

# **Analysing the EU agreements with Spain and the UK on the use of Regional or Minority Languages**

A practical assessment

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January 2021

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UNIVERSITAT DE  
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Generalitat de Catalunya  
**Departament  
de Cultura**

*With the financial support of the NPLD,  
the European Network to Promote Linguistic Diversity*



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# Abstract

The European Union (EU)'s language policy does not include Regional and Minority Languages (RMLs) as official EU languages. Some EU institutions, however, have reached an administrative agreement with the UK and the Spanish Governments on the use of certain RMLs (Basque, Catalan, Galician, Welsh and Scots Gaelic), respectively. In both cases, translations are provided by the government of the Member State concerned, only when requested and at its own expense. These language communities are often not aware of the use of these agreements. The aim of this report is to evaluate these agreements to see how (in)effective these have been. The report will also explore the possibilities of expanding these agreements to other RMLs in other Member States.

## **Key words:**

Regional Minority Languages, European Union, Language policy, Spain, United Kingdom, Administrative Agreements



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Chapter 1

**Introduction:  
Multilingualism  
in the EU and the  
EU's language  
regime**



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# 1. Introduction: Multilingualism in the EU and the EU's language regime

The European Union (EU) is a supranational entity comprising some 446 million citizens in 27 Member States. In line with its status as a democratic international organisation, one of the EU's founding principles is respect for human rights, the guarantee of pluralism and democracy and the respect for cultural diversity and linguistic pluralism in Europe. The EU's motto "United in Diversity" is recurrently mentioned when referring to the multiplicity of languages in the continent, which are discursively portrayed as one of Europe's greatest assets (Climent-Ferrando, 2016).

The EU is committed to respecting and safeguarding linguistic diversity, as part of the continent's cultural heritage. This principle is anchored in the EU Treaties<sup>1</sup> and in the Charter of Fundamental Rights of the EU<sup>2</sup>, adopted in 2000. Amongst others, the Charter contains the prohibition of linguistic discrimination and appeals to language diversity and equality.

In its Resolution 2002/C 50/01 of 14 February 2002, the EU Council of Ministers declared "that all European languages are equal in value and dignity from the cultural point of view and form an integral part of European culture and civilisation". Respect implies ensuring the freedom and opportunity of choice and the freedom of expression in all languages and it contributes to intercultural understanding and a culture of peace (European Bureau for Lesser Used Languages, 2002).

The concept of linguistic diversity therefore does not make any difference between official or State languages on the one hand, and so-called Regional or Minority languages (RMLs). The EU has 24 official languages. EU nationals have the right to contact the EU institutions in any of these 24 languages and the EU institutions must reply in the same language. The EU is also home to over 60 autochthonous languages, often referred to as RMLs. These RML are spoken by around 40-50 million people<sup>3</sup> and are not included in the EU's linguistic regime but the European Charter for Regional or Minority Languages (ECRLM), adopted by the Council of Europe in 1992, aimed at protecting and promoting historical RMLs in Europe.

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<sup>1</sup> [Article 3\(3\) Treaty on European Union](#)

<sup>2</sup> [Article 21](#) and [Article 22](#) of the Charter of Fundamental Rights of the European Union.

<sup>3</sup> [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS\\_BRI\(2016\)589794](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2016)589794)





The ECRLM is recognized as a “benchmark” for the protection of minority or lesser used languages and as one of the minority protection mechanisms specified in the Copenhagen criteria, which Member States must fulfil in order to gain EU accession (see European Parliament resolution of 11 September 2013 on Endangered European Languages and Linguistic Diversity in the European Union (2013/2007(INI)).

The language regime of the EU was established by Regulation 1/1958<sup>4</sup>, defining its official languages. This regulation has been amended in every EU enlargement. In fact, it was also reformed in 2005, to accommodate a new official language at the request of one Member State: The Republic of Ireland requested - and obtained - the official status of Irish.

A modification of Regulation 1/1958 requires to be requested by a Member State and unanimously approved by the rest of the States.

It must be noted that the legal status of languages in the EU and the extent to which they receive support is determined by the national governments of the EU Member States. With the existing language policy, RMLs are excluded or marginalized in important areas of the EU’s activity such as parliamentary, administrative and jurisdictional activity, the official publication of rules or most of the actions related to language learning support, among other areas. One could call this linguistic discrimination.

In any case, the EU is missing out on reaching many people in “their” language. Consequently, there is a reasonable disappointment in the RML communities. After all, it affects the representativeness of a at least 40 million people in Europe. This was evidenced during the process of drafting the Charter of Fundamental Rights of the European Union (2000), when amendments were tabled to expressly recognise the rights of speakers of the various European languages or those referred to in linguistic minorities. The final text of Article 22 of the Charter is a synthesis between the positions of those willing to promote a comprehensive and even sophisticated minority protection scheme and those finding it inconvenient to open such a debate (Arzoz, 2008).

The use of many languages poses difficulties for the EU public administration such as increased translation costs, slower decision-making, and possible discrepancies between language versions (it should be noted, however, that these difficulties have been met in each enlargement with new Member States and the incorporation of Irish Gaelic). It is argued, however, that linguistic diversity and language equality should not be absolute and must be reconciled with administrative efficiency and budgetary constraints. A technical and operational solution would be to differentiate between working languages internally and languages used for citizens, companies, and member

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<sup>4</sup> [Regulation 1/1958](#) of the Council of Ministers.





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states as a whole (Mir i Sala, 2016). The EU political rhetoric on multilingualism, however, does not match the policy actions undertaken by the European Union, which point at a decreasing interest in multilingualism (Climent-Ferrando, 2016).

The purpose of this report is to analyse the Administrative Agreements that two Governments – Spain and the UK – reach with EU institutions and to evaluate its impact. The agreements are signed for Catalan (also known as Valencian), Basque, Galician, in the case of Spain, and for Scots Gaelic and Welsh in the case of the United Kingdom. These are the only two states that have these agreements. It is worth mentioning that due to Brexit, the analysis for the UK case will not be as thorough as the Spanish case.

Chapter 2

**Framework of the  
EU's language  
agreements of  
RML in Spain and  
the UK**



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## 2. Framework of the EU's language agreements of RML in Spain and the UK

Before directly going into the analysis of these mentioned agreements, it is important to briefly examine the politics and linguistic precedents that led to the signing of the agreements, both in Spain and in the United Kingdom.

### 2.1. Language politics in Spain: an overview

Spain is a multilingual country. Leaving aside the social multilingualism derived from immigration, there are 12 territorial/autochthonous languages in Spain. These languages are Arabic/Darija (in Ceuta), Aragonese, Asturian, Caló, Basque, Berber (or Tamazight, in Melilla), Catalan (known also as Valencian in Valencia), Extremeño, Galician, Leonese, Occitan and Portuguese (European Charter for Regional or Minority Languages, Fifth Report of the Committee of Experts in respect of Spain, 19 September 2019).

Although absolute data on speakers of all these languages is not available, the percentage of people living in officially bilingual/multilingual territories is 40% of the total population of Spain, which is 46.9 million inhabitants.<sup>5</sup>

The 1978 Spanish Constitution (SC) and the regional Statutes of Autonomy (basic institutional norm of each autonomous community) legally define the status of languages. Castilian (the name given in the constitutional text to the language that in the EU is called 'Spanish') is the official language of Spain. In some Autonomous Communities there are other official languages, defined in their respective Statutes. In fact, Catalan (Balearic Islands, Catalonia and Valencian Community (under the name of *Valencian*), Basque (Basque Country and Navarre) and Galician (Galicia), have that status in six of the 17 regions; all six have official Language Departments responsible for language promotion and regional legislation to protect and promote the language. Aranese/Occitan is also official in Catalonia, with a status not fully equivalent to Catalan.

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<sup>5</sup> Catalonia 7-5 millions of inhabitants; Valencian Community 5; Galicia 2.7; Balearic Islands 1.2; Navarre 0,6 (in Asurias, with a semi-official status of Asturianu 1 million). Source: <https://es.statista.com/estadisticas/472413/poblacion-de-espana-por-comunidad-autonoma/>.



Other Statutes of Autonomy recognise other languages that are also subject to protection, but without granting them official status (Asturian in the Principality of Asturias, with a semi-official regime; and Aragonese and Catalan in Aragon), while others include a more generic reference in their Statutes (Amazigh in Melilla).

In terms of legal recognition, social vitality and support, Catalan, Galician and Basque stand out above the other mentioned languages. All three are spoken beyond the borders of a single autonomous community. All languages are compulsory subjects in primary and secondary schools in their respective regions and are also used in varying degrees as medium of instruction. The regional Parliaments use Catalan, Basque and Galician freely and the local and regional authorities also do so, although the political support they receive from regional administrations can be variable. Likewise, the laws and other regulations approved by the Parliaments and the Autonomous Governments, as well as the regulations adopted by the local bodies, are published in Catalan, Galician or Basque. This high degree of recognition is also reflected in the ratification of the European Charter for Regional or Minority Languages (ECRML) by Spain (2001).

There is a different situation in the EU. In 1986, at the time of the negotiations for the incorporation of Spain in the European Communities, the Spanish Government only requested official status for Spanish in the former European Communities. This decision of the Spanish Government was heavily criticised from the outset by social activists and regional authorities, the Catalan community being at the forefront of demands requesting the European Parliament to declare Catalan also as an EU-official language.<sup>6</sup>

As a consequence, the European Parliament approved the “Resolution on languages in the Community and the situation of Catalan”, on 11 December 1990 (Resolution 1235/1990, popularly known as the Reding Resolution<sup>7</sup>), which expressed a position favourable to a greater recognition of the Catalan language within the community institutions and called on the Council and the Commission to take action to achieve the following objectives:

- a) The publication in Catalan of the Community’s treaties and basic texts (under this resolution, the successive Treaties -treaty of Maastricht and its amendment Treaty of Amsterdam-were translated and published in Catalan);
- b) The use of Catalan for disseminating information concerning the European institutions in all the public media;
- c) The inclusion of Catalan in the programmes set up by the Commission for learning European languages; d) the use of Catalan by the Commission’s offices in its written and oral dealings with the public in the Autonomous Communities

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<sup>6</sup> See the social activism for the official status of Catalan in Europe that ended up in a huge demonstration before European Parliament on April 23<sup>rd</sup> 1988 and the Catalan Parliament petitions (1988) and the Balearic Islands (1989).

<sup>7</sup> A3-169/90 - Resolution on languages in the Community and the situation of Catalan.



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in question (the European Commission Representation in Barcelona is operational since 1991 and respectful of the resolution of the European Parliament since its opening).

Generally, this resolution did not give rise to any relevant legal consequence and hence gave the Catalan language a minimum recognition, practically symbolic in nature (Mir i Sala, 2006). Beyond the effects of this initiative and some timely operation, no significant achievement in the use and recognition of the Catalan language can be found for quite some years (López Tena, 2009). Nevertheless, the 1990 Resolution was useful throughout all these years given that Catalan, Basque and Galician have at least slightly improved its recognition within the linguistic system of the EU.

In the Basque Country, from the 1990s onwards, social, and political institutions supported similar demands for recognition for the Basque language<sup>8</sup> as well as in Galicia.

In short, the social and political demands for Catalan, Basque and Galician to obtain official status within the EU has been historical. However, current claims on official recognition have met a negative response from EU institutions and Member States, claiming that these demands must be unanimously approved by all Member States. Requests made from these territories have been rejected arguing lack of consensus among Member States.

