

# Linguistic obligations on individuals in Catalonia

## Assessment of the consequences of Catalan legislation in light of articles 21 and 22 of the Charter of Fundamental Rights of the European Union

### KEY FINDINGS

The linguistic obligations imposed by Catalan law on individuals in the framework of trade and consumers relations are not based on the regulation of the co-officiality of Catalan language in the territory of Catalonia.

These linguistic obligations are not based on the protection of public health or economic rights of consumers and clients in Catalonia neither.

The only legitimate objective on which these linguistic obligations can be based is the protection and promotion of the Catalan language.

Since these obligations apply to horizontal legal relations (between individuals), they necessarily entail a restriction on fundamental rights and freedoms: freedom of language as part of the free development of personality (articles 6, 7 and 22 CFREU), principle of equality and non-discrimination (articles 20 and 21 CFREU), freedom of establishment and freedom to provide services (articles 18, 45, 49 and 56 TFEU), freedom to conduct a business (article 16 CFREU). Restrictions on these rights are only acceptable if they meet the requirements established by the case law of the ECJ and the ECHR: they must be established by law, pursue a legitimate objective and be proportionate.

An analysis of the linguistic obligations imposed by Catalan legislation reveals that they are discriminatory and disproportionate.



## The Spanish system of multilingualism

Article 3 of the Spanish Constitution (SC) establishes the guidelines for multilingualism in the Spanish legal system (SCC 82/1986, §1):

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.
3. The richness of the different linguistic modalities of Spain is a cultural heritage which shall be specially respected and protected.

This Spanish model of multilingualism is based on two principles. On the one hand, the official status of the Spanish language (Castilian) throughout the State (understood as all Spanish public powers, including regional and local ones). On the other hand, the official status of the other Spanish languages, but only in their Autonomous Communities and in accordance with the provisions of their Statutes of Autonomy<sup>1</sup>.

The Spanish Constitution does not define what is meant by an “official language” or the consequences that arise from this status. The Spanish Constitutional Court (SCC) has clarified, in line with what is usually stated in other European legal orders (PÉREZ FERNÁNDEZ, 2006: 37), that a language is official “independently of its reality and weight as a social phenomenon, when it is recognized by the public powers as the normal means of communication in and between them and in its relation to private subjects, with full validity and legal effects”<sup>2</sup>. This definition has also been widely accepted by most Spanish scholars (among many others, PUIG SALELLAS, 1986: 109; FOSSAS ESPADALER, 2008: 67–68; PLA BOIX, 2011: 83–85).

Consequently, the recognition of more than one official language in some parts of the Spanish territory (currently Catalonia, the Valencian Community, the Balearic Islands, Galicia and the Basque Country)<sup>3</sup> determines that **citizens have the right to a linguistic choice**, i.e., the right “to use the official language of their choice” in their relations with the public powers of those territories and “the right to be attended to in that language of their choice by public powers of that territory”<sup>4</sup>. Accordingly, in territories with two co-official languages, **public powers have a duty of linguistic availability**: the duty to attend to citizens in the official language of their choice. This determines, for example, that public employees may be required to know both co-official languages in those territories.

<sup>1</sup> The Spanish Constitution refers to “Castilian” as the common Spanish language in Spain and to “other Spanish languages” as those that are official in some parts of the Spanish territory (i.e. Catalan, Valencian, Euskera, Galician). In this text the term “Spanish” or “Spanish language” is used to refer to Castilian.

<sup>2</sup> Among others, SCC 82/1986, §2; SCC 123/1988, §5; SCC 46/1991, §2.

<sup>3</sup> Other Autonomous Communities, such as Navarre or Asturias, have also some peculiarities that we cannot go into in depth.

<sup>4</sup> SCC 82/1986, §3.

A first conclusion follows from this: **public powers** (at State, regional or local level) **are prevented from establishing a preference for any of the two official languages in any territory**, as this would violate citizens' right to linguistic choice by affecting the essential balance between the two of them and breaking the multilingual model established in the Constitution<sup>5</sup>. A precedence of one language over the other, established by public powers, would constitute a discrimination between languages, which, in fact, would mean a discrimination between the speakers of those languages (since the right holders are the speakers and not the languages they speak).

