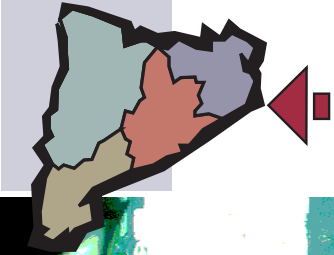


Català

Legal situation of Catalan



Urban population



Parliament of Catalonia
(Barcelona, Catalonia)

Basic concepts for understanding the legal situation of the Catalan

Legal framework

Linguistic codes in the public administration

Linguistic codes applied in other fields



Galego

Euskara

Cymraeg

Elsässisch

* This CD-ROM covers legal aspects up to the end of November 1997. And includes furthermore a section devoted to the new Linguistic Policy Act.

Legal situation of Catalan

Basic concepts for understanding the legal situation of the Catalan



- 1 Statutes of Autonomy, Catalonia (art 3.1), Balearic Islands (art. 3), Community of Valencia (art. 7.5).
- 2 Art 1.1 of the Statute defines Catalonia as a nationality.



Catalonian linguistic laws has developed some original concepts that have been internationally acknowledged. Three of the Statutes of Autonomy in Catalan-speaking regions use the expression own "language" (1), which indicates that it is deeply rooted- historically, culturally, nationally (2)- in the corresponding zones, regardless of the fact that in recent times, a part of the population has also employed other languages. Thus, the own language is, at the same time, the national or regional language.

Parliament of Catalonia
(Barcelona. Catalonia)





Legal situation of Catalan

Basic concepts for understanding the legal situation of the Catalan

3 Sentence 82/1986, June 26th, f.j. 2



The term *own language* has two legal implications. The first is that its official status to be legislated, since this status arises from its natural character. This origin is in direct contrast with the notion of official status of Spanish applied in the same territory, since this language is official by constitutional imperative.

The second legal consequence is that Catalan should be granted, in circumstances or spheres that are of public interest, the positive legal measures and the institutional support that are required to restore its hegemonic presence. This means that the natural language should avail of the legal conditions and assurances that are needed to sustain its habitual and generalized use, without affecting the official status of Spanish and the coexistence of other languages.

According to the Constitutional Tribunal (1986) (3), "a language is official, regardless of its degree of reality and importance as a social phenomenon, when it is acknowledged as such by public authorities as the habitual means of communication among themselves and in relation to private individuals." In situations where there are two official languages, the rights and obligations that arise thereof are equivalent for the two languages.

Flags



Legal situation of Catalan

Basic concepts for understanding the legal situation of the Catalan



The fact that there are two official languages does not imply that texts must be written in both languages: each of them is fully valid and efficient in its own right. In this sense, for example, when addressing the Administration, the citizen has the right to use the official language of his choice and the functionary must be capable of adapting to the demand. Thus the notion is one of a dual official nature and not of a co-official character.

When there are two or more languages in social contact, a respectful linguistic policy can adopt either a policy based on the personality or on the territoriality of linguistic rights. The first guarantees the individual certain services in the official language of his choice, regardless of the place where the need arises. In this sense, the two or more languages involved have an equivalent official nature in public state institutions. In the second case, the right to benefit from public services is limited to only one of the languages in certain territories, which signifies that each of the languages becomes the only official language or, at least, holds priority over the other within its respective territory.





Legal situation of Catalan

Basic concepts for understanding the legal situation of the Catalan



The Constitution indicates that in Spanish-speaking regions, the territorial principle should prevail, while the policy should be based on personality in Catalan-speaking zones and thus, a double official nature be implemented; in other words, it is possible to exercise the rights derived from the principle of personality with respect to both Catalan and Spanish. Catalan legal doctrine, in articles 3.1 and 3.3 of the Statute of Autonomy, postulates a dynamic interpretation of the combination of personality and territoriality principles; thus by article 3.1 an initial premise is established- Catalan as a deeply rooted language that is consubstantial to the Catalan region - and the second premise - Catalan as a regional language, consubstantial to the institutions of self-government and Catalonian society; similarly, article 3.2 establishes the mediation between the initial premise (cause) and second premise (goal): that is to make it possible, based on progressive measures, for Catalan to be used in a generalized manner and as a priority mode of expression in all public spheres., while sharing official status with the Spanish language.