## 2.2. The draft of the European Constitutional Treaty and the Memorandum of the Spanish Government (2004)

The drafting and signing of the European Constitutional Treaty (2003-2005) seemed to open up new perspectives and opportunities for the official language communities of Spain. With the Spanish Socialist Workers' Party PSOE entering the Spanish Government (April 2004), the political scene in Spain changed. The Socialists were favourable of the draft of the European Constitutional Treaty. To reach the majority needed, however, the Socialists needed support from other Members of the Spanish Parliament (from other political parties). In return, Catalan political parties explicitly demanded support to amend the list of languages in which the EU Constitution would be drafted, and requested specifically to incorporate Catalan, and subsequently Basque and Galician. This placed the Catalan, Galician, and Basque language at the level of Gaelic within the EU (at that time Gaelic was Treaty language, but not EU-official) and entailed no

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<sup>8</sup> See Non-legislative proposal of the Basque Parliament on the recognition of the Basque language as an official language in the institutions of the European Community, Agreement of the Plenary of 21/2/1992.



economic cost. It opened a new stage in the process of institutional recognition of the co-official languages at EU level.

After a long negotiation, an agreement was finally reached. The approval of the Constitutional Treaty (not its ratification) was going to allow the translation of the Treaties (yet without legal value) into Catalan, Basque and Galician. Article IV-884(2) opened the door to the publication of the Treaty in "any other language determined by the Member States among those which, in accordance with their constitutional ordinances, have the status of official language in whole or in part of their territory". Spain finally delivered four certified copies: the Basque, the Galician and two identical ones for Catalan/Valencian that were deposited in the archives of the Council.

Although the Constitutional Treaty did not come into force because it was rejected by France and the Netherlands in two referenda, this article has survived and was maintained in the new articles 55 of the Treaty of the European Union and 358 of the EU Operation Treaty, reformed by the Lisbon Treaty<sup>9</sup>.

This provision has just a symbolic value, since it lacks practical effects. However, it sets a precedence in recognising RMLs with an official status in part of the territory of Member States. It is worth noting for NPLD members that this distinction could make it easier for the European Union to establish a specific recognition in favour of other RMLs with official status in the future. In this sense, perhaps the new provision might constitute the foundations for future institutional recognition for those languages (Milian-Massana, 2008). Seen from this perspective, the recognition of the co-official languages in the EU was remarkable. However, this agreement turned out to be a purely symbolic act and for that, the petitioners continued the demand for a true, practical change in the official recognition of RML languages (López Tena 2009).

Following that, the Autonomous Regions with co-official languages (Catalonia, the Basque Country, Galicia, Navarra, Valencia and the Balearic Islands) started negotiating a text with the Spanish Government, including linguistic demands and direct regional participation in the EU.

On December 13, 2004, the Spanish Minister of the Ministry for Foreign Affairs and Cooperation presented the resulting document to the European Council: *Memorandum of the Spanish Government. Request for recognition in the European Union of all the official languages in Spain.*

The Memorandum gave the possibility to EU institutions to agree certain official recognition to languages other than Spanish, and more specifically those languages that are official in the Autonomous Regions<sup>10</sup>. To achieve this objective, it proposed

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<sup>9</sup> See also Article 1, paragraph 61 of Treaty of Lisbon.

<sup>10</sup> The Memorandum identified these languages as "Basque, Galician and the language called Catalan in the Autonomous Community of Catalonia and the Balearic Islands and called Valencian in the Valencian Community".



amending Regulation 1/1958 laying down the general rules for the language regime of the EU institutions (inclusion of an Annex to the Regulation specifying the official status of these languages). The Memorandum specified three areas of official use:

- a) Written communications from citizens with the institutions and bodies of the European Union (which involved the reform of Articles 2 and 3 of Regulation 1/58);
- b) The official publication of Community texts (which affected Article 4); and
- c) Oral use within the institutions of the European Union.

In addition, it also requests these languages to be fully incorporated into the EU's "Lingua" programme. Finally, the Memorandum stated that the Spanish Government itself will bear the economic costs deriving from the modifications of the language regime (Mir i Sala, 2006; Pons, 2006).

### 2.3. Conclusions of the Council (2005)

In response to the Memorandum of the Spanish Government, the Council of Ministers of General Affairs and External Relations decided on the 2667<sup>th</sup> Council Meeting<sup>11</sup> in 2005 to authorize limited use at EU level of languages recognised by Member States other than the official working languages.<sup>12</sup>

As for the languages that can benefit from these uses, the Conclusions identify them generically as "additional languages", without naming any specific language.

The explicit purpose is "to bring the Union closer to its citizens", considering that "allowing citizens the possibility of using additional languages in their relations with the Institutions is an important factor in strengthening their identification with the European Union's political project."

As for the uses provided for in the Conclusions, there is a formal coincidence with the three areas covered by the Memorandum, although it is noted that the content of the prerogatives of use is substantially reduced by the Conclusions (Mir i Sala, 2006; Pons, 2006). The areas are the following:

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<sup>11</sup> [Press release](#) of 2667th Council Meeting - General Affairs and External Relations - GENERAL AFFAIRS - Luxembourg, 13 June 2005. These conclusions were officially published in DO C 148, of 18 June 2005. The meaning and scope of the recognition of which these languages are subject to was specified in the Introductory Note of the Presidency of the Council to the Committee of Permanent Representatives, Doc. 9506/1/05 REV 1 –REV 2, not officially published (See Pons 2006).

<sup>12</sup> Literally: "languages other than the languages referred to in Council Regulation No 1/1958 whose status is recognised by the Constitution of a Member State on all or part of its territory or the use of which as a national language is authorised by law".





- a) Translation of the acts adopted by the codecision procedure (“Acts adopted in codecision by the European Parliament and the Council”<sup>13</sup>)

This allow the possibility of translating acts adopted in codecision procedure by the Council and the European Parliament into these languages, on behalf of the Member State.

What commitment does the Council make? A double one:

- I. To keep the translation in its archives and make it available to those who request it; and
- II. To publish the translations on its Internet site (excluding publication in the Official Journal of the European Union) stating that they are not of an official nature or, therefore, of legal value.

- b) Oral interventions in the Council or in other EU institutions or bodies (“Speeches to a meeting of the Council and possibly other EU institutions or bodies”<sup>14</sup>)

What does this prerogative consist of?

The possibility of the State requesting permission from the Council, and in its case from other institutions and bodies of the European Union, to make an oral use (with passive interpretation) of these languages in the meetings by the Members who are part of it.

What commitment does the Council make?

To accept, in principle, these requests, if they are formulated with a reasonable anticipation and the necessary personnel and material means are available.

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<sup>13</sup> Literally: “The government of a Member State will be able to send the European Parliament and the Council a certified translation of acts adopted in codecision into one of the languages referred to in paragraph 1. The Council will add that translation to its archives and provide a copy of it on request. The Council will ensure that these translations are published on its Internet site. In both cases, attention will be drawn to the fact that the translations in question do not have the status of law.”

<sup>14</sup> Literally: “The government of a Member State will, if necessary, be able to ask the Council, and possibly other Institutions or bodies (European Parliament or Committee of the Regions), for permission to use one of the languages referred to in paragraph 1 in speeches by one of the members of the Institution or body in question at a meeting (passive interpreting). In the case of the Council, this request will in principle be granted, provided it is made reasonably in advance of the meeting and the necessary staff and equipment are available)”.



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c) Written communications to EU Institutions and bodies<sup>15</sup>

What does this prerogative consist of?

To enable the Member State to adopt a legal provision through which citizens can send a written communication to the EU institutions or bodies in these languages to do so through a body designated by the Member State.

What commitment does the Council make?

In practice none, since it is an indirect communication mechanism that requires the direct and reverse translation into one of the official and working languages of the text that citizens want to address to the institutions. This translation must also be carried out by the body designated for that purpose by the Member State concerned.

The possibility of using these so-called "additional languages" is put into practice through administrative agreements between the Council and the corresponding State.<sup>16</sup> The Council invites the other EU Institutions to conclude administrative arrangements on this basis.<sup>17</sup> The Conclusions negatively limit the scope and the content of the agreements, as they state that "it will be concluded in accordance with the Treaty and with the provisions adopted for its implementation".

The figure/instrument provided for in the administrative agreements does not correspond to any of the typical legal acts or rules of Community law. It is therefore a *sui generis* legal instrument or act within the Community system. However, the binding nature of the agreements should be emphasised. The nature of the administrative agreements includes the willingness of its signatories (the State and the corresponding

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<sup>15</sup> Literally: "Member States will be able to adopt a legal act providing that, if one of their citizens wishes to send a communication to a Union Institution or body in one of the languages referred to in paragraph 1, he or she shall send the communication to a body designated by that Member State. That body will send the Institution or body in question the text of the communication, with a translation into the language of the Member State referred to in Council Regulation No 1/1958. The same procedure will apply *mutatis mutandis* to the reply from the Institution or body in question. Where the Union Institutions or bodies have a fixed period of time in which to reply, that period will commence from the date on which the Institution or body in question receives the translation into one of the languages referred to in Council Regulation No 1/1958 from the Member State. The period will cease on the date on which the Union Institution or body sends its reply to the competent body of the Member State in the latter language."

<sup>16</sup> Literally "the official use of the languages referred to in paragraph 1 will be authorised at the Council on the basis of an administrative arrangement".

<sup>17</sup> It should be noted that the Council Conclusions did not bind the other institutions and bodies of the European Union, which continue to retain, in accordance with Article 6 of Regulation 1/1958, their autonomy and decision-making capacity to determine its internal language regime.



European institution or body) to be bound by them. Specifically, in the case of citizens to whom the agreement applies, they enjoy certain rights and prerogatives for the use - albeit indirect or limited - of a certain language, rights which they did not have before the signing of agreements. Legally, this new right of linguistic choice may be invoked before national or European jurisdictions, as appropriate (Mir Sala, 2006). The direct or indirect costs associated with implementation of these administrative arrangements by the Union's Institutions and bodies will be borne by the requesting Member State.

It can be claimed, as a conclusion, that a new category of languages, the so-called 'additional languages', was created within the language system of the Union. These may be used officially in some cases and to a limited extent within some EU institutions and bodies (Mir 2006). However, these languages are not considered official languages, as the Conclusions do not have the capacity to change the language regime of the Union.<sup>18</sup> The implementation of the conclusions (through the signing of the envisaged agreements) and the effective application of the prerogatives they contain depend on further action by the State concerned.

## 2.4. Language politics in the United Kingdom: an overview

Another linguistically diverse country in Europe is the United Kingdom of Great Britain and Northern Ireland (UK) which left the EU on January 31<sup>st</sup>, 2020.

English is the most widely spoken language of the United Kingdom. It is the first language of various other countries, spoken by an increasing number of people in the world and therefore considered a "*lingua franca*". It has developed to be the main language of the cultural industries, international commerce, and research. Other languages spoken in the UK include Celtic languages (Welsh, Scottish Gaelic, Irish and Cornish) and Germanic languages (Scots and Ulster-Scots).

It is worth noting the case of Irish. The language is, next to English, official in an EU Member State, Ireland, and has been an official language of the EU since 2007<sup>19</sup>. Before that and since Ireland joined the EU in 1973, it was considered an official Community language, meaning that only primary legislation was drawn up in that language. On 1<sup>st</sup> January 2007, Irish became a full EU-official language, with a temporary derogation for a renewable period of 5 years that was extended twice so far stating that 'the

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<sup>18</sup> The Presidency of the Council did not consider it possible to amend Regulation 1/1958 or issue a legal act based on Article 290 TEC, a precept attributing to the Council the competence over the language regime. The reason given is that in the exercise of competence which is attributed to the Council must respect Article 314 TEC which sets out the languages in which the Treaty is authentic (see Mir and Sala 2006; Pons 2006).

