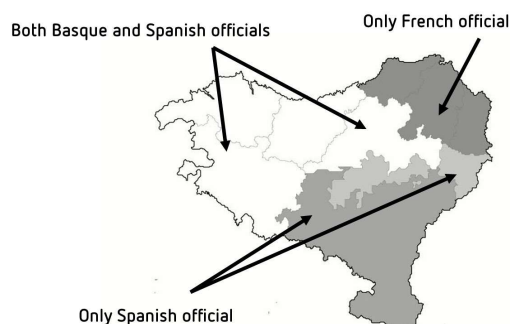
Therefore, we have used section IV of the Rapporteur’s *Practical Guide for Implementation* concerning the implementation of specific linguistic rights to prepare our report. We have analysed what should be done according to the Practical Guide, and then we have specified the real situation of the Basque language based mostly on citizens’ own experiences.

## 2. SITUATION OF SPECIFIC LINGUISTIC RIGHTS

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Before starting the analysis of the situation of the linguistic rights we would like to explain the legal situation of the linguistic rights of Basque speakers in the Spanish State.

The language rights of Basque speakers under the Spanish State are subject to no fewer than three different legal status.



As regard of the Basque language community located in the Spanish State, it is the Constitution of the Spanish State the lays down regarding the language of the State.

### **THE SPANISH CONSTITUTION**

#### **Article 3**

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 Autonomous Communities in accordance with their Statutes.*

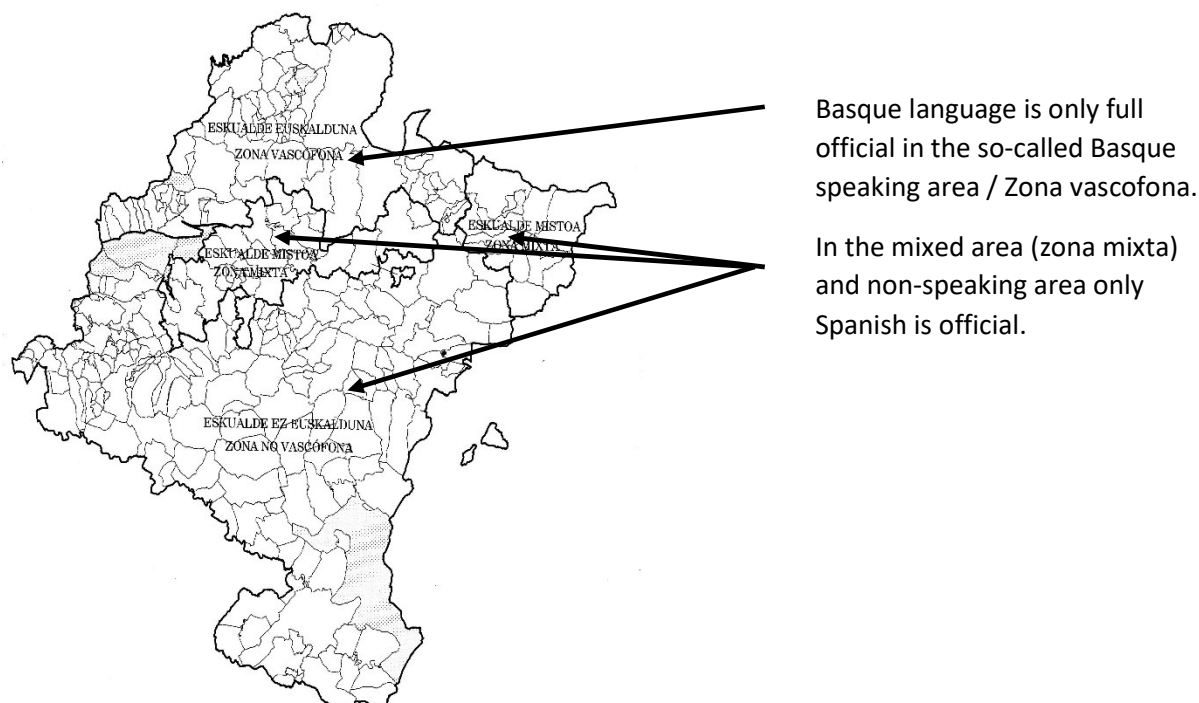
According to this, there is one official language, i.e. there is just one language that is obligatory to know, and only this is stated as having rights of usage. In the second part, there is mention of the autonomous community languages within the State having official status.

