

**STANDPOINT ON THE
RESPONSE OF THE SPANISH
STATE AUTHORITIES ON THE
RECOMMENDATIONS FOR
IMMEDIATE ACTION AND
HALF TERM EVALUATION OF
THE ECRML**

SUBMITTED TO THE COUNCIL OF EUROPE



INTRODUCTION

In accordance with the new evaluation procedure, the State parties after presenting the periodical reports on the implementation of the Charter, two and a half years thereafter shall present information on the implementation of a limited number of recommendations, if any, namely only those that have been identified by the Committee of Experts in its evaluation report as being for immediate action.

Following the fifth evaluation of the Spanish state's compliance with the Charter, the Committee of Ministers made recommendations for immediate action.

The authorities have submitted the relevant report and the Council of Europe has asked Kontseilua, the Council of Basque Social Entities, for its assessment.

In the following pages we have made together with Behatokia, the Observatory of Linguistic Rights, a small analysis of the report presented by the authorities.



Paul Bilbao-Sarria
Secretary General

COMMENTS OF THE REPORT ON THE RECOMMENDATIONS FOR IMMEDIATE ACTION

RECOMMENDATION N. 1

Amend the Organic Law on the Judiciary so as to ensure the use of the co-official languages in judicial proceedings at the request of one of the parties

Undoubtedly, the Government **HAS NOT COMPLIED** with this recommendation, since although it has approved two lines of action, it has not responded positively to the concise recommendation made by the Committee.

Since the State ratified the European Charter for Regional or Minority Languages, the **non-fulfilment** of the commitments acquired in the justice section has been **constant**.

In **ALL** the **evaluations** carried out by the Committee of Experts and in **ALL** the **recommendations** made by the Committee of Ministers, the Spanish Government has been asked to adapt the legislation, specifically Article 231 of the Organic Law on the Judiciary (LOPJ), so that it complies with the commitments made.

Unfortunately, the **Government continues to maintain the position** that such a modification is not necessary, and therefore, in addition to failing to comply with the recommendations and commitments of the Charter, the violation of the language rights of citizens as well as the right to defence and to effective judicial protection is perpetuated.

As for the arguments presented in the report, we believe that they do not respond to the recommendation made by the Committee of Ministers.

- On the one hand, it states that they will carry out an analysis of the use of co-official languages. Although this analysis may be interesting, it is not a concrete measure to fulfil the commitment. Let us remember that the government has presented more than one study in previous reports. We expected more concrete measures instead of analysis.

- On the other hand, the inclusion of the official languages in the Artificial Intelligence project is included as a measure. We believe that it is interesting and that it can facilitate the fulfilment of some commitments, but it does not respond directly to the recommendation made by the Committee of Ministers. Therefore, it is very insufficient.

We believe that the Government is once again avoiding compliance with an explicit recommendation that, in addition to avoiding an obstacle, would allow the Government to fulfil the commitments acquired in Chapter 9.

During the last three years, the language rights of citizens in the field of justice have continued to be violated because the Government has still not complied with the recommendations of the Committee of Ministers. The cases collected by Behatokia, the Observatory of Linguistic Rights, will be included in the report that we will present in the general evaluation of the fulfilment of the Charter.

We call for a stronger recommendation to change Article 231.

RECOMMENDATION N. 2

Improve the use of the co-official languages in State administration in the Autonomous Communities

LANGUAGE TRAINING FOR WORKERS

Concerning the second paragraph of the report submitted by the Government; we think that the Government has forgotten to mention an essential element that helps to understand that it is far from complying with the second recommendation for immediate action, as well as with Article 10 of the Charter.

The Government **HAS NOT made any mention of the recruitment of workers** with adequate linguistic competence in the administration. Such a **commitment is included in the Charter** and is crucial for the fulfilment of the second recommendation for immediate action. Moreover, in previous evaluations of the Charter, both the **Committee of Ministers** and the Committee of Experts have **urged the government to take steps** in this direction, i.e. to recruit people with adequate language skills.