<sup>19</sup> See [Rules governing the languages of the institutions](#)



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institutions of the European Union shall not be bound by the obligation to draft all acts in Irish and to publish them in that language in the Official Journal of the European Union', except for regulations adopted jointly by the European Parliament and the Council<sup>20</sup>.

Despite the absence of Constitutional legislation, English is *de facto* the only official language in the UK. The UK Parliament and Government as well as the judicial system and the public administration use it to a great degree, but certain provisions for Welsh in Wales and Gaelic in Scotland and, to a limited extent, Irish in Northern Ireland exist (Vacca, 2013).

RMLs in the UK vary greatly in terms of their historic path and number of current-day speakers. About 20% of the population of Wales speaks Welsh and 1.2% of Scottish population speaks Gaelic.<sup>21</sup> Hence, Welsh and Scottish Gaelic are present in the public life in their respective territories. But it is not surprising that there are different levels of provision of services in the minority language.

In respect of legislation for the Celtic languages, the principle of territoriality is applied: Welsh speakers have protection in Wales, Gaelic speakers in Scotland and Irish speakers, to a limited extent, in Northern Ireland; however, protection does not extend beyond these jurisdictions. The legal status of the minority languages varies but a bilingual public Administration is not guaranteed, and the situation varies from council to council (Vacca, 2013).

Certainly, the best performance is obtained by Welsh, with around 536,000 Welsh speakers. According to the Welsh Language Act of 1993, English and Welsh have equal status in the public sector and the Administration of justice (by the Government Wales Act of 1998 bilingualism extends to the Parliamentary Assembly). In 2011 the British Parliament ratified the official status of Welsh in Wales through the "Welsh Language Measure 2011", which aims to promote greater consistency and, with it, greater transparency in terms of Welsh language service provision. Welsh being a compulsory subject in all primary and secondary schools, Welsh-medium schooling is widespread.

The use of minority languages in public and with administrative authorities however is fairly developed in Wales. Under the 2011 Act, the functions of The Welsh Language Board (created by the 1993 Act) were transferred to the new Welsh Language Commissioner, which replaced the Board.

Scots Gaelic, spoken along the western shores of Scotland and especially on the Western Isles, has no legal status, though the local authorities devote considerable attention to providing educational services through the language for its 66,000 speakers

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<sup>20</sup> See Council Regulation (EC) No 920/2005 of 13 June 2005 (OJ L 156, 18.6.2005, p. 3).

<sup>21</sup> There are no monolingual speakers of the Celtic languages, and virtually all are fully fluent in English.



(European Parliament, 2002). The Scottish Government is committed to supporting language learning in their region. The “Gaelic Language (Scotland) Act 2005” expected to stimulate a significant increase in the provision of public services. However, given the historical dominance of English in these domains, it is an ongoing process to equip speakers of Gaelic to use their language in relation to public services.

Irish is taught in school and is promoted by the national authorities jointly throughout the island of Ireland but has always lacked financial support from the UK Government. Recently, promotion has increased, which greatly benefits the language in Northern Ireland, where the reported number of Irish speakers according to the Census is 124,000.

The UK’s approach to RML policy reflects the fact that language is a minor issue in UK politics and there is a strong monolingualism in every sphere of public life. Accordingly, marginalized RML communities demanded more support and so in recent years certain. In general, significant challenges to the greater institutionalisation in the public administration of lesser used languages remain (Vacca, 2013).

Against this background, international commitments such as the European Charter for Regional and Minority Languages (ratified in 2001) or the European Convention on Human Rights are of great importance and influence. Welsh, Scottish Gaelic and Irish are protected under Part III of the European Charter for Regional or Minority Languages.<sup>22</sup> By signing these commitments, the Government is socially and legally committed to taking steps towards a greater promotion of the respective languages in education, legal system, administrations, media, cultural, economic and social life.

The claims for official status of Welsh and Scottish Gaelic in the European institutions has had a much shorter run than in the case of Spain. In fact, the demands for more recognition in the EU by Wales and Scotland were linked to the opportunity opened by the Council Conclusions of 2005 (in response to the demands of RML communities of Spain), in order to apply them to the respective RMLs.

## 2.5. Conclusions of the Council (2008)

Following a request put forward by the UK Government on 15<sup>th</sup> July 2008, the EU Council of Ministers approved the use of Welsh, Scottish Gaelic and any other language recognised by UK legislation in the 2884<sup>th</sup> Council meeting in Brussels. The wording of the Council conclusions was the following:

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<sup>22</sup> [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/declarations?p\\_auth=adpW1NPI](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/declarations?p_auth=adpW1NPI)



*“Use of additional languages in the Council – United Kingdom”*

The Council authorised the signing of an administrative arrangement with the United Kingdom, allowing the use at the Council of languages other than English whose status is recognised in the United Kingdom's constitutional system (10887/08). This arrangement puts into practice the Council conclusions on the official use of additional languages within the EU institutions (see Official Journal C 148, 18.6.2005, p. 1).

Those conclusions aim to facilitate the use by the Union's institutions and bodies of languages whose status is recognised by a Member State's constitution, on the basis of an administrative arrangement allowing for:

- 1) The making public of translations in those languages of acts adopted by the European Parliament and the Council under the codecision procedure;
- 2) The use by a Member State's government of one of those languages in speeches;
- 3) Citizens' option of addressing EU bodies in those languages and receiving a reply in those languages.”

In practice, this allows UK Ministers to speak in Welsh and Scottish Gaelic at Council meetings, with interpretation to other languages assured, and citizens are able to write to the EU institutions in Welsh and Scottish Gaelic and receive a reply in the same language, at the expense of the respective regional Government.

With this, Welsh and Scottish Gaelic joined Catalan, Basque and Galician. However, and as a remarkable difference, the 2008 Conclusions refer only to the Council, without expressly providing for the United Kingdom to enter into agreements with other EU institutions or bodies. At the same time, it can be understood that the reference to the 2005 Conclusions, due to its generic nature in terms of possible “additional languages”, would or should allow it. However, it should be noted that the 2005 Conclusions did not legally bind the other institutions and bodies of the Union, which maintained their autonomy to regulate their language use.

Chapter 3

**The  
Administrative  
Agreements EU-  
Spain and EU-UK**





## 3. The Administrative Agreements EU-Spain and EU-UK

A main turning point for improved recognition of Catalan, Basque and Galician was the signing of several Administrative Agreements of the Spanish Government with the main EU institutions and organisms that allow limited official use of languages other than Spanish within these institutions. Spain, despite being the first, has not been the only Member State to make use of the possibilities that the Council opened in 2005 in terms of the use of languages not mentioned in the Regulation 1/58 in the community institutions. In the case of Great Britain, uses for Welsh and Scottish Gaelic are institutionalized in the Council from the administrative agreement signed with that institution.

### 3.1. Administrative Agreements between the EU Institutions and Spain

Following the Conclusions of the Council of Ministers from June 2005, the following Administrative Agreements were negotiated and signed between 2005-2009:

Institution	Date
Council of the European Union	7 November 2005
Committee of the Regions	16 November 2005
European Commission	21 December 2005
European Economic and Social Committee	7 June 2006
European Ombudsman	30 November 2006
Court of Justice of the European Union	27 April 2009
(Decision) European Parliament	3 July 2006

With regard to the languages covered by the Agreements, these languages are, however, not explicitly mentioned in any of the agreements signed and which are



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referred to as “a language other than Spanish that has the status of an official language according to the Spanish Constitution”<sup>23</sup>.

With the exception of the European Parliament, the content of the signed agreements is very similar. All of them reproduced the language prerogatives provided for in the 2005 Conclusions. Therefore, there is no substantial innovation in the agreements.

We shall now proceed to analysing each of the above-mentioned agreements:

#### **a) Council of the European Union**

On 7<sup>th</sup> November 2005, the Council of the EU signed an Administrative agreement with Spain which contemplates:

- 1) The possibility for citizens to relate in written form to this institution using the co-official languages of the Spanish State.
- 2) The possibility that Spanish representatives use these languages in the formal sessions of the Council.
- 3) The translation into these languages of acts adopted in codecision and subsequent publication.

#### **b) Committee of the Regions**

On 16<sup>th</sup> November 2005, the Administrative agreement was signed with the Committee of the Regions that provides:

- 1) The possibility for citizens to relate to this institution in written form in one of the co-official languages of Spain, and
- 2) The possibility of using these languages in the plenary sessions of the Committee.

#### **c) European Commission**

On 21 December 2005, an Administrative agreement was signed between the European Commission and the Kingdom of Spain, which provides the possibility of citizens to communicate in written form with this institution in the co-official languages of Spain.

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<sup>23</sup> This allowed the possibility of including Aranese, which became official in Catalonia in the 2006 Catalan Statute of Autonomy



#### **d) European Economic and Social Committee**

On 7 June 2006, the Administrative agreement was signed with the European Economic and Social Committee that contemplates the possibility for citizens to relate in written form to this institution in the co-official languages of Spain.

#### **e) European Ombudsman**

On 30<sup>th</sup> November 2006, an administrative agreement<sup>24</sup> was signed by the European Ombudsman and the Spanish Ambassador in the EU, which foresees:

- 1) The possibility that citizens relate in written form to this institution in the co-official languages of Spain, and
- 2) The provision of the complaint form on the Internet and other information documents of the European Ombudsman in these languages.

#### **f) Court of Justice of the European Union**

Some years later, on 27 April 2009, the Court of Justice of the European Union (ECJ) signed an agreement<sup>25</sup> with the Kingdom of Spain allowing Spanish citizens and residents,

- 1) To send written communications to the ECJ in any of the official regional languages of Spain, as long as they go through the Spanish Office for Official Languages, which acts as the translation agency between Spanish citizens/residents and the EU institution.

The permission does not include judicial communications and those related to the enforcement of a legal text. Communications with the purpose of obtaining a particular advantage (such as a public grant), or benefit (like being awarded a contract), or applying for a job are not covered by the arrangement. In a case situation, however, official regional languages can only be used if the witness or expert is unable to adequately express him/herself in one of the EU-official languages.

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<sup>24</sup> See [Press Release N° 19/2006 of the European Ombudsman](#)

<sup>25</sup> See Press Release N° 37/09 of the Court Of Justice Of The European Communities “Signing of an Agreement with Spain to allow the use of their co-official languages in correspondence with Spanish citizens and residents of Spain”



### **g) European Parliament**

As far as the European Parliament is concerned, this institution has not signed any administrative arrangements. Nevertheless, on the 3<sup>rd</sup> of July 2006, the European Parliament's Bureau approved a proposal<sup>26</sup> by the Spanish State to allow citizens to communicate with the European Parliament in the co-official languages (Basque, Catalan and Galician), two months after its initial rejection for technical reasons.

Since then, Catalan, Valencian, Balearic, Galician, Basque and Navarrese citizens are able to address their requests and writings to the European Parliament and be answered in their respective co-official languages. In addition, they are able to consult the most important legislative decisions of the EU in these languages through the website of the European Parliament. This is possible always and only depending on its "internal capacities", or through external translation agencies (in which case the expenses have to be assumed by the Spanish Government). In contrast, the European Parliament has not authorized the use of these languages in internal activity or in plenary sessions (Milian, 2010).

## **3.2. Administrative agreement between the EU Institutions and the United Kingdom**

In late 2008, following the 2008 Council conclusions, the UK Government negotiated and signed with the Council of European Union an administrative agreement to allow the use of Welsh and Scots Gaelic. The agreement is inspired by the agreements signed by Spain and uses the same wording.