However, this formal legal status does not correspond to the real situation of those languages. Despite the official status of both languages, they are in a situation of imbalance, and Basque is in a minority situation.

Moreover, the Basque language community is divided into two different autonomous communities: Basque Autonomous Community and the Foral Community of Navarre.

With regard to the Basque Autonomous Community, in those Basque historic territories of Bizkaia, Gipuzkoa and Araba, Basque is an official language throughout, alongside Spanish.

As regards the Community of Navarre, as a result of official designations for Basque language, the language rights of people are recognised according to the location they reside in. This has no logical basis either and given, moreover, that there is a law regulating Basque that declares it as Navarre's own and distinctive language.



The Sociolinguistic Survey which the authorities have published gives 2016 data. Here are statistics for the parts of Navarre in which Basque lacks official status. In the mixed zone, where most of Navarre's population is concentrated.

It is significant that the sharpest rise in the numbers of Basque speakers between 1991 and 2016 has taken place in the mixed zone, where their proportion of the population has risen from 5.2% to 11.3%. In the legally defined non-Basque-speaking zone, despite the absence of official policies in support of Basque, the public's loyalty to Basque has increased and the number of people who speak Basque has risen during the past twenty-five years.

As Basque language is not official in those areas commitments in Section Part III of the European Charter for Regional and Minority Languages are not taken into account. For that reasons we have always let know to the Committee of Expert of the Charter that the Spanish authorities should be asked to extend official status for the language to the entire territory.

Moreover, as the Basque community is not considered a national minority the Advisory Committee of the Framework Convention for the Protection of National Minorities persons belonging to that group and who live outside the areas where their language has co-official or protected status receive considerably less support for the protection of their language and culture.

Therefore, in an area of 10,421 sq. km citizens' rights are divided into three areas.

## **2.1. ADMINISTRATIVE AND OTHER PUBLIC SERVICES**

### **What should be done?**

*Where practicable, clear and easy access should be provided to public health care, social and all other administrative or public services in minority languages:*

### **The real situation**

Nowadays only 6.8% of staff in the Basque Autonomous Community are fully fluent in Basque, is incredible and deeply disturbing.

In some areas not only language rights are breached, but also other fundamental rights such as the right everyone has to be informed promptly in a language which he understands, of the reasons for his arrest and of any charge against him.

Here are a couple of examples which show that State has not taken any measure to guarantee that right.

- Concerning the civil servant examination for entry into the Civil Guard at the level of "guardia" and corporal, as established by Resolution 160/38045/2015 of the 6th of May, Appendix II of the resolution states: Evaluation of merits, 2.1. Language skills, English, French and German. NOTHING IS SAID ABOUT ANY EVALUATION OF OTHER OFFICIAL LANGUAGES

- In exams for entry into the National Police there is an optional language test, but only for English and French. The weighting of these corresponds to that of time of service in the armed services and high-level sport experience. THERE IS NOT A WORD ABOUT EVALUATING KNOWLEDGE OF OTHER OFFICIAL LANGUAGES. See for example the Resolution of the 29th of April, 2015 of the General Directorate of the Police.

We are also very concerned about the assignment of merits (or not) to knowledge of Basque in other civil service jobs. Here there are a couple of examples:

- Order HAP/2294/2015, 21st of October, 1,332 jobs
- Order HAP/998/2016, 17th of June, 2,867 jobs

No consideration was given to knowledge of other official languages in recruitment for any of these positions and it was assigned no merits in the examination phase. There is no way to find out which of these positions were for people stationed in the BAC, Navarre, Galicia, Catalonia, Valencia or the Balearic Islands. There seems to be a new strategy in recruitment campaigns for state civil service jobs to have no requirement of knowledge of other official languages besides Spanish and to attach no value to knowledge of them.

The lack of linguistic competence among staff has had a negative impact on the ability to attend directly to members of the public in Basque. For example, we have received many complaints from citizens about only being able to receive attention in Spanish when they apply to obtain or renew their national identity document.