In **January 2018**, the Secretary of State for the Civil Service published an employment call for **selective processes for entry or access to bodies of the General State Administration**, and the Permanent Selection Committee is responsible for carrying them out. In the case of **the Basque Autonomous Community, 340 posts** were offered. In **none of them was knowledge of Basque compulsory, and in none of them was knowledge of Basque assessed**. The same happened with the posts destined for other autonomous communities with an official language. We believe that this employment call for applications is contrary to Article 10 of the Charter, to previous recommendations of the Committee of Ministers and to recommendation for immediate action number 2 and.

We would like to take this opportunity to express **our concern with the Council of Official Languages in the General State Administration** and the **Office of Official Languages**. Once the previous employment call for applications was published, Kontseilua sent them a request to analyse the consequences of this employment call for applications. Furthermore, in that letter, we pointed out that this employment call was **contrary to state and regional legislation**, as well as to the commitments taken with the Charter. Furthermore, we recalled that the Committee of Ministers had urged the Government through various recommendations to review recruitment policies.

Neither the Council nor the Office heeded this request or even responded to the letter. We believe that there is **no point in creating such bodies if they are not even going to respond to the civil society** that works for the recovery of languages and that is concerned about an action that is contrary to the commitments made by the State at the European level.

On the other hand, we would like to point out the poor planning that is done in many cases. Behatokia, the Observatory for Linguistic Rights, has on more than one occasion recorded the response of the administration in which it argues that the bilingual person is on holiday and therefore the service cannot be offered in Basque. We believe that this is not a serious approach to compliance with the Charter.

SERVICES IN BASQUE LANGUAGE

Undoubtedly, the best way to ensure that the recommendation is complied with is to explore the services offered by the administration.

As we have done in previous evaluations, **we will send a dossier with specific cases** in which citizens were unable to access services in Basque. For this **half evaluation**, we thought it would be interesting to share with the Committee of Experts what is happening in **e-government**. We must consider that it is much easier to guarantee that procedures can be carried out in Basque using this system. Unfortunately, there are currently many shortcomings in this service.

The Government has set up a **system called CL@VE**. It is a system aimed at unifying and simplifying citizens' electronic access to public services. Its main objective is that citizens can identify themselves to the Administration by means of agreed passwords (username plus password), without having to remember different passwords to access the different services.

Although the home page of its website is in Basque, and there is a lot of information about the service in Basque, the same cannot be said about the service itself. **Most of the actions and procedures carried out by citizens through this system are not available in Basque**. In other words, the essence of this service, which is to offer citizens a virtual office, is in Spanish. Therefore, we conclude that this leads to a systematic non-compliance with the commitments of Article 10, as well as with the recommendation for immediate action.

This is the case with **many services offered by the general state administration**. For example, the minimum living income simulator. The description of the service is in Basque, but once you enter the simulator it is only in Spanish. If you want to carry out **any kind of social security** procedure, it **does not offer the possibility** of doing it in Basque... We believe that in the case of **online services** we can speak of an almost **generalised lack of compliance**. We have given two examples, but we will give the Committee many more in the final evaluation.

The pandemic caused by COVID 19 has brought the need for efficient electronic administration. Either because of the impossibility of physically approaching the administration or because the administration forces to carry out transactions electronically, the online administration is gaining more and more strength.

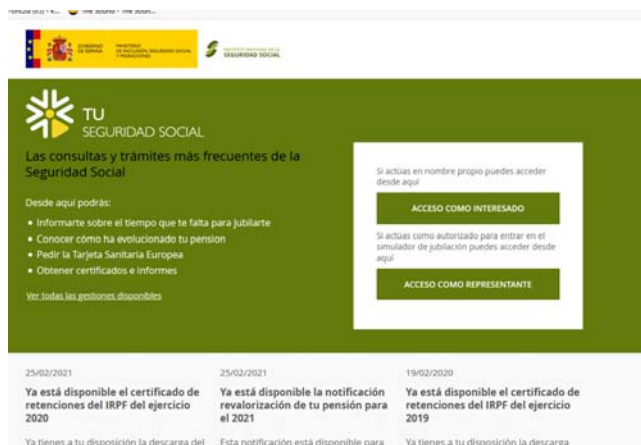
We therefore believe that the commitments reflected in the Charter, especially in Article 10, should also be understood from this perspective. In this sense, we believe that the Spanish authorities have not taken the necessary steps, as mentioned above.