The content of this agreement is almost identical to the one signed with the Council by the Government of Spain: languages protected are not expressly identified, and they are referred to as "languages other than those referred to in Regulation No 1/1958 and whose status is recognised, in the United Kingdom's constitutional system, by Acts of Parliament of the United Kingdom of Great Britain and Northern Ireland and/or legislative acts of the appropriate legislative body".

The agreement specifically contemplated the three following points:

- 1) The possibility for citizens to relate in written form to this institution using language whose status is recognised, in the United Kingdom's constitutional system, by Acts of Parliament of the United Kingdom of

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<sup>26</sup> See [Minutes of the Bureau meeting PV BUR 03.07.2006 in Strasbourg](#)



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Great Britain and Northern Ireland and/or legislative acts of the appropriate legislative body.

2) The possibility that representatives of the United Kingdom may use these languages in the formal sessions of the Council.

3) The translation into these languages of the acts adopted in codecision and subsequent publication.

Chapter 4

**Implementation  
of the  
Administrative  
Agreements  
between the EU  
Institutions and  
Spain**



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## 4. Implementation of the Administrative Agreements between the EU Institutions and Spain

Fifteen years after the signature of some of these administrative agreements between the EU institutions and the Spanish Government, it is necessary to provide an analysis on how these have been implemented so far.

The methodology used to analyse the implementation of the agreements includes:

- a) Bibliographic and documentary research on official websites and other documentation published by official or semi-official bodies.
- b) The sending of a questionnaire to collect information from the bodies responsible for language policy and relations with the European Union of the different Autonomous Communities involved.
- c) Contacts with the different institutions involved, both at EU level (the delegation of the European Commission in Barcelona, which also answered the questionnaire and a representative of the Historical Archives of the European Parliament) and the Government of Spain (no reply to our questionnaire was obtained).<sup>27</sup>

### 4.1. Acts adopted in codecision by the European Parliament and the Council

The agreement reached with the Council foresees making acts of the EU adopted in codecision by the Council and the European Parliament public in Galician, Catalan and

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<sup>27</sup> Among the administrations consulted is the Ministry of Territorial Policy and the Office for Official Languages, from which no answer has been obtained. Although there have been indirect news, by indirect documentary sources of the agreement signed between the General Administration of the State and the Autonomous Communities "referring to the official use in the European Union of languages other than Spanish that have the status of official languages according to the Constitution", of December 13, 2005, in which the foundations to implement these agreements through collaboration between the Autonomous Communities and the Central Government have been laid, the original text of this document could not be retrieved.





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Basque (known under the formula "languages other than Castilian (Spanish) whose status is recognized by the Spanish Constitution").

The agreement works as follows: “the Spanish Government, or the body designated for the purpose, may make certified translations into the above languages of acts of the European Union adopted in codecision, as published in the Official Journal of the European Union, and forward them to the General Secretariat to issue certified translations addressed to the Council by electronic means”.

The purpose of this prerogative of use, according to the text of the agreement, is to make available to citizens and facilitate the publication in additional languages by the Council of legislative acts adopted through the ordinary legislative procedure, also known as 'codecision'. Codecision is used for policy areas where the EU has exclusive or shared competence with Member States. In these cases, the Council legislates on the basis of proposals submitted by the European Commission.

To carry out this task, the agreement sets out two complementary paths, providing that: a) the Council shall add those certified translations to its archives and shall provide copies on request to any citizen of the Union, as far as possible by electronic means; and b) the Council shall establish a link from its Internet site to the Spanish Government website offering such translations. As mentioned before the translations need to mention that they have no legal value (this warning must be stated at the heading of all pages and on the home page of the Spanish Government's website where they are published).

Finally, the agreement states that “The Spanish Government shall assume the direct or indirect costs resulting from implementation of this administrative arrangement as regards the Council”, and in order to convey “the General Secretariat of the Council shall present a note to the Permanent Representation of Spain setting out the above costs in detail every six months. This sum must be reimbursed by the Permanent Representation of Spain within one month from the date of notification.”

According to the information obtained from government officials within the different Autonomous Communities on the application of this prerogative, it is found that:

- 1) The Spanish Government has not designated the body in charge of the translations of the acts adopted in co-decision.
- 2) It is not clear that the planned mechanism for sending certified copies of the translations to the Council has been set in motion, nor is there any link to translations in these languages on the institution's website (and a link on its website to the respective Government website offering the translations, which cannot be found to date).



- 3) In response to the question posed (*Do you know if certified translations have been made into the languages mentioned in any agreement adopted by codecision?*) most of the Autonomous Communities responded that they are not aware that. Only the Basque Country has translated into Basque rules adopted in codecision that are linked to the competences of the Autonomous Community (the EU Treaties have also been translated into Basque). The Basque translation of EU legislation is therefore being done and published (De Epalza Azqueta, 2019).
- 4) In relation to the second question posed, (*If so, what has been the publicity given to such translations by the state authorities?*), In the case of the Basque Country these translations can be consulted on the website of the Basque Government, which is responsible also of the distribution through different channels (in the institutional web translations of the years 2006 (72 translations)-, 2008 (125 translations)- and 2009 (56 translations)- can be found, that include a total of 253 dispositions.<sup>28</sup>
- 5) The only case mentioned, the translation has been carried out through the Official Translation Service of the Basque Institute of Public Administration and the cost is borne entirely by the Autonomous Community of the Basque Country.

The state position on this area of use is reflected in a recent document published in 2019 by the mentioned Office for Official Languages, where it is literally stated in relation to this point of the Agreement with the Council:

*“The existence of versions in these languages of the Community Treaties is recognised, as well as the Community acts adopted through the codecision procedure. The translation corresponds to the Autonomous Communities themselves, after which the State deposits them in the Council Secretariat. However, the use of this possibility has been uneven: very broad with respect to the Treaties and very low with respect to acts adopted in codecision.”* (page 29, translated).<sup>29</sup>

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<sup>28</sup> [https://www.euskadi.eus/web01-s1leheki/es/contenidos/informacion/v2\\_ue\\_euskera/eu\\_eus\\_dis/eus\\_ue\\_arauak2009.html](https://www.euskadi.eus/web01-s1leheki/es/contenidos/informacion/v2_ue_euskera/eu_eus_dis/eus_ue_arauak2009.html) (last update of the web 06/14/2012).

<sup>29</sup> Oficina para las Lenguas Oficiales/Consejo de las Lenguas Oficiales en la Administración General del Estado (2019) Informe de diagnóstico sobre el grado de cumplimiento del uso de las lenguas cooficiales en la Administración General del Estado. Secretaría de Estado de Política Territorial. Ministerio de Política Territorial y Función Pública.



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As deduced from the quotation above, the understanding of the General State Administration differs clearly, at least in three respects, from the literal wording of the Agreement:

- 1) Regarding the scope, since the Agreement does not refer to treaties<sup>30</sup> (only to rules approved in codecision);
- 2) Regarding the purpose, since the Agreement is not intended to “recognise” the existence of versions in these languages but rather to establish a mechanism to ensure the availability and publicity of translations;
- 3) Regarding the responsibility on who translates and who covers the translation costs, the version given by the Autonomous Communities does not coincide with the fact the Spanish Government will bear the direct and indirect costs. At the same time, the ambiguity and inaccuracy regarding the application made is highlighted (for example, it is not said that the state government has effectively deposited the translated copies in the Council).

In view of the data obtained, it must be concluded that there has been a degree of compliance limited spatially and temporally. Compliance, however, has been partial or biased with respect to what is established in the Agreement, on the prerogative of use of the official languages other than Castilian/Spanish.

## 4.2. Speeches to a meeting of European institutions or bodies

In two of the Agreements, oral interventions are allowed in the official languages other than Castilian/Spanish, specifically at sessions of the Councils of Ministers open to participation by the Autonomous Communities and at sessions of the Committee of the Regions. In both cases, only passive interpretation is allowed, that is, from the “additional languages” to the other official languages.

Both agreements provide that in principle the request will be accepted, unless the General Secretariat of the Council (or the General Secretariat of the Committee), having consulted the service responsible for interpretation (the DG SCIC in the case of the

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<sup>30</sup> It should be recalled that the possibility of translating treaties was already expressly recognized in the Draft Constitutional Treaty and has been covered by subsequent reforms of the founding treaties (see section 2.1 of the report).



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Council), informs the Permanent Representation of Spain that the necessary staff and equipment are not available.

#### **a) Council**

In the Council,<sup>31</sup> government ministers from each EU country meet to discuss, amend, and adopt laws, and coordinate policies. The ministers have the authority to commit their governments to the actions agreed on in the meetings. There are no fixed members of the EU Council. Instead, the Council meets in 10 different configurations, each corresponding to the policy area being discussed. Depending on the configuration, each country sends their minister responsible for that policy area. In general, the regional participation in this institution is framed by the Agreements relating to the participation of the Autonomous Communities in the Council of the European Union adopted in 2014, in response to the regional demands (see Memorandum of 2014). This participation is made in the name and representation of all the Autonomous Communities and as a full member of the State delegation.

As a general rule, there is a rotating participation in six-month periods in the plenary sessions of the Council (attended by the Regional Minister of the Autonomous Community holding the representation). This participation is limited to certain areas (Agriculture and Fisheries; Employment, Social Policy, Health and Consumer Affairs (EPSSCO); Education, Youth and Culture (EJC) and Environment; and after the Lisbon Treaty also the areas of sports, consumption, and gambling).

It should be noted that a second possibility would be the use of these languages by a Spanish Minister who participates as such in the EU Council of Ministers. The Council's Agreement provides for the procedural conditions to make use of this possibility, which works as follows:

- 1) At the beginning of each six-month period, the Permanent Representation of Spain shall send the General Secretariat of the Council an indicative list of those Council meetings where a request to use one of the above languages is likely to be made.
- 2) At least seven weeks before the Council meeting, the Permanent Representation of Spain shall send the General Secretariat of the Council the request for a Spanish representative to use one of the above languages during his speeches (passive interpretation); definite confirmation of the request will be made at the latest 14 calendar days before the Council meeting.

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<sup>31</sup> Article 16 of the Treaty on European Union (TEU) and Articles 237 to 243 of the Treaty on the Functioning of the European Union (TFEU).



## **b) Committee of the Regions**

The Committee of the Regions (CoR), created in 1994, is an advisory body which represents the interests of regional and local authorities in the European Union and addresses opinions on their behalf to the Council and the Commission. Members can be, for example, leaders of regional authorities, mayors or elected or non-elected representatives of regions and cities of the 27 EU Member States. Today the Committee of the Regions is made up of 329 members and an equal number of alternate members.<sup>32</sup> Spain has 21 members.

The plenary of CoR meet 5-6 times every year. Its main functions are to adopt opinions, reports and resolutions and to adopt the Committee's political programme at the beginning of every term, in addition to other attributions relating to its functioning and internal organization of the body.

As for the procedure to be followed before the Committee of the Regions<sup>33</sup>, the Agreement with that body only requires a request at least seven weeks in advance by the Permanent Representation of Spain to the General Secretariat of the Council to allow the use by one or more members of the Committee of the Regions, in the course of a plenary, of these languages.

Following these findings, we can state the following:

- 1) In response to the question “Do you know if representatives or public officials with links to your Regional Community have taken advantage of this possibility?”, the representatives from the territories of three Autonomous Communities (Catalonia, the Basque Country and Navarre) have made use of this prerogative, either in the Council or in the Committee of the Regions. Two others claim to have no record of this use (Valencian Community and Balearic Islands), while Galicia mentions only the use in the European Parliament (although this area of use is not expressly included in the Agreement signed with this institution).
  