Another a measure of Spain's degree of compliance that we find worrying is the passage of Law 369/2015 on General Administrative Procedure, which fails to improve on the stipulations of its predecessor regarding language use.

Hence the authorities have missed yet another opportunity to implement the Committee of Ministers' recommendation. According to the article regulating language use, Spanish is to be the language of procedures for which the state's General Administration is responsible without any consideration for other languages of the territory concerned.

Moreover, even though Article 15 of the law acknowledges the right of citizens to use the other official language of the community, it makes it obligatory for Spanish to be used if there are other parties and there is any conflict over choice of language.

It also requires that Spanish must be used in documents having any effect beyond the autonomous community.

It should also be pointed out a number of regulations approved by the state in the period 2014-2016 require the use of Spanish. According to a study by the Plataforma per la

Llengua, which supports Catalan, between **2015 and 2016 the Spain's official gazette published 52 legal provisions which all make it obligatory to use Spanish.**

Some linguistic discriminations:

Dossier 26-2013: A member of the public who went to the Donostia office to process their identity card was assigned a member of staff who was unable to communicate in Basque. Dossier 477-2013: Another member of the public went to the Bilbao office for the same purpose and the same thing happened.

At the traffic department, with a high volume of attention to members of the public, the same situation frequently arises where members of the public are unable to get attention in Basque, and this has given rise to a large number of complaints received by Behatokia.

Dossier 101-2014: A member of the public was told "Speak Spanish" by a Bilbao traffic department staff member on the phone. When the caller asked the government employee to calm down, the employ retorted rudely (in Spanish): "Who the hell do you want to talk to?"

Dossier 378-2014: A member of the public went to the traffic department in Donostia, found that there were no members of staff attending to the public who spoke Basque, and requested a form to file a complaint. They were handed a blank sheet of paper.

Dossier 321-2015: Another member of the public went to the same office and had the same issue: there was not a single staff member who could attend to them in Basque.

Another administration office that attends to members of the public very frequently is Social Security. Behatokia received complaints about violations of rights here too in the period 2014-2016, for example:

Dossier 340-2013: A member of the public went to the Social Security office in Bilbao and could not get attention in Basque. Dossiers 663-2015, 768-2015 and 940-2015: Members of the public could not obtain service in Basque at the Donostia Social Security offices.

Dossier 1048-2016: Although a member of staff gave signs of understanding Basque, they asked the member of the public to speak Spanish. Dossier 885-2015: A staff member at the Bilbao office retorted to a member of the public who approached them speaking Basque: "If you're going to talk to me in Basque we're off to a bad start." And the list goes on.

This demonstrates that the procedures now in place for hiring staff are of no use for ensuring that attention to members of the public in Basque will be provided.

However, we found one complaint in particular (Dossier 919-2014) especially worrying. A member of the public went along to the public employment office, INEM, and although they speak Basque at work, the person was required to fill in forms in Spanish. Because not a single member of staff could speak any Basque and the person did not have a good mastery of Spanish, they ended up having to go back three times in order to receive money that they were legally entitled to.

## 2.2. HEALTH SERVICES

### What should be done?

*Where practicable, clear and easy access should be provided to public health care, social and all other administrative or public services in minority languages:*

### The real situation

Nowadays, we wish to point out that today still only 34% of the staff in Basque Autonomous Community's health service can speak Basque. Actually we do not know how these 34% of Basque speakers are distributed: how many of those jobs are administrative positions and how many directly involve providing medical attention, i.e. the report ought to indicate how many doctors and nurses have Basque language credentials.

