

Summery of the
Juridical Veredict about the linguistic
conflict in Asturias

§

The Advisory Council of Lawyers for Asturian

Uviéu 2007

:: axa ::

stvdium ivris § tvtela lingvae § formv ivstitiae



Copyright – Some rights reserved
The Advisory Council of Lawyers for Asturian, 2007

This work is under a **Creative Commons** license
This work can be distributed and copied freely, with citation of the original source and author. There can't be
obtained commercial benefit from it, and potential derivative works that are made, will be under the same
license to the original work

0. Introduction . It contains a reference to all the regional and state norms, proposals of the legislative chambers and tribunal sentences, recognizing the Asturian language as a legal language .

1. It reminds of the contents of the Spanish Constitutional Text with respect to the solution of linguistic conflicts .

2. It studies the constitutional obligation (article 3.3) about the special respect and protection that public authorities owe to all Spanish languages, coming to the conclusion that its concrete contents is the one collected in the European Charter for Minority or Regional languages, which is the only legal text in Spain with a concrete and ordered reference about protective measures. In section 2.4 the non-fulfilment of the Charter in Spain with respect to the protection of the Asturian language is studied .

3. It gives evidence about the non-fulfilment of the constitutional principle of equality of treatment that the Spanish State gives to the Asturian language.

4. It gives evidence about the breach of article 3.2 of the Spanish Constitution, the Spanish Parliament failing to recognize the Asturian language as co-official , contrary to what they did with respect to Catalan , Galician and Biscay languages.

5. Section 5.1 summarizes:

“The Asturian language is a Spanish language (Introduction) that according to the constitutional mandate contained in its article 3.3, should be subject to special protection and respect by (part 2.1), all public, state, autonomic and local authorities (Part 2.2), Without prejudice to what is established in the very Constitution, the minimum contents of the duty of protection is the one collected by the Instrument of ratification in Spain by the European Charter for Regional or Minority Languages (Part 2.3) of minimum protection which is not given to the Asturian language and is otherwise given to the rest of the Spanish languages (Part 2.4) which does not fulfil the constitutional principle of equality (Part 3). In the same manner, The Constitution establishes the state officiality of the Castilian language and the autonomic co-officiality of the other Spanish languages, whose mandate is not fulfilled in Asturias (Part 4)”.

In part 5.2 the instruments used for the discrimination are analyzed: The obscurity and twisting of article 4 and the non-constitutionality of 10.1.21, both part of the Autonomous Statute In part 5.2 the instruments used for the discrimination, the obscurity and the twisting of article 4 and the non-constitutionality of 10.1.21 are analysed, both from the Statute of Autonomy, four constitutional breaches (final disposition, article 20.3, articles 1.1, 3.3, 9.2 and 14. and article 3.2 and an anti-constitutional interpretation of the instrument of ratification by the Spanish authorities of the European Charter for Regional or Minority Languages with the following text:

“The instrument of Ratification by the Spanish authorities of the European Charter for Regional or Minority languages, starts by declaring that the languages recognized as official by the Autonomy Statutes of the Autonomic Communities of the Biscay Country, Catalonia, Balearic Islands; Galicia, Valencia and Navarre are as much a language as

those protected by the Statutes of Autonomy and covered by the territories where they are traditionally spoken- That for the Committee of experts in charge of controlling its application were Asturian-dialect, Galician-Asturian, the Aranes, and Aragonese- for this reason it is absolutely correct to say that Asturian is as much a language as Euskera, Galician or Catalanian.

Next, the instrument of ratification declares that for the languages recognized as official in the respective Statutes of Autonomy (it has to be reminded that Aranes passed onto this group with statute reform of 2006) " the dispositions which are now pointed out from part III of the Charter will be applied", 69 paragraphs and sections in total, while for those languages that the Statutes of Autonomy protect and cover "all those dispositions from part III of the charter which may reasonably be applied will be applied", 98 paragraphs and parts make up the total .

For what is seen and not seen in the fulfilment of the mandates of the Charter, the Spanish public authorities interpret that for the official languages they have to fulfil and recognise what is disposed in the 69 paragraphs and related sections, while for the other languages (Asturian, Galician-Asturian and Aragonese) there is no need to recognise or fulfil any of them in concrete, without the prejudice of applying any of them, if it is the case .

This interpretation is absolutely contrary to what is established in the Preamble of the Constitution and its articles 1.1,3.3 9.2, 10.2 and 14 because it leads to a negative discriminatory protection, pretending to protect more so the protected languages and less so the most unprotected. This interpretation, further more, is completely opposed to the finality of the norm- of fundamental attention in the interpretative process, according to the Civil Code- which is clearly the contrary: to protect more the most unprotected and in danger of disappearing, as it is manifested in its preamble and sections 1 and 2 of its article 7 . The greater the abundance , such interpretation is completely opposed to the very formal demands of the Charter, which in its article 2 gathers as a commitment of the parties to "apply a minimum of thirty paragraphs or selected sections amongst the dispositions of part III».

As a consequence, the interpretation of The Instrument of Ratification by Spanish authorities of the European Charter for Regional or Minority languages made in accordance with the Constitution and the contents of the very international Treaty leads to the commitment of the Spanish State to apply for the most unprotected languages , which have not yet been recognised as co-official in its respective statutes of autonomy, the 69 paragraphs and sections related as applicable to the co-official languages and, in addition , all the others that integrate part III of the Charter and "which may reasonably be applied", positive discrimination in this case, completely in accordance with the constitution and the very Charter in its article 7, last paragraph of part 2, declares that " the adoption of special measures in favour of regional or minority languages, destined to promote an equality amongst speakers of such languages and the rest of the population and oriented to taking into account their peculiar situations , it will not be considered an act of discrimination with speakers of more extensive languages».

And the question is that, either the Instrument of Ratification is interpreted like this by Spanish authorities of the European Charter for Regional or Minority languages or we will be facing a law- of the largest possible rank, according to what is established in article 96 of the Constitution completely unconstitutional”.