Anyway, we believe that the information provided by the authorities is diffuse. According to their report sent to the the Council, an analysis carried out confirmed that information was available in the co-official languages. Moreover, a review of some websites and we pages are included by way of example:

- Nacional Social Security Institute
- Public State Employment Service
- General Mutual Insurance for State Civil Servants
- General Mutual Insurance Scheme for the Judiciary

In the first case, it is true that the main page is also in Basque. However, when you click to read the information about the latest news it takes you to the Spanish version. That is, the current and relevant information is not in Basque.

On the other hand, when you want to go to the administration, all the pages are only operative in Spanish:



In the second case, it is true that the main page is also in Basque. In fact, a lot of information is offered in Basque. However, when the citizen wants to carry out the procedure with the administration, then, the Basque language disappears and it can only be done in Spanish.



In the third case, as in the previous ones, once you want to carry out a procedure with that administration, you are referred to the Spanish version.



We therefore believe that the Government **should be urged as a matter of urgency to offer all on-line services in Basque language**. Furthermore, we believe that it is unacceptable that the Government has not referred to these services in the report.

TRANSLATIONS

Finally, and since the Spanish report highlights the numerous translations that have been made, among others, of the web pages of different ministries, etc., we would like to share with the Committee of Experts **our concern** that has arisen regarding the quality of these translations.

We are not talking about inaccuracies of some words, or polysemic words or any spelling, typographical or grammatical errors. There are web pages whose content **is totally illegible in Basque**. That is to say, they are in Basque but the citizen must go to the Spanish version to understand their content.

We understand that today there have been great advances in neural translators, and they are a new tool that institutions can use to speed up their work. However, in many pages of public institutions of the Government, the content is illegible, and therefore we believe that, on the one hand, the effort made is wasted, and on the other hand, the **commitment is not fulfilled since the citizen must go to the original** to understand the content.

Therefore, we believe that data on translations into Basque should be taken with caution, since in many cases they do not meet the objective of providing information in that language.

CONCLUSION

First of all, on behalf of KONTSEILUA, the Council of Social Entities of the Basque language, and Behatokia, the Observatory of Linguistic Rights, we would like to thank the secretariat of the Charter for giving us the opportunity to offer our view on the report presented by the Spanish authorities.

It is true that our entities take the European Charter for Regional or Minority Languages very seriously and since the first monitoring of its compliance we have made concise reports on it and sent them to Strasbourg. In addition, we have participated in meetings with the Committee of Experts in all the evaluation cycles, whether in Bilbao, Iruñea, Vitoria-Gasteiz or Madrid.

We believe that this new evaluation system offered by the Charter should help governments to be more consistent in their actions and to take urgent measures to remedy the shortcomings detected in the evaluation.

In the case analyzed, and in the recommendations that also affect the Basque language, we believe that the report made by the authorities does not guarantee that the recommendations for immediate action have been complied with.

In the case of Article 9, the Committee of Ministers made a very specific recommendation, which comes from the first evaluation, and the Government repeats that this measure is not necessary. We find it reprehensible that it does not act proactively when fundamental rights are at stake.

In the case of Article 10, we believe that the Government shows no intention of changing its policy on structural issues such as the recruitment of personnel trained in the official languages, which hinders compliance. In addition, we believe that it should make a turnaround in its e-Government policy.

All detailed information on compliance with these recommendations and the Charter in general, including graphic documentation, is being prepared for submission to the sixth evaluation period.

Andoain, Basque Country, February 2021