Secondly, the Spanish Constitutional Court has also held that from the official status of Spanish language derives a "right-duty" for citizens (the right to use it and the duty to know it), while from the co-official status of other Spanish languages only derives a right for citizens (the right to use them, but not the duty to know them). In other words, the co-official status of regional languages implies the right for citizens to use the official language of their choice, but not the duty to know it. This duty of knowledge is established in the Constitution only for the Spanish language ("Castilian") and does not apply to the rest of official languages<sup>6</sup>.

It is worth noting that this is one of the few duties that the Spanish Constitution establishes upon Spanish citizens, having been described by the Spanish Constitutional Court as "the ability of the public power (...) so that acts of *imperium* that are the object of communication can regularly occur with all their legal effects" (SCC 31/2010, § 14 b). This simply means that the imposition of a general duty to know a language represents a significant restriction on citizens' individual freedoms, which, consequently, can only be imposed if it is reasonable, proportionate, and pursues a legitimate objective. According to the Spanish Constitutional Court, it seems reasonable and proportionate to guarantee that public powers are ensured that, when they need to address the citizens, they cannot claim ignorance of the language. This idea justifies the imposition for all Spanish citizens of a general duty to know Spanish, as it is the common official language for all Spaniards regardless of residence or domicile.

The Spanish Constitution, therefore, **only imposes on citizens the duty to know Spanish**. Can the ordinary legislator also impose on citizens the duty to know the co-official language of the territory in which they reside? The Spanish Constitutional Court has been very clear on this matter: since necessary communication with public powers is already guaranteed by the constitutional duty to know Spanish, imposing a new duty to know a second language, even a co-official one, would be disproportionate and unreasonable, and would not lead to the constitutionally legitimate objective of ensuring communication with public powers<sup>7</sup>.

A second conclusion follows from this: Spanish public powers (State, regional or local) are **prevented from assuming that citizens know any language, official or not, other than Spanish**.

It is important to highlight that the Spanish system of multilingualism is a very particular, unique one in the European context. The truth is that it is almost impossible to find other countries in which there is a common and official language throughout the whole territory of the State, widely spoken,

<sup>5</sup> SCC 31/2010, § 14.a; SCC 165/2013, § 11; SCC 87/2017, § 11.a); SCC 11/2018, § 4.

<sup>6</sup> SCC 84/1986, § 2 and SCC 82/1986, § 3).

<sup>7</sup> SCC 31/2010, § 14b.

coexisting with some regional languages, equally official but only in those regions. As already mentioned, this peculiarity explains the duty to know Spanish established in the Spanish Constitution, an express constitutional duty with probably no parallel in other European legal systems.

Considering all this, one may easily accept how difficult is to make comparisons with the situation in other countries and, in particular, in other EU Member States. Attempts have often been made among Spanish scholars to compare the Catalan (or Basque, Valencian or Galician) situation with that of Québec (Canada) or Ticino (Switzerland), overlooking the fact that the latter are not bilingual, but monolingual territories, what makes any comparison impossible. A comparison with Belgium is difficult too, since the Belgian linguistic communities are monolingual (Dutch-speaking community, French-speaking community, German-speaking community) with the only exception of the bilingual region of Brussels-capital<sup>8</sup>.

## Linguistic rights and duties in trade and business in Catalonia

### 1. Legal framework of the controversial issue

What we have analysed so far refers to **vertical legal relationships**, that is, those established between citizens and public powers. Citizens of the territories with two co-official languages have the right to choose which language they wish to use to address the public powers of that territory (citizens' right to linguistic choice), and public powers of that territory accordingly have the duty to attend to citizens in the official language of the latter's choice (corresponding duty of linguistic availability).

The situation is completely different when it comes to language obligations imposed on **horizontal legal relationships**, that is, between private individuals, in our case, on trade and consumer relations. I am referring specifically to the language obligations imposed by article 128-1 of Law 22/2010 (Consumer Code of Catalonia):

1. In their consumer relations, consumers are entitled to be served in the official language they choose, both orally and in writing, in accordance with the provisions of Autonomous Statute and the applicable legislation pertaining to languages.
2. Consumers, without prejudice to the full compliance with the language availability obligation, **are entitled to receive the following in Catalan:**
  - a) Invitations to purchase, information of a permanent nature, contractual documentation, quotes, deposit receipts, invoices and other documents which are referred to or which arise therefrom.