- 2) In response to the question “How often, in which EU institution/body and when?”, in general, despite the difficulty of following up or keeping a record of specific meetings, various evidences have been gathered that the possibility of oral use in plenary organs has been used several times. Regarding the Council: in the Basque Country it is reported that the interventions in Basque in the Council have been carried out every time the

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<sup>32</sup> [Council Decision \(EU\) 2019/852](#) of 21 May 2019.

<sup>33</sup> Article 13(4) of the Treaty on European Union (TEU), Articles 300 and 305 to 307 of the Treaty on the Functioning of the European Union (TFEU).



Basque Country has been the Autonomous Community designated to coordinate the semester of regional participation and these interventions are detailed. In the case of Catalonia, it is reported that Catalan has been used on all occasions when a member of the Government of Catalonia has taken part in a public debate of the Council of Ministers since 2005, on behalf of all the Autonomous Communities of Spain and, sporadically, by some Catalan minister in Spain (José Montilla at the time of Minister of Industry, 2006). Regarding the Committee of the Regions<sup>34</sup>: Basque is systematically used in all plenary sessions, although the General Secretariat for Foreign Action of the Basque Government has not intervened orally in all sessions. As for Catalonia, Catalan has been used in almost all the occasions until 2017. In Navarre it is reported that the request for the interpretation service is made by the Basque Government (the Government of Navarre has never carried out this procedure), while accrediting the use by the alternate member for Navarre in the Committee of the Regions, Mikel Irujo, who has spoken on several occasions in Basque in it.<sup>35</sup>

- 3) Another question asked was “Do you have information on the previous procedures (advance request, etc.) that had to be performed in order to carry out the interventions in the official language other than English?” The communities consulted report that the Ministry of Foreign Affairs, the European Union and Cooperation reports in advance to the ACs in their own official language on the calendar of meetings of the CoR and, where appropriate, the Council, in order to process applications for use in the respective plenary sessions. Applications have been made on time and following the procedures. The necessary formalities are carried out at the request of the autonomous bodies by the REPER.
- 4) In relation to the question “Do you know if, in all cases, the requests to make use of this faculty have been accepted?” the answers obtained indicate that requests for the use of official languages have always been accepted, both in terms of the CoR and the semesters of regional

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<sup>34</sup> Some of the answers claim that, according to the Agreement, the use in the Committee of the Regions has only been possible in the Plenary, but is not allowed in the working committees or smaller organ formations.

<sup>35</sup> It is added that since the CdR does not have minutes of the plenary sessions, it is difficult to display the exact dates of these interventions, between 2017 and 2020. For what it is useful, two of them, presenting reports, were recorded on video. The first intervention, 03-23-2017 (the first time that a member of the Government of Navarre spoke in Basque) recorded at this [link](#). Another recorded intervention 5/18/2018 [link](#).



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coordination in the Councils of Ministers open to the participation of the Autonomous Communities.

- 5) With regard to the direct and indirect costs of interpretation in the Council and in the CoR, the Basque Government reports that the official interpreters of the interpretation team of the European institutions are used. No additional information could be obtained from the state on the economic issue. Therefore, there is no evidence that the application of this prerogative has entailed any additional costs in terms of interpretation for the Spanish State.

According to the information obtained, it should be concluded that this area of use of the agreements of the Council and the Committee of the Regions has had a wider application than the previous one, although irregular in time and very uneven between the different regions. The procedure followed has generally been adjusted to the provisions of the Agreements. The Spanish Government has agreed and European institutions have not objected to these requests.

### **4.3. Written communications to EU Institutions and bodies**

Thanks to the Agreements, it is possible to send written communications in Basque, Catalan and Galician from citizens (or in the cases mentioned, also legal persons) to the Council, the European Commission, the Ombudsman, the Committee of the Regions, the European Economic and Social Committee and the Court of Justice.

This can be done through a translation Agency. It works as follows:

- 1) The communication is sent to the competent body designated by the Spanish Government for that purpose, which shall forward it to the General Secretariat (in the case of the Council) with a translation of the communication into Castilian/Spanish.
- 2) The date of receipt of the communication, particularly in cases where the Council has a fixed period of time in which to reply to the citizen, shall be the date on which the Council receives the translation from that body.
- 3) The European institution or body shall send its reply in Castilian/Spanish to the translation body. If the European institution or body has to reply within a given period, this shall begin from receipt of the original document accompanied by a certified translation into Spanish/Castilian.





- 4) This period shall end once the latter has sent its written reply in Spanish/Castilian to the competent body designated by Spanish law.

In agreement with the Commission (and in similar terms with the European Economic and Social Committee), it is established, as a voluntary exception, that if the competent departments of the Commission decide to reply in the language of the original document, they may do so and send their reply directly to the person concerned.

Observing the website of both the Council and the Ombudsman, when we select the options “Ask a question” and “Request a document form”<sup>36</sup>, it can only be done in the 24 EU-official languages and a note on how to proceed if one wants to contact the Council or request a document in another language is not provided anywhere. It is found, however, a link to the PDF version of the administrative agreements between Spain and the Council.

It should be noted that by no means is the European institution or body engaged by these translations. A specific reference to this is made in the text of the translations.

From the questionnaire sent to the Autonomous Communities on the practical application of this area of use, the following is revealed:

- 1) All the Autonomous Communities respond that they do not have any information or quantitative data on the application of this provision in the agreements in their own context. They also claimed not to have general information about the use of this ability to communicate with European institutions or bodies in official languages other than Castilian/Spanish. Only the Government of Galicia mentions that the Galician Directorate-General for External Relations and with the European Union) has not received any request or managed any process related to this matter at the request of the Spanish Government in the last six years. In the previous six, they had less than ten administrative procedures. We do not know if this was due to the fact that the number of citizens who exercised this right was low. A 2009 report by the Galicia-Europe Foundation only mentioned a communication with Parliament (which does not provide for this in the agreement) and stated that communications with the Ombudsman made this mention conditional on the creation by the

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<sup>36</sup> See <https://www.consilium.europa.eu/en/contact/general-enquiries/>



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Spanish authorities of forms in these languages, which seems not to have been done.<sup>37</sup>

- 2) Regarding the question “Do you know which is the "body designated by the Spanish Government" - in the terminology used by the Agreements - in charge of processing these communications?” There is a dissimilarity in the answers obtained. Some communities consulted claim to be unaware of this. In respect to the Valencian Community, in 2007 an Administrative body was indicated which by analogy would be the Valencian Autonomous Secretariat of Education. In the Balearic Islands it is stated that communications in other official languages than Castilian / Spanish addressed to the Ombudsman must be sent to the General Directorate of Language Policy of the Government of Catalonia, which translates them and sends them to the Ombudsman. For the rest of the institutions and bodies, citizens must send the communications to the Permanent Representation of Spain to the EU (REPER. Catalonia indicated that years after the signing of the Agreements, Spain has established that its Permanent Representation before the EU is the body responsible for receiving and translating citizens’ letters. The Basque Country mentions REPER in coordination with the Directorate of European Affairs of the General Secretariat for Foreign Action of the Basque Government. Galicia mentions as a designated body the Office for the Official Languages of the Ministry of Territorial Policy and Civil Service, the person responsible for which is unknown.
  
- 3) About the question “What has been the body that has, in practice, been responsible for translating communications made into official languages other than Spanish into Spanish?” we found that in many cases, it was the Regional Government of the different Autonomous Communities (Directorate-General for Language Policy in Catalonia for Catalan has also dealt with translations of communications addressed by citizens of the Balearic Islands -, the Directorate for Foreign Affairs in the Basque Country through Basque Institute of Public Administration for Basque, and for Galician, the Directorate-General for External Relations and with the European Union).

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<sup>37</sup> [https://www.lingua.gal/c/document\\_library/get\\_file?folderId=1647062&name=DLFE-9291.pdf](https://www.lingua.gal/c/document_library/get_file?folderId=1647062&name=DLFE-9291.pdf).



- 4) Regarding the question related to “Has the same agency responsible for translating communications in a language other than Spanish also translated the response formulated in Spanish by the EU institutions or bodies - as provided by the Agreements - into the communication language used by the citizen?” only Catalonia mentions one case.
- 5) In relation to the questions related to the *modus operandi*, the answers of the Communities unanimously claim they are not aware, in some cases linked to the fact that there is no evidence that these communications have taken place (Valencian Community and Navarre). The Basque Country and the Balearic Islands state that they have evidence that in some cases, EU institutions or bodies have returned to the sender the communications that were addressed directly to them in these languages and have redirected the sender to the "body designated". Only the Basque Country points out that in some cases the EU institution or body has directly sent the answer in Spanish, and a subsequent translation has been made into the different official language used by the citizen.
- 6) Concerning the question “Is there any calculation of the economic costs arising from applying this provision of the Agreements (processing costs, translation, etc.)?” all Autonomous Communities respond negatively.

The position of the Ministry, expressed in the aforementioned report of the Office for Official Languages is limited to the following statement: “The right of citizens to address the corresponding Institutions in co-official languages in Spain is recognized, as well as for them to respond to them in these languages. This right is exercised with the help of prominent Spanish officials in the Institutions that know these languages, as well as through the informal translation carried out by the regional delegations in Brussels, coordinated for this purpose by the Ministry for Autonomous Affairs of the Permanent Representation of Spain before the EU (REPER)” (translated).

In short, there is a very low, almost non-existent application of these Agreements signed by Spain. With regard to the procedure to be followed, there is a lack of knowledge or confusion, which may be linked to the delay mentioned in the identification of the “competent body designated by the Spanish Government for that purpose”. The translations that result necessary from the implementation of this prerogative are in theory being managed and paid for by the Spanish state but in practice it is done by the Autonomous Communities.

Chapter 5

**Implementation  
of the  
Administrative  
Agreement  
between the  
Council and the  
United Kingdom**



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## 5. Implementation of the Administrative Agreement between the Council and the United Kingdom

Bearing in mind that the Brexit movement started in 2016, the focus of EU relations with the UK have not been on promoting the RMLs and their use in EU institutions. Nevertheless, since the signing of the Agreements in 2008, we can trace the evolution on how these have (not) been applied.

The methodology used to analyse the implementation of the Agreements has been the same as in the Spanish case:

- a) Bibliographic and documentary research on official websites and other documentation published by official or semi-official bodies;
- b) The submission of the questionnaire to collect information and assessments from those responsible for the Government of Wales and the Government of Scotland who had been responsible for this matter.
- c) Conducting other written inquiries and requests for information from other relevant actors in the United Kingdom.

The same as for the RMLs of Spain, the Agreement between the UK with the Council of the European Union foresees the use of the languages other than English whose status is recognised in the UK in the three areas of use just mentioned.

### 5.1. Acts adopted in codecision by the European Parliament and the Council

The conditions foreseen for the implementation of this prerogative (or the institutionalization of this use) coincide with those foreseen in the agreement signed with Spain (see supra 4.2).

The questions posed in the questionnaire on this area of use were not answered by the Administrations of Scotland - which expressly state not knowing whether these translations have been carried out - and Wales. We are unable to analyse, therefore, whether these prerogatives have or have not been implemented.



On the Council website a link the UK Government website offering the translations which cannot be found. What can be found, however, is a link to the PDF version of the Agreements between the UK and the Council.