In Andorra, Catalan is the single official language. In Spain, the legal linguistic framework is configured by the Spanish Constitution, the Statutes of Autonomy of Catalonia, the Community of Valencia, Balearic Islands and Aragon, linguistic normalization laws in Catalonia and the Balearic Islands and the Law for *Valencian* Usage and Teaching. According to legislation, Catalan is the own language of Catalonia, the Balearic Islands and the Community of Valencia, as well as being an official language, as is Spanish.

Statute of Autonomy
of Catalonia





- 4 Organic law 4/1979, November 18th
- 5 Law 7/1983, April 18th, for Linguistic Normalisation in Catalonia
- 5 bis Act on Linguistic Policy (Act No.1, on 7th January).

Spain

The basic legal framework is determined by what is known as the constitutional block (Spanish Constitution, Statutes of Autonomy and Constitutional Court Sentences). The Constitution confers official status to Spanish for the entire Spanish state, with the consequent requirement of knowledge of and the right to use the language; it establishes that the rest of the languages in Spain are to be considered official in their respective Autonomous Regions, as stipulated in their Statutes- attributing to the different statutes of autonomy the regulation of the linguistic regimen of regions of different languages; it also establishes that the rich linguistic variety found in Spain is to be regarded as cultural heritage and should be granted respect and protection.

Catalonia

The Statute of Autonomy (4) establishes that Catalan is Catalonians own language. With this declaration, the Statute legitimatizes the existence of measures for converting Catalan into the habitual and common language within Catalonia, without infringing the linguistic rights deriving from the official nature of the Spanish language. All of these principles have been developed by the Parliament of Catalonia in the form of the Linguistic Normalization Law in Catalonia (5) and complemented by other laws and sector regulations.

Later, in 1998, the Linguistic Policy Act (5 bis), which replaced the 1983 Act, came into effect. Five decrees were published in the ten months following its enactment, in order to implement it.



ESTATUT
D'AUTONOMIA
DE CATALUNYA

GENERALITAT
DE CATALUNYA

BARCELONA 1986





- 6 Organic law 2/1983, February 25th
- 7 Law 3/1986, April 29th
- 8 Constitutional Court Sentence 123/1988, June 23rd
- 9 Organic law 5/1982, July 1st
- 10 Law 4/1983, November 23rd



ESTATUT
D'AUTONOMIA
DE CATALUNYA

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DE CATALUNYA

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Balearic Islands:

The Statute of Autonomy (6) establishes that Catalan is the own language of the Balearic Islands, as well as being their official language, along with Spanish. At a later date, the Balearic Parliament passed the Linguistic Normalization law (7), which develops the Statute of Autonomy as in the Catalonian case. The Constitutional Court declared some of the articles in this law (8) as unconstitutional. This law has been implemented with different dispositions of sectors.

Community of Valencia:

The two basic codes are the Statute of Autonomy (9) and the Law for *Valencian* Use and Teaching (10), which results from article 7 of the Statute. This code introduced the term “*Valencian*”, which had a negative effects on Catalan unity. Legislation in this community has granted fewer protective measures for Catalan than in Catalonia and the Balearic Islands. It has also fixed a linguistic frontier between the predominant linguistic territories of Catalan and Spanish.





- 11 Organic law 5/1996, December 30th, art. 7.
- 12 Organic law 8/1982, August 10th
- 13 April 28th, 1993



Eastern Aragon

The Reform (11) and the Statute of Autonomy (12) of Aragon affirms that "the languages and linguistic modes that are own to Aragon are to be protected. Provisions shall be made through an Act of the Parliament of Aragon to engine that these languages are taught and to define speaker's rights in areas where these languages are predominantly used". This law has yet to be developed.

Andorra

Article 2 of the Constitution (13) establishes Catalan as the official language.