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<sup>8</sup> Even in this case, the comparison with the bilingual region of Brussels-capital is extremely complicated, since in Belgium there is no official language common to all Belgians, whose knowledge is mandatory according to the Belgian Constitution. The same would apply for the case of the bilingual Canadian territory of New Brunswick/Nouveau-Brunswick (the only bilingual province in Canada according to the Canadian Constitution), the solely regime in that country that might admit any kind of limited comparison with the Spanish case. But, again, there is no constitutional duty to know any official language in Canada for all Canadians.

- b) The information necessary for the appropriate consumption, use and handling of the goods and services, in accordance with their characteristics, regardless of the medium, format or support used, and, in particular, the mandatory information directly related to safeguarding health and safety.
- c) Standard-form agreements, contracts with standard clauses, regulated contracts, general conditions and documentation referring thereto or arising from the execution of any of these contracts.

In addition to the obligations imposed by article 128-1 of the Consumer Code of Catalonia there are also other obligations that should be mentioned, which are foreseen in article 32.3 of Law 1/1998, on the Language Policy of Catalonia. This provision establishes that “permanent signs and posters with general information and documents offering services provided to users and consumers in establishments open to the public shall be **at least drawn up in Catalan**. This regulation is not applicable to trademarks, commercial names or signs protected by legislation on industrial property”.

The aforementioned provisions grant customers and consumers in Catalonia the right to receive certain commercial and consumer information in Catalan, as well as to receive oral and written attention in Catalan, should they choose to. A failure to comply with these provisions results in the application of a sanctioning regime, which essentially consists of the imposition of fines on the business owner or entrepreneur (article 331-6 Consumer Code of Catalonia).

The granting of these linguistic rights necessarily entails the imposition of obligations on other subjects, with the peculiarity that, in this case, those subjects are not public authorities, but rather private subjects. This idea, which is not sufficiently emphasized (quite the contrary), is crucial to properly define the boundaries of the legal debate (MAGALDI, 2013).

The starting point in horizontal relationships (those between private parties) is the **principle of freedom**. In our case, freedom of language as part of free development of the individual (articles 6,7 and 22 CFREU), freedom to conduct a business (article 16 CFREU), free movement of workers, goods or services and freedom of establishment (articles 18, 45, 49 and 56 TFEU), as well as the principle of non-discrimination (articles 20 and 21 CFREU)<sup>9</sup>. Consequently, the analysis of the Catalan legislation must consist of determining to what extent it is possible to grant certain rights to private persons (clients, consumers) that, correspondingly, impose on other private persons (businessmen, workers and companies in a broad sense) a set of obligations (related to product labelling, internal and external signs in stores and commercial establishments, the language of attention, etc.) that limit their individual rights and freedoms.

## 2. What is the legal basis that would allow the imposition of language obligations on private individuals in commercial and consumer legislation in Catalonia?

In the light of the above, this question can be answered by highlighting the following:

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<sup>9</sup> In terms of the Spanish Constitution the corresponding rights and freedoms would be right to family and private life (article 18), right to conduct a business (article 38), principle of market unity (article 139) and principle of equality and non-discrimination (article 14).

2.1. The imposition of language obligations between individuals (whether in relation to Catalan or to Spanish) cannot be based on the ability of the lawmaker to regulate the status of officiality of Catalan or Spanish, since that regulation applies only to relations between citizens and public powers. In other words, the right of the citizen to a linguistic choice with respect to official languages only exists in relation to public powers. Accordingly, the duty of linguistic availability refers only to public powers, but not to individuals. It is a mistake to extend the consequences derived from the status of officiality to the private legal sphere, as confirmed by the Spanish Constitutional Court (SCC 88/2017).