Apart from the content of the Agreement, the UK Representation of the European Commission had offices in London (head office), Cardiff, Edinburgh, and Belfast. The office in Wales worked to translate key publications into Welsh. These publications were available via the Office or through the EU Bookshop.<sup>38</sup>

## 5.2. Speeches to a meeting of EU institutions or bodies

Also, at this point the general conditions for the use of Scottish Gaelic and Welsh coincide with those provided for in the agreement of Spain with the Council (see supra 4.2). However, the impact on the real scope of this prerogative of internal arrangements must be taken into account.

- a) In response to the question “Do you know if representatives or public officials with links to your Regional Community have taken advantage of this possibility?” Scotland answers that only one Minister has spoken in Gaelic in an EU institution. That was in 2010. Regarding Wales –the question was not answered-. However, it was found that in November 2008, the Welsh language was used at a meeting of the European Union's [Council of Ministers](#) for the first time. The Heritage Minister [Alun Ffred Jones](#) addressed his audience in Welsh and his words were interpreted into the EU's 23 official languages. In his speech he described the breakthrough as "more than [merely] symbolic".<sup>39</sup>
- b) Wales does not provide an answer and Scotland states that it does not have information about the procedural conditions required.
- c) To the question if they know if, in all cases, the requests to make use of this faculty have been accepted? Or have encountered the opposition from European institutions? Scotland answers that only one occasion was used and accepted.

The information obtained shows a sporadic or isolated use, before leaving the UK, of this possibility of using the additional languages in the Council, uses that are only symbolic in value.

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<sup>38</sup> [https://wayback.archive-it.org/11980/20200131132005/https://ec.europa.eu/unitedkingdom/home\\_en/](https://wayback.archive-it.org/11980/20200131132005/https://ec.europa.eu/unitedkingdom/home_en/)

<sup>39</sup> [https://en.wikipedia.org/wiki/Welsh\\_language](https://en.wikipedia.org/wiki/Welsh_language)



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### 5.3. Written communications to European Institutions and bodies

According to the Agreement, the Council can receive written communication (through the translation intermediary) in the languages concerned under the same procedural conditions which have been foreseen in the agreement signed by Spain (see supra 4.3).

It should be noted in advance that the responses to this section by Scotland basically refer to the internal dimension of this linguistic use – the Scottish Government does actively encourage those who wish to communicate through the use of the languages to do so<sup>40</sup>.

The following data is obtained from the answers to the questionnaire sent:

- 1) Both regions state that they do not have data on the effective use of this prerogative by the citizens of the respective territories. Wales mentions however that demand for the Welsh translation service was low. Scotland claims not being aware of any translation requirements.
- 2) To the question “Do you know which is the "body designated by the UK Government in charge of processing these communications?” for Welsh it is the Welsh Government. Similarly, Scotland states that the UK Government has delegated this language support to (regional) Administrations.
- 3) On the issue “What has been the body that has, in practice, been responsible for translating communications into official languages other than English into English? Which is the body carried out the translations?”, Wales answered that all correspondence was forwarded for translation to the Translation Service of the Welsh Government. The Translation Service provided translation into English of correspondence received and subsequently translated the official response into Welsh.
- 4) Concerning the question “if they know if, in any case, the European institution or body has sent the response translated directly into the language of the citizen's communication directly”, Wales answered that the Translation Service of the Welsh Government was required

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<sup>40</sup> E.g. “the Scottish Government communicates in Gaelic and Scots as the needs arise” or “We also encourage the production of national or language specific policy papers in to the given languages” or “It is a priority to support anyone who wishes to communicate in their language of choice”.



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under the Agreement to confirm that the translation provided was fit-for-purpose and an accurate translation of the official response as drafted.

- 5) The question about if, in any case, the European institution or body has sent the response translated directly into the language of the citizen's communication directly, obtains as unique answer that the Translation Service of the Welsh Government was required under the agreement to confirm that the translation provided was fit-for-purpose and an accurate translation of the official response as drafted.
- 6) Other questions concerning the *modus operandi* ("Do you know if, in any case, EU institutions or bodies have returned to the sender the communications that were addressed directly to them in these languages" or "Do you know if, in any occasion, the EU institution or body has directly sent the answer in English, and a subsequent translation has been made into the different official language used by the citizen?" - the answer was no both from Wales and Scotland.
- 7) Concerning the question about the economic costs arising from the application of the Agreements, Wales answered that Welsh Government, through its Translation Service, had agreed to provide the service as long as it was not overly onerous in the context of its overall remit. Scotland answers not having any calculation of the economic cost. Most is done as part of officials individual's duties.

Data derived from questionnaire indicates that low (or very low) use in Wales and unknown (or null) in Scotland of this prerogative. In the case of the United Kingdom, the leading role assumed by the regional Administration in the mechanism foreseen for the processing and translation of communications is highlighted, which also bear the costs. However, several of the questions raised in relation to the procedure remain unanswered, the lack of incidents being most probably correlated with the low number of real uses.



Chapter 6

**Findings on the  
implementation  
of the  
administrative  
agreements:  
general summary**



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## 6. Findings on the implementation of the administrative agreements: general summary

The following is a succinct summary of the main findings derived from this report, shown in a comparative chart when applicable.

### 6.1. Spain

#### Agreement with Council

##### Concerning 'Making public of acts adopted in codecision'

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- Finding 1

The Spanish Government has not carried out or formally designated the body in charge of the translations of the acts adopted in co-decision.

- Finding 2

It is not clear that the planned mechanism for sending certified copies of the translations to the Council has been set in motion, nor is there any link to translations in these languages on the institution's website

- Finding 3

Only the Basque Country has translated into Basque, through the Official Translation Service of the Basque Institute of Public Administration, some rules adopted in codecision that are linked to the competences of the Autonomous Community (the EU Treaties have also been translated into Basque).



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- Finding 4

The understanding of this commitment by the General State Administration (*Consejo de las Lenguas Oficiales en la Administración General del Estado*) differs clearly, at least in three respects –scope, purpose and responsibility for the translation-, from the literal wording of the Agreement.

### Concerning ‘Speeches to a meeting’

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- Finding 1

Oral use of these languages in certain Council meetings has been made use of various times by the representatives of three Autonomous Communities (Catalonia, Basque Country and Navarre). Two others claim to have no record of this use (Valencian Community and Balearic Islands). One Catalan State minister also spoke in Catalan.

- Finding 2

The rules to use the “additional languages” have been applied and generally accepted, following the necessary formalities carried out at the request of the Autonomous bodies by the REPER.

- Finding 3

There is no evidence that the application of this prerogative has entailed any additional costs in terms of interpretation for the Spanish State.

- Finding 4

Speeches in a meeting is the only use foreseen in the Council’s Agreement that has had a consistent application, although irregular in time and very uneven between the different regions.



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## Concerning 'Written communications'

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- Finding 1

All the Autonomous Communities respond that they do not have any information nor quantitative data on the application of this provision in the Agreements in their own context.

- Finding 2

About which is the body designated by the Spanish Government in charge of processing these communications, the majority of Autonomous Communities indicated the Permanent Representation of Spain to the EU (REPER), but there is a dissimilarity in the answers obtained and some Autonomous Communities claim to be unaware of this.

- Finding 3

On the question of which body that has carried out the translations? It is often the Government of the respective Autonomous Community (Catalonia, Basque Country and Galicia) or of another Autonomous Community (Balearic Islands). Only Catalonia mentions a case where the same Agency was responsible for translating the response formulated in Spanish by the EU institutions or bodies - as provided by the agreements - into the communication language used by the citizen.

- Finding 4

In relation to the more general questions related to the functioning/practicalities, the answers of the Communities show complete lack of knowledge, in some cases linked to the fact that there is no evidence that these communications have taken place (Valencian Community and Navarre).

- Finding 5

All Autonomous Communities respond unanimously that there is no calculation of the economic costs arising from applying this provision of the agreement.



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## Agreement with the Committee of the Regions

### Concerning 'Speeches on a meeting'

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- Finding 1

The Basque Country has systematically requested to use Basque in Plenary sessions. As for Catalonia, Catalan has been used in almost all the occasions until 2017. Also Navarre (that conveys the request for interpretation through the Government of the Basque Country) accredits the use of Basque in the Plenary by an alternate member for Navarre on several occasions.

- Finding 2

Speeches in a meeting is the only use foreseen in the Committee of the Regions' Agreement that has had a consistent application, although irregular in time and very uneven between the different regions.

### Concerning 'Written communications'

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- Finding 1

There is no evidence that this prerogative has been used by citizens before the Committee of the Regions.

## Agreement with the European Commission

### Concerning 'Written communications'

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- Finding 1

Due to the fact that it has not been possible to obtain precise and disaggregated responses by institutions or bodies in relation to this prerogative, please see findings under "Written communications" with the Council above.



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## Agreement with European Economic and Social Committee

### Concerning 'Written communications'

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- Finding 1

Due to the fact that it has not been possible to obtain precise and disaggregated responses by institutions or bodies in relation to this prerogative of use, please see findings under "Written communications" with the Council above.

## Agreement with Court of Justice of the European Union

### Concerning 'Written communications'

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- Finding 1

Due to the fact that it has not been possible to obtain precise and disaggregated responses by institutions or bodies in relation to this prerogative of use, please see findings under "Written communications" with the Council above.

## Decision of the European Parliament

### Concerning 'Written communications'

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- Finding 1

Due to the fact that it has not been possible to obtain precise and disaggregated responses by institutions or bodies in relation to this prerogative of use, please see findings under "Written communications" with the Council above.

- Finding 2

Galicia mentions the use by representatives in the European Parliament although this area of use is not expressly included in the agreement signed with this institution.



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## 6.2. United Kingdom

### Agreement with Council

#### Concerning 'Making public of acts adopted in codecision'

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- Finding 1

It must be concluded the non-reply to the questions posed indicate that the Agreement has not been implemented.

#### Concerning 'Speeches to a meeting'

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- Finding 1

Scotland answers that only one Minister has spoken in Gaelic in an EU institution. Wales did not answer this question, but information has been found that in 2008, the Welsh language was used at a meeting of the Council.

- Finding 2

In relation to the procedural conditions required, Scotland states that it does not have information and Wales did not provide an answer to this question.

- Finding 3

It must be concluded that there was a sporadic or isolated use of this prerogative, to which a high symbolic value is attributed.

#### Concerning 'Written communications'

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- Finding 1

Scotland and Wales state that they do not have data on the effective use of this prerogative by the citizens of their respective territories. Wales mentions, however,



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that demand for the Welsh translation service was low. Scotland remarks that they are not aware of any translation requirements from any EU institutions.

- Finding 2

The body designated by the UK Government in charge of processing these communications was, in both cases, the regional Administrations (of Scotland and Wales) .

- Finding 3

Regarding the translations, the Welsh Government states that it was required under the Agreement to confirm that the translation provided was fit-for-purpose and an accurate translation of the official response.

- Finding 4

The economic costs arising from applying this provision is assumed by the Welsh Government, that had agreed to provide the service as long as it was not overly onerous in the context of its overall remit. Scotland answers not having any calculation of the economic cost, but most is done as part of individual's duties.

- Finding 5

Answers obtained show a low (or very low) use in Wales and unknown (or null) in Scotland of this prerogative.



Chapter 7

**Evaluation of the  
EU agreements of  
the RML of Spain  
and the UK**



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## 7. Evaluation of the EU agreements of the RML of Spain and the UK

After analysing the implementation of the Administrative Agreements between Spain and the UK and the European institutions and bodies, it is possible to identify certain shortcomings of the system based on the Agreements. We can also make a practical assessment after on the degree of fulfilment of the Agreements.

### 7.1. Application of the agreements: practical assessment

The joint analysis of the Council conclusions and the administrative agreements reached by Spain results in a disappointing recognition of the languages concerned. Almost 15 years later, not much has changed in the implementation of the provisions.