Southeastern France and Alghero

Neither the Department of the French Pyrenees nor the Sardinian city of Alghero have linguistic legislation in this respect.





The standards that are applicable in Spain configure a double official language structure, with a lesser application for Catalan in the Justice Administration and a preference for Catalan in the territorial administrations. In Andorra, the constitution establishes Catalan like the only official language. The rest of the territories don't dispose of any specific language legislation.

Local
administration





- 14 Law 30/1992, November 26th, Legal Regimen of the Public Administration and Common Administrative Procedure
- 15 Organic Law 6/1985, July 1st, Judicial Authority (modified by Organic Law 16/1994, November 9th), art. 231.

Spain

The basic norm (14) establishes that in relation with public administrations, citizens have the right to use the official languages within the territory of their Autonomous Region. It also establishes that the language used in State Administration procedures must be Spanish, but persons that address the organs of said administration with headquarters in an Autonomous Region may also use the own language of the region, adding that in this case, procedures should be documented in the language of choice of the interested party. This same norm establishes that the documents that are effective outside of the region must be translated into Spanish, at the expense of the same public administration.

Justice Administration

The basic norm (15) establishes that in judicial activities, the civil servants, courts and tribunes are to use Spanish, although the own language of the region may be used, except in cases in which this would negate the possibility of fair dealings to either of the parties involved. Persons that participate in the court and that are not civil servants are allowed to use their language of choice, both in written and oral form. In addition, any judicial action and documents derived thereof in an official language other than Spanish are to be translated when effective outside of the Statutory Region, except in cases where the destination of the ruling is in the natural language that is the same as its place of origin.





- 16 Law 7/1983, April 18th
- 17 Decree 107/1987, March 13th
- 18 Passed by the General assembly of the Linguistic Normalization Consortium
- 19 Vgr: Girona, Tarragona, Tortosa, Vic, etc.

Autonomous and local administrations

Catalonia

The Linguistic Normalization law (16) establishes that Catalan, as the natural language of Catalonia, is also the own language of the Regional Government, Catalanian Territorial Administration, local Administration and the rest of the public corporations that are dependent on the regional Government. This means that Catalan is to be the language of normal and habitual usage in these administrations, respecting always individual linguistic rights, making it possible for citizens to address said administrations in Spanish if they wish to do so. In the case of the Regional Government, this general principle is assured by a decree (17) that regulates the use of official languages on behalf of the administration. In the local Administration, this regulation has been progressive based on a regulations model for Catalan usage elaborated in 1991 (18) and which has recently been passed by many local corporations (19).





- 20 Law 3/1986, April 29th
- 21 Decree 100/1990, November 29th
- 22 Law 4/1983, November 23rd

Balearic Islands

The Language Normalization Law (20) indicates that Catalan, as the own language of the Balearic Islands, is also the own language of the regional government, Parliament, Island Councils and in general, the public Administration, local Administration, as well as the public corporations and institutions that are dependent on the Statutory Region. This was developed further at a later date (21) by regulating official language usage in the Autonomous Administration. In the local Administration, various local corporations have also adopted regulations for Catalan usage.

Community of Valencia

In conformance with the Law for *Valencian* Use and Teaching (22), Catalan, as the own language of the Autonomous Region, is also the own language of the Valencia Regional Government, as well as of its public Administration, local Administration and dependent public corporations and institutions. This has not been extended to the regulations of the regional Administration and very few Town Hall have passed language use regulations.

Andorra, Southeastern France and Alghero

In Andorra, since the official language is Catalan, it is obligatory to address the Administration in this language. In the French and Sardinian cases, neither of the territories avail of legislation in this respect.





In Spain, the governments of the main Catalan-speaking territories have focused on the teaching of the language, to a lesser degree in cultural industry and practically not at all in the socioeconomic sector.

Old market of Valencia
(Valencia. Valencian Community)





- 23 Royal decrees 2092/1978, June 23rd ; 2003/1979, August 3rd ; and 2193/1979, September 7th.
- 24 Law 7/1983, April 18th, art. 20.
- 25 Decree 79/1984, July 30th, *Generalitat* Council of Valencia
- 26 Law 3/1986, April 29th, art.20.
- 27 Decree 244/1991, October 28th, *Generalitat* of Catalonia.