Consequently, the **language obligations in Catalan legislation cannot be based on the regulation of the official status of Catalan.**

2.2. When it comes to relations between individuals (including commercial and consumer relations), the starting point has to be the freedom of language as part of the right of every individual to free development of his/her personality (PRIETO DE PEDRO, 1998: 88-91). This does not mean that it is an unlimited right or that public intervention in commercial and consumer relations is impossible. For example, the imposition of linguistic obligations in private relations when public health or consumer rights are at stake is undoubtedly accepted. This explains why the labelling or instructions on food products must be in a specific language, usually the official language of the State in question<sup>10</sup>.

In the case of Spain, as mentioned above, Spanish consumers and customers (and, therefore, Catalan consumers and customers alike) have a constitutional duty to know Spanish. It is also known that Spanish is the only language they have the duty to know. Therefore, the protection of Spanish consumers is only guaranteed by requiring that certain commercial and consumer information be published or displayed in Spanish.

Imposing an obligation that such information *also* appear in Catalan is an inadequate and disproportionate obligation. The fact that the same information is available both in Spanish and Catalan contributes nothing to consumer protection: citizens of Catalonia may know Catalan *in addition* to Spanish, but *not instead* of it.

Imposing an obligation that such information appears "at least" in Catalan and not in Spanish is also an inadequate and disproportionate obligation. Public powers can assume that citizens know Spanish, because there is a constitutional duty to know it. But they cannot assume that they know Catalan. Accordingly, requiring that that information appears "at least" in Catalan (and not

<sup>10</sup> As is also permitted in the case of food products, for instance in article 15 of the Regulation (EU) 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers. Even States that do not define an official language in their Constitution, as is the case with Germany (KAMOCKI et al., 2025: 8-10), introduce language obligations in relation to product instructions or labelling, which generally must be in the official language of that State. In the case of Germany, in German, as foreseen in §3(4) *Gesetz über die Bereitstellung von Produkten auf dem Markt* or §2(1) *Lebensmittelinformations- und Durchführungsverordnung*. In territories with two co-official languages (such it could be the case of Brussels-capital or the Canadian province of New Brunswick), information on health and consumer rights is usually required to be written and displayed in both. The same applies for signs and posters for stores and businesses. In no case is only one specific official language required, the other official language being just optional. But, once again, this is only because citizens in those territories do not have the duty to know one specific language.

necessarily in Spanish) violates the rights of consumers and costumers, who do not necessarily understand Catalan.

Consequently, the **language obligations in Catalan legislation cannot be based** on the protection of public health or the rights of consumers and costumers in Catalonia.

2.3. The legislator may establish linguistic measures in private relations based on the legitimate objective of promoting and fostering a language (whether official or not). In Spain, this idea is known as “linguistic normalization” (*normalización lingüística*) and has been accepted by the Spanish Constitutional Court. The Court has held that the protection and promotion of the use of a co-official language within an Autonomous Community constitutes a legitimate objective, for example, to “positively correct a historical situation of inequality with respect to Spanish” (SCC 337/1994, §7). This idea also arises from article 3 of the Spanish Constitution, which recognizes the richness of the different linguistic modalities in Spain, a cultural heritage that must be respected and protected. It is also linked to article 21 CFREU, which recognizes the linguistic diversity of the Union, too.

Consequently, the **language obligations in Catalan legislation can find legal grounds in the protection and promotion of the Catalan language**. However, these obligations would only be acceptable if implemented in compliance with the principle of proportionality.

### 3. Are the linguistic obligations imposed by Catalan legislation unlawful?

The analysis of this issue requires posing –and answering– the following two questions: 3.1. Do these language obligations constitute a discriminatory measure? 3.2. If so, could this discrimination be justified?

3.1. The imposition of language obligations such as those provided for in Catalan law constitutes, in law and in practice, a **discrimination on grounds of language**.

On the one hand, it is a discriminatory measure for Spanish-speaking customers and consumers in Catalonia (compared to the Catalan-speaking population). Neither Catalans are required to know Catalan, nor can public authorities presume they do so. Consequently, Spanish-speaking customers and consumers may not be able to understand the information provided or displayed in Catalan, unlike the Catalan-speaking population.