#### Do the Agreement confer a different status for RML?

A positive effect of the agreements is that they are a further step in the process of recognition and standardization of the RML, and thanks to those agreements, RML are now given a certain presence in the institutional field that they did not enjoy before (Pons, 2006).

A relevant novelty is the reference in the agreements to allow the "*official use*" - a term that did not appear in the Conclusions - of the additional languages. The subsequent political interpretation of this notion is variable, as it is spoken of "official recognition" (De Epalza Azqueta, 2019); "recognition of the co-official languages of Spain" (Office for the Official Languages of Spain); "limited official use has been recognized [by the European institutions and bodies]" (Directorate-General for Language Policy), or "instead of granting official status to these languages it was decided to institutionalise the use these languages" (Fundación Galicia Europa, 2009). However, if we look at the technical specification of the content of this "official use" in the Agreements, it is observed that intermediation of State authorities is almost always required through the translation or payment of the costs of interpretation.

Another important aspect of the issue is the legal nature. The Official Journal of the European Union published the 1990 EP Regulation, Council conclusions and



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Administrative Agreements, though, in this case, with a distinction that clearly shows the distance: while the EP Regulation is published in the L series (that is, the one intended to publish the "Legislation"), the Conclusions are reproduced in series C (the one intended to reproduce the "Communications and information"). And the devaluation was not only substantive; so was the legal nature of the instrument used. Unlike the Regulations, Council Conclusions are of a diluted regulatory nature, and Administrative Agreements are a kind of bilateral collaboration agreements, with reciprocal obligations, lacking a regulatory nature (Milian, 2010).

RML speaker communities claim that the status as semi-official languages of the EU is, on the one hand, stagnating or even regressing the improvement in legal status of the RML in relation to EU law because the Administrative Agreements have contributed to a hypothetical official recognition of the RML.

Also, a hypothetical absolute compliance with the signed Agreements only puts the RML in a position of practical non-existence before EU institutions, since those officially only agreed to communicate in Spanish with the citizens of Spain and in English with the citizens of the UK (López Tena, 2009).

In this sense, it should be noted that their application has shown to be ineffective in practice and its approval has reinforced the false impression that EU law gives the RML a position and a status which is peacefully adjusted to the legal and political reality of the national and European framework (Mir i Sala, 2017).

A change in the language regime of the EU has not taken place through the signing of the Administrative Agreements. The majority of the social and political demands are still pending: a clear legal recognition anchored in the institutional language regime as well as appropriate and proportional treatment within the framework of promotional actions with linguistic content in the EU.

Other authors claim that RMLs have gained recognition at EU level thanks to these agreements, which helps in the negotiations of national political claims regarding the status of regional languages (Del Valle-Galvez & Njiki, 2009). More recognition of all languages would bring more integration and participation of European citizens to the construction of the EU, making basic principles of the EU, such as multilingualism, a reality (De Epalza Azqueta, 2019).

### **A complex and incomprehensible (not transparent) system of recognition?**

A second aspect that needs to be highlighted is the technical complexity of the system for recognizing uses for these languages. This complexity makes it difficult to understand and access for citizens and that in practice does not seem compatible with the basic purpose expressed by the Conclusions "to bring the Union closer to all its citizens."



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In some of the answers to the questionnaire, it is concluded that the application of the Agreements implies the dissemination of the same and make citizens aware of the possibility of using their RML. Given that there is no dissemination, no assessment can be made. In this sense, it is clear that the dissemination aimed at facilitating greater knowledge and accessibility to the new language uses provided for in the Agreements has not been carried out adequately or sufficiently, being very irregular over time and involving different layers of government.

Generally, on the official EU websites no information about these agreements and their practical implementation can be found. The concerned citizens do not even have the possibility of being informed about their rights. There is no information available on how to proceed if citizens wish to use a language other than Spanish. This, in turn, encourages citizens to simply use Spanish or English or any other of the EU-official languages instead of the RML, which completely goes against the original idea behind the Agreements.

As for the action of the two states involved, the dissemination of the agreements was limited to the time immediately following their approval. This dissemination consisted mainly of the collection by the media of political statements highlighting the substantive progress in the recognition of these languages, or the final satisfaction of regional demands. The Spanish Government website on “co-official languages in Spain” does not contain any reference to the Agreements and does not mention the possibility to use these languages in the European Union.<sup>41</sup>

In the responses obtained from the regional Administrations in Spain, a significant part highlights the lack of evidence of any kind measure aimed at disseminating the Agreements among the wider population and making them aware of the possibility to use their language before the EU. In Catalonia, dissemination has not been made by the EU relations Department, but the Directorate-General for Language Policy includes on its website a section on "Catalan in Europe" containing the Agreements. With regards to the Basque Country, the answer is that the Agreements have been published on the Basque Government's website, where the texts can be accessed. In Galicia, the institutional website redirects to a note published in 2009 by the Galicia Europa Foundation where the Agreements are available.

The Welsh Government published the Agreement when it was adopted in Wales. In Scotland it is replied that the Scottish Government highlights any elements of the ECRML, without finding any evidence on the Agreements.

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<sup>41</sup> <https://www.mptfp.gob.es/portal/politica-territorial/autonomica/Lenguas-cooficiales.html>



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## Do citizens have effective, real rights to communicate with their own language thanks to these Agreements?

Although the Agreements were formulated as to provide language rights for citizens - with the emergence of correlative obligations for public authorities - it has been proven that the practical exercise of this possibility of communicating in additional languages has been anecdotal, if not negligible or almost non-existent.

Leaving aside the difficulty of finding information on what the Agreements really are, those who know and use their rights<sup>42</sup> face an overly complicated procedure involving the intervention of an unknown intermediary party who translates original communication into Spanish or English and the other way around, which makes the whole process slower and less fluid. Furthermore, the questioning of how correct translations are by the intermediary (in the UK case) and the loss of confidentiality of the communication are important factors that are often criticised (Del Valle-Gálvez & Njiki, 2009).

In this sense, it should be noted that the EU institutions and bodies do not recognise any legal effect on writings in Catalan, as it is the responsibility of the body designated by the State to translate them into an official EU language. There are also no guarantees of certification of translation into additional languages. Only in the Agreement of the European Parliament, which only includes this prerogative, citizens can address directly in these languages and the language services of the Parliament will take care of the translations of the writings.

In response to the question “How do you evaluate the translation mechanism used, in terms of the time needed to process the communications and the guarantee of the correctness and reliability of the contents in the context of the translation”, the assessments obtained have also been quite negative. From Catalonia it is pointed out that citizens or entities that have to contact the EU Institutions they do so directly, no longer in the Spanish language, but very often in a foreign language (mainly English but also French) believing that this will speed up their work and reduce the risks of a negative outcome. With regard to the translation mechanism provided for in the agreements, the interposition and disproportionate slowdown are assessed very negatively, as well as the arbitrary behaviour of some members of the General State Administration (AGE), with negative consequences on response time.

On the positive side, it stands out that almost all the translations of which we have direct evidence (very few) have been taken over by a qualified person. From the Balearic Islands it is considered that the established translation procedure does not seem

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<sup>42</sup> In the case of Scotland, the respondent adds not to be aware of any Gaelic interest Groups and Bodies that are not aware of the opportunity to use Gaelic in European Institutions. However, involvement will be low.



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reasonable and it does not make sense if we consider that the European institutions work in a multilingual context.

All this easily leads to the assessment that these “other languages” have a lower consideration. The situation gets worse if we also take into account other issues such as the validity of the translation or deadlines.

At this point the divergence with the assessments expressed from the UK stands out, where the management of these communications has been clearly decentralized<sup>43</sup>. The translation requests, once received were processed promptly by the Translation Service of the Welsh Government which guaranteed the correctness and reliability of the content.

From another perspective, one can question the real progress that these Agreements meant, at least in Catalonia and the Balearic Islands, where written communication in at least Catalan with the European Commission was already possible before the Agreements. When it comes to communication with the European Commission, in fact, in practise most Catalan speaking citizens still reach out to the European Commission Representation in Barcelona directly or simply contact the institutions in an EU-official language. Everybody working in the EC Barcelona office<sup>44</sup> is at least bilingual (Catalan-Spanish) and can therefore answer requests in the language of choice be it Spanish or Catalan. An estimated 75% of the requests are in Catalan. Thereby, long waiting times for answers and additional costs are being avoided, but on the other side the Administrative Agreements are somehow pointless in that sense (Jiménez Weese, 2019).

The UK Representation of the European Commission had offices in London (head office), Cardiff, Edinburgh, and Belfast. Until Brexit, oral and written communication in the respective RML was actively encouraged in the offices of the EC in Northern Ireland, Wales, and Scotland. Just like the EC Representation in Barcelona and Madrid, the offices acted as a bridge between the people, politicians, businesses and organisations of the respective regions and the departments and personnel of the EU institution based in Brussels.

The signing of the Agreements was conceived as a way to bring European institutions, and in particular the Commission and the European Parliament, closer to the citizens and to incorporate the new additional languages into their communication policy. And it was warned that, if this does take place eventually, the visibility of the

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<sup>43</sup> From Wales: “All correspondence was forwarded for translation to the Translation Service of the Welsh Government, which had agreed to provide the service as long as it was not overly onerous in the context of its overall remit. The Translation Service provided translation into English of correspondence received and subsequently translated the official response into Welsh”.

<sup>44</sup> [https://ec.europa.eu/spain/barcelona/home\\_es](https://ec.europa.eu/spain/barcelona/home_es)



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Agreements for the citizens would be very precarious, and the non-existent. The analysis carried out almost 15 years later confirm these assessments.

Finally, one cannot fail to point out at certain internal contradictions. In the case of Spain, there is a lack of recognition by the Spanish legal system of a similar right of citizens to communicate in the so-called "co-official languages" with the central institutions and the higher courts of the State (Pons, 2006). As for the United Kingdom, at least for Scottish Gaelic, this Agreement offers the possibility of using Scottish Gaelic in the EU institutions, which paradoxically does not exist in the local public administrations (Vacca 2013).

### **Fostering accessibility to European legislation in the additional languages?**

The provision of a translation into the additional languages of the legislative acts approved by codecision has also not had a consistent application. According to the results obtained, only the European legislation adopted in codecision between 2006 and 2009 has been translated into Basque. The translation was carried out by a technical body linked to the Basque Government, which has assumed the full cost of the translations and their dissemination through the institutional website and other channels. From this territory, although it is generally considered that "in some cases, the Agreements are not fully complied with, or administrative adjustments are made",<sup>45</sup> this open possibility from the 2005 Conclusions stands out positively.

With regard to this area of use, there are divergent views between Spain and the Autonomous Communities on the scope and practical implications of what is established in the Agreement with the Council. This contrast supports the regional criticisms of lack of loyalty by the State Administration in relation to the fulfilment of the commitments made. The Autonomous Communities highlight a lack of interest by the Spanish Government.

Another criticism made by Catalonia is that the above-mentioned Reding Resolution of 1990 was even more favourable for the use of the Catalan language, which provided that translations treaties of the European Union and other relevant European provisions were taken over directly by the institutions of the European Union (as had been done by the Office of the Commission and the Parliament in Barcelona). Rather than "progress", the Agreements could somewhat be considered as a setback, comparing them with the Reding Resolution. It should be noted that the Reding Resolution already contained a mandate to the Council and the Commission to translate the most important Community texts into Catalan, so that the Community institutions

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<sup>45</sup> See "El Euskera en el contexto de las instituciones de la UE", Note by Camila de Epalza Azqueta, European Union Policy Basque Government Delegation to the European Union (updated 2019).