Behatokia has processed many dossiers in the period 2014-2016 received from people who complain about being denied medical attention in Basque. A few telling examples follow:

- Dossier 745-2013: Reception was attended by non Basque speakers who only spoke Spanish at the Araba provincial hospital. Information on the screens was in Spanish only. The doctor attended to them in Spanish.
- Dossier 746-2013: At the Araba hospital, the mother of a child had to act as an interpreter because the nurse administering an ECG was unable to perform using Basque.
- Dossier 952-2013: An eight year old child was taken into a room alone for an ultrasound scan and neither the doctor nor the nurse could communicate with the child in Basque.
- Dossier 986-2013: A member of the public requested a Basque-speaking pediatrician and was denied one.
- Dossier 488-2014: A six year old boy was taken to hospital for a test with a psychiatrist who was unable to communicate with the child properly because of ignorance of Basque. The IQ test that was administered also had not been translated into Basque and had to be done in Spanish. As a result, the test could not be completed.
- Dossier 532-2014: The substitute doctor who was assigned to stand in for a Basque-speaking doctor was not a Basque speaker.

- Dossier 149-2015: A nine year old girl needed attention in a mental health area, and this service could not be provided in Basque.
- Dossier 376-2015: A member of the public gave birth in a Bilbao hospital. Neither the receptionist nor the midwife nor the nurse on the second day nor the paediatrician nor the psychiatrist who was assigned the following month could speak Basque.
- Dossier 991-2015: In a health centre in a Basque-speaking area, the training course provided by midwives in preparation for giving birth is offered entirely in Spanish, without any provision for an option to do the course in Basque.
- Dossier 836-2016: The new child psychiatrist who has been assigned to a hospital in a Basque-speaking area speaks no Basque and cannot provide attention in Basque.
- Etc.

In the case of the Community of Navarre, according to the Navarrese government's own figures only 0.57% of jobs in the healthcare system carry a requirement to know Basque, which means that out of the 10,802 members of staff, only 57 speak Basque. Needless to say, this is clearly insufficient to cover the needs and fulfil the rights of citizens.

We received a large number of complaints at Behatokia about issues with the healthcare system in the period 2014-2016. We have classified them into two groups: those referring to actual health care and the rest.

***Involving health care:***

- Dossier 594-2016: Someone requested a Basque-speaking doctor at an Iruñea (Pamplona) health centre and was told there aren't any.
- Dossier 231-2016: There are no Basque-speaking pediatricians working at a certain health centre in Iruñea.
- Dossier 756-2016: Someone went to a health centre and found that not a single one of the staff in the reception area was able to speak Basque.
- Dossier 999-2016: There was a Basque-speaking pediatrician but a substitute was there instead, who cannot attend in Basque even though this is in a very Basque-speaking area.
- Dossier 439-2015: In a very Basque-speaking area, the substitute doctor sent to the health centre cannot attend in Basque.
- Dossier 473-2015: In a very Basque-speaking area, the pediatrician sent to the health centre cannot attend in Basque.
- Dossier 495-2015: In a very Basque-speaking area, 518 members of the public have complained about the fact that many of the doctors and pediatricians cannot attend in Basque.
- Dossier 579-2015: For many positions working at the health centre and the women's support centre in a Basque-speaking area, knowledge of Basque is not required. Consequently, members of the public, even schoolchildren, cannot obtain attention in Basque.
- Etc.

### **Others**

- Dossier 196-2016: Most of the posters displayed at Iruñea (Pamplona) Hospital are only in Spanish.
- Dossier 996-2016: Most health centre posters are only in Spanish.
- Dossier 272-2015: Notifications sent on cancelling a medical appointment are not in Basque.
- Dossier 803-2015: Someone's child was vaccinated and the leaflet informing about possible side effects of the vaccination was in Spanish only.
- Dossier 800-2016: The note certifying that the person had visited the health centre was in Spanish only.
- Dossier 1433-2016: The text message sent to remind the patient of an appointment with the eye doctor was in Spanish only.
- Dossier 1585-2016: A letter sent out as part of a breast cancer campaign was in Spanish only.
- Etc.

## **2.3. MINORITY LANGUAGES IN THE AREA OF JUSTICE**

### **What should be done?**

*Those documents which are essential to a case must be translated adequately without cost to the defendant. [...] Court proceedings (civil or criminal) and other judicial or quasi-judicial hearings should be conducted in a minority language, where the concentration and number of speakers make this a practicable measure.*

### **The real situation**

Actually, it is the legislation in force in Spain that determines which language is to be used in these proceedings, through article 231 of Organic Law 6/1985 on the Judiciary which establishes the following:

Article 231:

*In all court procedures, judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal, shall use Spanish, the official language of Spain.*

*Judges, magistrates, prosecutors, clerks and other civil servants of the court or tribunal **may** also use the official language of the Autonomous Community providing that no party objects to this by alleging no knowledge of the said language, which could cause a lack of proper defence.*

Consequently, one of the parties simply needs to allege a lack of knowledge of the Basque language in order to ensure that the legal proceedings cannot be conducted directly in the official native language of the territory.