On the other hand, this measure discriminates against Spanish-speaking entrepreneurs and owners of stores and commercial establishments open to the public in Catalonia compared to the Catalan-speaking population, as establishing and managing their business is more burdensome for them than for Catalan-speaking or bilingual individuals. As they are not Catalan speakers, they are required to hire the translation services (or staff) necessary to comply with these obligations.

The kind of discrimination we are talking about is an indirect discrimination. Admittedly, Catalan legislation does not prohibit the additional use of Spanish (or any other language) in documents, signs and information in trade and business relations. A business owner could freely decide to provide and display all information, in addition to Catalan, in Spanish (or in any other language). Furthermore, national law can impose linguistic obligation in Spanish as well. In fact, this is what



happens in the case of *Real Decreto Legislativo 1/2007, de 16 de noviembre, por el que se aprueba el texto refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras leyes complementarias*, according to which necessary information related to health and safety must be provided in Spanish. However, some remarks seem necessary on this issue.

First, it is worth noting that imposing those obligations regarding the Spanish language would not constitute a discriminatory measure since, as explained above, all Spaniards, regardless of their residence or domicile, have the duty to know Spanish.

Second, obligations imposed in Catalan legislation are much wider (by far) than those included in national legislation, since they include not only information and documents strictly related to health, safety and economic rights for consumers, but also purchase invitations, non-binding offers, all signs in stores and establishments open to public both indoors and outdoors, restaurant menus, etc.

Third, even if Spanish is not prohibited by Catalan legislation (as it is not any other language), imposing the use of Catalan (and not that of Spanish) clearly places Catalan-speaking population in a better position than the non-speaking Catalan population. And, as it is easily understandable, among the non-speaking Catalan population in Catalonia what we find most is Spanish-speaking population. Therefore, it can be concluded that linguistic obligations imposed by the Catalan legislation result in indirect discrimination primarily against the Spanish-speaking population.

These discriminatory language obligations affect the **principle of equality and non-discrimination** (articles 20 and 21 CFREU) as well as the **rights to freedom of establishment** and **freedom to provide services** (both within the Spanish territory and within the internal market, articles 18, 45, 49 and 56 TFEU), **the freedom to conduct a business** (article 16 CFREU), and the **freedom of language** as part of the **free development of personality** of both groups (articles 6, 7 and 22 CFREU). And it is important to emphasize that they are not just hypothetically discriminatory: as already mentioned, the failure to comply with these obligations can result in fines up to 10.000 euros and, in exceptional cases, up to 100.000 euros (article 333.1 Consume Code of Catalonia)<sup>11</sup>.

3.2. Assuming the discriminatory nature of those linguistic obligations and, therefore, that they affect several fundamental rights, it must be analysed whether these affections could be justified. Such a justification requires three conditions: a) that they have been adopted by law; b) that they pursue a legitimate objective; and c) that they satisfy the test of proportionality.

The linguistic obligations analysed here have, in fact, been established by law of the Parliament of Catalonia in the exercise of its powers. As for the legitimate objective, we have already explained that neither the regulation of the official status of Catalan nor the protection of public health or consumer rights in Catalonia can constitute a legal basis (a legitimate objective) for imposing those restrictions. However, the protection and promotion of the Catalan language could constitute a legitimate objective.

This leads us to the analysis of the proportionality of the restrictions imposed.

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<sup>11</sup> According to information provided by the Catalan Administration (*Agència Catalana de Consum*), between 2017 and 2024, 220 sanctions have been imposed on companies or businessmen.



### 3.2.1. Obligation to serve clients, orally and in writing, in Catalan

This type of activity referred to in these Catalan laws **falls within the core of the freedom of language** as part of the free development of personality of an individual. It seems difficult to accept that the protection and promotion of a language can prevail over such freedom in an analysis of proportionality. There are other measures, equally effective and much less restrictive, to achieve the same objectives (public aids for the promotion and the use of the Catalan language, promotion of Catalan language through the education system or cultural services, promotion of Catalan in the media or in the press, etc.).

Consequently, the imposition of such an obligation **must be considered disproportionate**.