Casa de la Vall
(Andorra).

a) Teaching

In Spain, since 1978, Catalan has been an obligatory subject in primary and secondary schools in the majority of Catalan-speaking communities (23)). Legislation in Catalonia (24), Valencia (25) and Balearic Islands (26) also fosters the progressive increase in Catalan usage as a teaching instrument; gradually, Catalan fluency has become obligatory for teachers (27).

Catalonia, Balearic Islands, Community of Valencia

The three respective linguistic normalization laws establish the objectives for insuring Catalan knowledge; in the educational scope, this is concretized by forcing the students to be fluent in both official languages upon completing the obligatory study level. The three laws establish freedom of linguistic choice during primary education, while in upper levels, this is in conformance with the specific norms for each Statutory Region. The Linguistic Normalization Law in Catalonia declares that “Catalan, as the own language of Catalonia, is also the own language in all teaching levels.”





Legal situation of Catalan

Linguistic codes applied in other fields



At the university level in Catalonia and the Balearic Islands, all professors and students have the right to express themselves in the official language of their choice; the Community of Valencia lacks legislation in this respect.

In Catalonia, the prior knowledge of Catalan and Spanish is a prerequisite for access to all public teaching posts at all educational levels, except university, although some universities have regulated the requirement for Catalan fluency for the next convocation. The Catalan knowledge requirement is becoming increasingly frequent in the Community of Valencia and Balearic Islands.

Andorra, Eastern Aragon, Southeastern France and Alghero

In the principality of Andorra, parents are free to choose French public schools, Spanish and local Andorra schools for their children. The latter type, as well as congregational institutions, hold classes in Catalan.

In Southeastern France, Eastern Aragon and the city of Alghero, Catalan is an optional subject in schools.





b) Socioeconomic sector

Rather than constrictive norms, the normalization laws provide for activities that foster Catalan usage at a private level. In Catalonia, and even more so in Andorra, there are norms that impose Catalan usage in public images or that acknowledge the linguistic rights of consumers and users.

Catalonia

The Statute of Consumers (28) acknowledges that citizens have the right to avail of the most widespread purchase/sales contract models in Catalan and to receive specific information in Catalan. This law has been conceived to facilitate information about services, pricing and invoicing in Catalan.

Other Catalan-speaking territories

In the rest of the territories, Catalan is used in isolated examples, without any type of legal enforcement.





- 29 Law 7/1983, April 18th, art. 21
- 30 Law 7/1983, April 18th, art. 23
- 31 June 1997, law proposal in the Catalanian Parliament
- 32 Law 7/1983, April 18th, art. 22
- 33 Law 7/1983, April 18th, art. 25
- 34 Law 8/1996, July 5th
- 35 Law 8/1996, July 5th, regulation of audiovisual cable networks.
- 36 Law 17/1994, June 8th.

c) Cultural industry and communication media

Catalonia

The Linguistic Normalization Law in Catalonia requires that the Regional Government promote Catalan language and culture and use Catalan in public radio broadcasting stations - four in all- and in television stations that are dependent on this public Administration (29). The legislation supports the normalization of culture industry (film, theater, song) (30), which in some case, focuses on minimum air time quotas (31), grants (32) and other forms of aid (33).

There are many other laws that regulate specific fields, such as FM stations or local TV channels, by establishing various Catalan protective measures (34). As a result, the broadcasting of dubbed or sub-titled films, TV series or documentaries in a language other than the original version must be shown simultaneously in Catalan. In the specific case of cable television, the Catalanian Code (35) determines that half of the 50% allotment for European programs must be either Catalan or Spanish programs, half of which in turn are required to be in Catalan. Similarly, the State law for the protection and fostering of the film industry (36) establishes minimum programming requirements for films that are dubbed to any official Spanish language.

Other Catalan-speaking territories

These areas lack specific measures corresponding to culture and media.