According to article 231.2 of Organic Law 6/1985 the situation of defencelessness can only arise when one of the parties alleges a lack of knowledge of the Basque language, amongst other things, given the fact that the Spanish Constitution establishes the duty to know the Spanish language and, consequently, no citizen can allege a lack of knowledge of this language. It is therefore repeatedly confirmed that the duty to know the Spanish language comes before the right to use the native language of the territory, which is moreover an official language.

Furthermore, with regard to the language skills of staff, we must say that in the period 2014-2016 no effective steps have been taken to ensure the existence of Basque-speaking prosecutors, magistrates or court secretaries in locations where both Basque and Spanish are official languages, and this poses an obstacle in the way of carrying out legal procedures in Basque, whether they involve civil law, punitive or administrative issues.

No changes were made in Spanish legislation in the period 2014-2016 regarding compulsory requirements of knowledge of Basque by judges, magistrates, prosecutors or secretaries.

Basically, knowledge of Basque is evaluated as a merit, but is not required.

Importantly, two elements are differentiated in our territory: one is knowledge of special civil law, and the other is knowledge of Basque. One or two years of antiquity is conceded to judges and magistrates for demonstrating knowledge of Basque.

On the other hand, knowledge of civil law is treated as a preferential merit. Here too, we conclude that the legislation fails to respond to the recommendations repeatedly made in the last evaluations of the Euro-Charter.

For prosecutors, the Spanish authorities' report says that knowledge of Basque is counted as a merit. But in fact this is not currently applied. On top of that, Royal Decree 634/2014 of the 25th of July, which regulates equivalents of the degree of prosecutor, establishes that knowledge of Basque can only be counted as a merit for a maximum of 0.9 points.

Thus it is impossible to conclude that, as the Spanish authorities claim, the current legislation favours knowledge of Basque by BAC and Navarrese judges, magistrates or prosecutors.

In fact, the legislation makes it easy to staff the courts with employees who know no Basque, and who in theory are the very people who are responsible for drawing up texts for use in Basque or who will be the decision makers in matters affecting this. This is a clear infringement of the principle of equality between all citizens.



We also consider that the authorities should be asked to present statistics and longitudinal data on the number of judges, magistrates, prosecutors and secretaries who are adequately fluent in Basque.

## **BASQUE AUTONOMOUS COMMUNITY**

Of the 343 judges and prosecutors in the Basque Autonomous Community, a mere 16 judges and three prosecutors are bilingual.

Among high-ranking staff the level of knowledge of Basque remains very low; for instance, only 35% of processing clerks speak Basque, and 10% of forensic scientists.

There are two consequences that result from this low incidence of Basque language competence: it is virtually impossible to have a trial in Basque today, and when citizens want Basque to be used it results in delays.

The Basque Government's vice-minister of Justice has said that documents written bilingually slow down trials, and that bilingual applications directly cause delays for the applicant: "Citizens' interests are often adversely affected because their applications have to be translated, which results in delays

News of some such cases has reached Behatokia, which has verified that when Basque is used it tends to cause delays, as in Dossier 402-2015: When a member of the public went to bear witness in court and wished to speak Basque, the member of staff told them they would have to come back another day.

Dossier 74-2005: A member of the public presented an enforcement demand and since it was in Spanish its processing was delayed twelve days for it to be translated.

In many cases, documents or forms exist in Basque yet those made available to members of the public are all in Spanish, for example Dossier 721-2013: At a provincial courthouse, a citation and the document which certifies that the citation was received were presented in Spanish only. Dossier 1251-2016: A member of the public gave advance warning that they wished to bear witness in Basque but was still made to do so in Spanish because no interpreter had been provided.