If public health, safety, and economic rights of consumers and costumers are guaranteed, the **most respectful approach to freedom** is the one that does not impose the obligation to provide/receive the service in a specific language but rather leaves the choice of the language to the decision and agreement of the parties.

### 3.2.2. Obligation to display signs, posters, and other documentation, both indoors and outdoors, in Catalan

This includes a wide range of measures, such as the requirement that signs and posters, both indoors and outdoors, as well as other information and documents (purchase invitations, restaurant menus, contractual documentation) that are displayed or used in a store or establishment open to the public, be in Catalan.

From a purely economic perspective (linked to the freedom to conduct a business), it seems clear that not all obligations are equally burdensome. Exterior signs and posters (based on fixed, stable, and durable elements) represent a certainly smaller economic burden. Therefore, from the perspective of the economic impact on that freedom to conduct a business, the obligation to display them in Catalan could be considered proportionate.

However, the analysis of exterior signs cannot be limited to the purely economic aspect, only linked to the freedom to conduct a business and to the free movement in the internal market. The exterior signs of a business or establishment are closely linked to how the individual (the business owner) presents himself and how he wishes to present himself to the world. In this sense, exterior signs (the name of my business and the language I choose to express it) have a very significant impact on the individual freedoms (freedom of language as part of the free development of personality, freedom of expression, freedom of artistic creation). Consider, for example, businesses or establishments that are centuries or decades old or that have belonged to a family, with that very name and denomination, for several generations, with the emotional attachment that this entails. All this must necessarily be taken into account when assessment and balancing the different rights and interests at stake. Especially if we confront and weigh up those individual rights not with other individual rights (as it could be protection of health or consumers rights) but with the objective of the promotion of a language. Again, there are other measures, equally effective and much less restrictive, to achieve the same objective.

Consequently, the imposition of a **general and unconditional obligation to display exterior signs in Catalan must also be considered disproportionate**.

A similar analysis can be made in relation to the freedom to provide services and the freedom of establishment. The imposition of the Catalan language on interior signs and posters, as well as on other documentation, undoubtedly constitutes an excessive burden and, therefore, has a disproportionate impact on the freedom to conduct a business. The requirement that all documents, offers and invitations to purchase, fixed posters, interior signs of the business, etc., be in Catalan makes it excessively difficult, or even impossible, for a service provider to establish in Catalonia. This represents a disproportionate impact on the constitutional principle of market unity (in Spanish territory) and on the principle of free movement of services and freedom of establishment in the European internal market.

**3.3. In conclusion**, the analysis reveals that, although the discriminatory measures have been established by law and pursue a legitimate objective, they fail to comply with the proportionality principle. By failing to meet this criterion, the discriminatory measures cannot be considered justified and, consequently, constitute a violation of the aforementioned rights and freedoms for Spanish speakers (both clients/consumers and entrepreneurs/business owners): they violate their freedom of language (articles 6,7 and 22 CFREU), their right to conduct a business (article 16 CFREU), their right to free movement of workers (article 45 TFEU), their freedom to provide and receive services and their freedom of establishment (articles 49 and 56 TFEU).

The violation of these rights affects those Spanish-speakers compared to Catalan-speakers, since the first ones are unjustifiably placed in a worse position than the latter. This means that they are treated in a discriminatory manner on grounds of language, which leads to a violation of articles 21 ("Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, *language*, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited") and 22 CFREU ("The Union shall respect cultural, religious and *linguistic diversity*") in connection with the rights and freedoms mentioned above.

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## ACRONYMS

<b>CFREU</b>	Charter of Fundamental Rights of the European Union
<b>ECHR</b>	European Court of Human Rights
<b>ECJ</b>	European Court of Justice
<b>SCC</b>	Spanish Constitutional Court
<b>SP</b>	Spanish Constitution
<b>TFEU</b>	Treaty on the Functioning of the European Union

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IUST/2025/A/PETI/IC/024

Print ISBN 978-92-848-2909-5 | doi: 10.2861/2238323 | QA-01-25-159-EN-C

PDF ISBN 978-92-848-2908-8 | doi: 10.2861/7526344 | QA-01-25-159-EN-N