In conclusion, even though a wide range of forms and instruments have been created in Basque versions, it is nevertheless clearly virtually impossible at this time to carry out a trial entirely in Basque, and a lot of things continue to be done in Spanish only, as a result of simple inertia.

Finally, we would like to underline that documents in Basque still get rejected in court is very serious, as in Dossier 47-2013: A member of the public was threatened that because they had sent a requested document in Basque only, unless they sent a Spanish version that very day, the document's content would be overlooked because the judge didn't speak Basque.

## FORAL COMMUNITY OF NAVARRE

We suspect that there may not even be a single Basque-speaking judge or prosecutor in Navarre's courts.

Hence, if it was very difficult to get a trial in Basque in the Basque Autonomous Community, in Navarre it is impossible.

Furthermore, in the Navarrese courts all notifications and summonses are sent out in Spanish only. Basque barely manages to have a token presence in Navarrese courts of law

### 2.4. MEDIA AND MINORITY LANGUAGES

#### What should be done?

*On public sector media, the languages of minorities must be provided with sufficient and proportional space. As much as is reasonably possible and practicable, their presence must be visible and audible to members of their communities as well as members of the majority.*

#### The real situation

According to Article 3.2.e of Law 17/2006 of the 5th of June about radio and television stations dependent on the state, linguistic diversity is among the principles that must be upheld. Moreover, legal doctrine says that all public authorities in the territory are obliged to ensure that there is Basque language radio and television programming.

The real situation is that in the time slots when Televisión Española (Spanish public television) cuts off to allow time for local programming in the Basque Autonomous Community and Navarre, there is no Basque language content. In fact, there is only a token use of Basque in the Basque Autonomous Community and nothing in Navarre.

### 2.5. LINGUISTIC RIGHTS IN PRIVATE ACTIVITIES

#### What should be done?

*The use of any minority language in all private activities must be guaranteed, wheater economic, social, political, cultural or religious, including when this occurs in public view or locations.*

## The real situation

The Spanish administration puts nothing but obstacles in the way of guaranteeing the language rights concerned with economic and social life. In fact, it uses legislation and regulation as a tool to prevent their application.

An in-depth study of this has been carried out by the Catalan NGO Plataforma per la Llengua. Some examples from that report are reproduced here:

- February 2014, with the favourable votes of the PP and the PSOE, the amendment of the State Law of consumers and users was approved, so that from then on, entrepreneurs were obliged to provide information on contracts in Castilian, making it optional in other languages.
- Act 5/2014, of 4 April, on private security, imposes the knowledge of Castilian to foreigners applying to this profession.
- Order HAP/1369/2014, of 25 July, approving the basic regulation of cross betting, and amending various ministerial orders approving the basic regulation of certain games.
- Order HAP/1370/2014, of 25 July, approving the basic regulation of gambling on slot machines.
- Act 20/2015, of 14 July, on the organisation, supervision and solvency of insurers and reinsurers, imposes the use of Spanish for insurers and reinsurers located in other Member States of the European Union, and who are authorised in their state of origin and want to operate in Spain, when it comes to their contractual documentation and any requirements of the Directorate-General of Insurance and Pension Funds (article 51.4). It also requires the Spanish translation of the resolution of the appointment agreement, or appointment of provisional administrators and liquidators of these types of entities, as designated by the competent authority of another Member State to perform their function in Spain (article 167.4).
- Act 24/2015, of 24 July, on patents, imposes the use of Castilian in the applications to be filed in the Spanish Patent and Trademark Office, also in 'the Autonomous Communities where there is another official language', where the use of this is merely optional and, furthermore, it is not considered authentic in the case of doubts over interpretation (article 23.3).
- Royal Decree 989/2015, of 30 October, which approves the Regulation of pyrotechnic articles and cartridges (article 5.1.g, 5.3.c and i, 5.4.b, 13, 109, 113.1, 115.b, 144.2).
- Royal Decree 188/2016, of 6 May, approving the Regulation establishing the requirements for the marketing, launching and use of radio equipment, and regulating the procedure for the evaluation of compliance, market surveillance and the sanctioning regime of telecommunication equipment. It imposes Castilian in some cases.
- Royal Decree 98/2016, of 11 March, regulating the safety, technical and marketing requirements of nautical motorcycles, sports boats and their components (articles 16, 17.1, 29.2 and 5).

Moreover, The High Court has reached the point of considering that the mere literal wording of a text in Spanish in a state regulation prevents its wording in the official language of the region where it will be applied. This criterion denies the official status and protection of the relevant language as established by the legal system and denies the material and linguistic competences of the autonomous governments in all areas in which the State decides to intervene.

## 2.6. EDUCATION

### What should be done?

*Public education services must be provided in a minority language to the appropriate degree, broadly following a proportional approach. This includes all levels of public education from kindergarten to university*

According to Law 1/1993, the law of the Basque public school, all pupils must be fluent in both official languages by the time they finish their period of compulsory education. Evidently, this law goes further than what the Charter's commitment requires.

Nonetheless, there are points to clarify.

The linguistic competence which pupils must achieve by the end of their compulsory education is directly linked to the official status of the languages in this autonomous community.

The requirement for pupils to achieve adequate mastery of both official languages is a legal consequence of their official status in the Spanish state.

However, the real situation that is found comes nowhere near what the law implies.

Three language regimes or "models" are distinguished in the Basque Autonomous Community, as follows:

- Model A: Teaching through Spanish, Basque taught as a subject
- Model B: Some subjects are taught in Spanish and some in Basque
- Model D: Teaching through Basque, Spanish taught as a subject

In the case of Navarre there is one more model:

- Model G: Everything in Spanish

In the legally specified Basque-speaking zone of Navarre there are no Model G schools, so at the very least students study Basque as a subject

According to language competence in Model D %66 of students achieve B2 language competence in Basque, in Model B %33 of students achieve B2 language competence in Basque, and in Model A no student achieve that competence. %100 of the students achieve B2 language competence in Spanish.

Therefore, thousands of pupils each year still lack adequate fluency in Basque upon completion of their compulsory education, and in this way the current school system is giving rise to discriminatory situations between citizens.

### **KINDERGARTEN (NAVARRRE)**

In Iruñea (also known as Pamplona), the capital of Navarre, out of seventeen public infant schools which offer the first stage of infant education, five are run by the city council and the rest by the government of the Navarrese autonomous community.

In the period 2013-2016 only two of these public infant schools had a Basque-medium education project and both are located in the same neighbourhood. 11% of all available places are for Basque. In contrast, three schools offer a Spanish/English project, representing 32% of the total available places.

In the remainder, which make up 57%, all teaching is through Spanish.

This situation resulted in a lot of public protest, and in 2015 some changes were made. The city council expanded its provision of Basque language programmes to include four more infant schools.

However, although the number of places for Basque language programmes has increased to 24% of the total, in a survey carried out by Iruñea City Council of parents during the pre-registration campaign in March 2016, 38% of those surveyed said they wished they could have enrolled their children in a Basque language programme. This shows that the supply remains short of the demand. There were no places to receive Basque in the central district of the city.

Not a single one of the five infant schools in the city that are run by the Navarrese government has any Basque language programme.

### **UNIVERSITY (NAVARRRE)**

According to information given by the university itself, in the year 2000 20% of the student body was Basque-speaking, and in 2017 30% is, so the proportion of Basque-speaking students is on the rise.

However, these increases have not been matched in the same proportion by growth in the provision of Basque language courses. In fact, the only degrees offered today entirely in Basque are Teacher Education for infants and primary schools.

In all the other degrees combined, only 148 classes per semester are offered in Basque.

We're talking about eighteen different degrees, so taking a simple average that would come to eight classes in Basque per semester in each entire degree. In actual fact, in some degrees there is hardly any Basque at all, e.g. Labour Relations and Human Resources, Nursing, Food Processing and Product Innovation, to name three.

We have received complaints related to this. Dossier 517-2013: A group of students reported to us that even though they had signed up for Mathematics in Basque in the Public University of Navarre, forty Engineering students were forced to take it in Spanish because there was only one instructor available who knew how to teach it in Basque.

To conclude this section, we would like to draw attention to the fact that 60% of all university students from the Autonomous Community of Navarre who enrol to study in the Basque Autonomous Community sign up to study in Basque.