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assumed the cost in principle. Other subsequent rulings by the European Parliament also called on the Commission to extend to other official languages within the State (European Parliament resolution on the implementation of the European Union's information and communication strategy , Doc. 2004/2238 (INI), where this institution “Urges the Commission to improve the Europa website, making its content available in all the official languages of the European Union and in those that are official in the Member States, whenever they so decide and assuming the budgetary cost that this implies, to avoid discrimination between some languages and others, and make it possible for a large majority of citizens to access the information provided” (translated).

### **A purely symbolic use inside (in the meetings of) the institutions?**

In relation to the oral use in the meetings of the Council and the Committee of the Regions it is necessary to emphasise the symbolic nature of them. There have been several occasions for representatives of Catalonia, the Basque Country and Navarre, and in one case in Wales and Scotland -without evidence of other assumptions- to speak in their own language in certain Council formations and in the plenary sessions of the Committee of the Regions.

The main criticism here is that it is incomprehensible that the RML are present (although restricted) in the plenary sessions of the Committee of the Regions or in the meetings of the Council of the EU but cannot be used in the plenary sessions of the institution which, by its very nature, is closest to European citizens, the European Parliament. It is also difficult to understand that the European Parliament is the only EU institution invited by the European Council to sign an Administrative Agreement with the Spain (and the UK in the past) to allow the possibility of the so-called “additional languages” but it has not done so yet (López Tena, 2009).

The procedure established to request interpretation prior to the meetings, based on the transfer of information between the State and the Autonomous Communities, has worked correctly. It should be noted positively that there is no evidence of any refusal by the State or the EU to allow the use of these languages under the conditions provided for in the Agreements with the Council and the Committee of the Regions. Although it has not been possible to obtain precise information on this point from the Spanish State, there is no evidence that the interpretation costs have been borne by Spain or by the Autonomous Communities. It seems Catalan or Basque interpreters present in the official translation services of the institutions have done the job.





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### A poor implementation of the agreements?

Overall, the agreements and their implementation can be evaluated as a new form of recognition to the concerned languages with fairly limited political and symbolic effects. Formally they might be well thought, but in reality, they are poorly implemented.

The concern about an increasing number of EU-official languages and, linked to this, the administrative and financial challenges involved is a valid argument, but the Administrative Agreements are already restricted in their scope and are demonstrably not being applied. The compliance of these should be a shared responsibility of the participating EU institutions, but, more so, of the respective Governments, namely the UK and Spain. As the UK has recently left the EU, it is up to the Spanish Government to defend the arranged rights for its citizens and demonstrate political interest. Through these Agreements, the Spanish Government has gained certain power in this field. It now needs to effectively apply it. As shown in the analysis above, however, it has not done fully so, so far.

The involvement of the Autonomous Communities in the implementation of the Agreements has been very uneven but the Basque Country stands out as a territory that has allocated more resources to the application of one of the prerogatives of use provided (translation of the approved rules in co-decision) and, together with Catalonia, has made more constant use of the prerogative of use in the Council and the Committee of the Regions.

The unawareness of the Agreements, the changes in the political direction of the Autonomous governments and the divergent perceptions about the possibilities offered by the Agreements -especially in relation to the intermediation of other actors- for their own languages, are factors that contribute to explain the lack of/discontinuous action by the regions of Spain. Similar issues seem to explain the more decided application in Wales in relation to the perceptions expressed from Scotland.

On the other hand, although there has been relative goodwill on the part of some institutions or community bodies when opening the door to RML (which shows that Community institutions have the capacity to internally assume their official use language), we should point at the neglect of these institutions in not reporting the breach or non-application of the Agreements years after their signing (López Tena, 2009).

### A way to deactivate future demands of a European status for these languages?

At first, the signing of the Administrative Agreements seem to encourage Spanish and UK citizens (or residents) to use their mother tongue, Basque, Catalan, Galician, Welsh or Scottish Gaelic in the communication with respective EU institutions and foster the presence of these languages in European institutions and legislation.



Almost 15 years later, it must be concluded that the agreements have not led into a significant practical contribution in any of these three areas and have not contributed to the improvement - not merely formal - of the recognition of these languages within the EU. Beyond the specific deficiencies that have been detected in terms of their implementation, the lack of continuity or instability of the language system created since the 2005 Conclusions cannot be detached from the legal nature of the Agreements (Pons, 2006). The provisions of the Agreements for regular monitoring of the conditions of application have also not been applied.<sup>46</sup>

Finally, as a substantive assessment of the system of agreements, it is worth highlighting the most critical previous vision of Catalonia, as a territory that historically led the claim for recognition of the Catalan language that eventually led to the signing of the Agreements. This negative view is based on the lack of loyalty to the spirit in which they were created, on the weak continuity they are having and their zero concrete impact on the invigoration of the official status of Catalan in Europe. It is noted that both from Brussels and from Madrid, there has been a desire to manage expectations and manage pressure in order to calm a mobilization in favour of the officialization of the Catalan, demands that to a higher or lesser extent, have also been requested by the Basque, Galician, Welsh, Gaelic from Ulster and Scotland. Even more perversely, it is pointed out that the agreements have had another side effect that represents another obstacle: these languages are now part of a subcategory of non-official languages that have in theory different possibilities, but in practice none.

## 7.2. Possibility of extension to more States

Despite the above-mentioned shortcomings, the exercise of these prerogatives should be encouraged in order to contribute to the normalization of the presence of the RML at European level. This could be a way to expand to concept of multilingualism beyond the one-state, one-language approach. At the same time, it could also lay the foundations for a reform of Regulation 1/1958, on the institutional regime, in order to achieve a formalization of certain RML.

Therefore, although it seems difficult, a global rethinking of the language regime in the near future (with a clearer distinction between official and working languages), the path of undertaking *ad hoc* reforms should be emphasized to obtain the official status or greater legal recognition of RML, if necessary, as a demand that should not be denied in a Union that respects linguistic diversity and the linguistic rights of its citizens.

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<sup>46</sup> The agreements of the Council and the Committee of the Regions provide that these conditions will be examined one year after their entry into force.



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The strengthening of the principle of respect for linguistic diversity, which covers all the European languages, should contribute to a more respectful attitude of the EU to linguistic pluralism in the exercise of these related competences.

That being said, the currently existing framework for the use of some selected RML cannot be thoroughly evaluated as there is little information available about its implementation and real impact. In that sense, it is advisable that further steps are taken by the concerned language communities before extending the Agreements to more EU states. Formal Agreements should not be copied if they have shown to be not fully applied in practise. The concerned Governments and EU institutions should do what is in their respective power to apply the existing Agreements.

Chapter 8

**Final conclusions**



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## 8. Final conclusions

This report has traced the evolution of the European Union's language policy regarding the recognition and uses of RML Basque, Catalan, Galician, Scots Gaelic and Welsh, presented the Administrative Agreements that the UK and Spanish Governments signed with certain EU institutions (Council of the EU, European Commission, European Ombudsman, European Economic and Social Committee, Court of Justice of the EU, Committee of the Regions) and analysed the application status of these agreements over the past years.

As a result of the analysis developed, the following findings can be identified, which summarize the progress, limitations, costs and opportunities of the system created by the language Agreements:

### Advances

- 1) The creation of an **intermediate level of recognition of languages** between the status of official language and the protection of linguistic diversity, which is based on the provisions introduced in the TEU and the TFEU (following the failure of the Constitutional Treaty), potentially open to all RML that enjoy constitutional or legal recognition within a Member State.
- 2) The establishment of **language prerogatives, which are basically based on the obligations assumed by the authorities of the signatory states** to the Agreements, which allow a certain presence of RML in the EU institutions and bodies.
- 3) The vision of languages as a way of **bringing citizens closer to the EU institutions and bodies**, as the purpose of which measures the relationship of citizens with them and the publication of acts in co-decision.
- 4) The acceptance by the EU institutions and the corresponding states of **institutional or 'official' uses for non-official languages within the EU**, symbolic in nature, which allows the use of RML in meetings and speeches of representatives of the regions concerned.
- 5) The granting of **additional coverage to actions to promote their own languages in the European sphere carried out by substate bodies** (the Autonomous Communities in Spain and the territories of Wales and Scotland in the United Kingdom), which has led to the translation of some acts adopted by the



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codecision procedure (especially in the Basque Country) and into the use of RML in some sessions of the Council and the Committee of the Regions.

### Limits

- 6) The **creation of an intermediate category of languages** officially recognised by the constitutions or laws of the states **has not translated into a substantial increase in rights for its speakers**, as it has not been deployed outside the system of Agreements or the EU has incorporated it in a transversal way in its regulations on language content in any thematic area (regulations and directives).
- 7) The **generic nature of the recognition by the Agreements of some 'additional languages'** does not satisfy the aspirations of a singular treatment for certain languages, as it is the case of the Catalan language that previously had achieved within the frame of the Reding Resolution of 1990.
- 8) The **lack of legal or regulatory value of the agreements**, in the absence of a reform of Regulation 1/58 (as requested by the Spanish Memorandum of 2004) and its incorporation into the internal operating regulations of the institutions that have signed (with the exception, only partially, of the Committee of the Regions), entails a structural weakness of the system of Agreements and makes it difficult to enforce the binding nature for the parties who signed them.
- 9) The **limited nature of the areas to which the agreements extend** (written communications from citizens with the EU, through a body that must provide a corresponding translation; translation of the EU provisions adopted in the codecision procedure, but without legal value; oral interventions by RML representatives at meetings or plenary sessions of participating EU institutions and bodies, provided there is a prior request and the necessary means are available), which leaves out relevant aspects of the communication policy of the European institutions and bodies (and in the case of the Court of Justice, all acts of a judicial nature).
- 10) The **refusal of legal value to the versions in RML**.
- 11) The **complexity of the mechanism of the agreements**, which becomes an obstacle to its intelligibility and understanding by an average citizen, while making it difficult to monitor and control its compliance.



- 12) The **heterogeneity and inconsistency of the agreements signed with the different institutions and bodies**, in the case of the Kingdom of Spain, regarding the delimitation of the 'official' uses permitted, which aggravates the complexity of the system. [The Ombudsman notes that there is significant inconsistency across the institutions: at present, language restrictions and their rules, where they exist, vary from one EU institution to another. In the absence of clear rules and proper justification for applying restricted language regimes, it is not surprising that the concerned language communities may be confused, if even aware of their rights through these Agreements].
- 13) The **partial implementation of the Agreements**, finding that none of the agreements signed by Spain and the United Kingdom has been fully implemented [none of the agreements is fully applied in practice and they can therefore be considered only partially implemented] and that the degree of implementation also varies substantially between the different territories where RMLs are spoken.
- 14) The **non-impact of the system of Agreements on the evolution of the language system**, as none of them has served to stop the language provisions contained in EU legislative production that violate the principle of institutional neutrality (with regard to the constitutionality block and the internal territorial organization of countries) by preventing the use in the regulated sector of languages endowed with an official status in the internal system of states.

### Costs

- 15) The Agreements do not specify the obligations of the signatories (state and EU institution or body) regarding the dissemination of their content and, in practice, **in the absence of state or European action, the cost of dissemination of the linguistic prerogatives provided for in the Agreements have fallen to the sub-state bodies**, with limited results as they have not been widely disseminated and this explains why they have not generated any considerable level of demand.
- 16) Although the various Agreements state that implementation costs correspond to the signatory State (an aspect that emphasises the logic of the “separate sheet” with respect to the languages included in the EU language regime), **the lack of clarity**, in practice, has translated into the State not providing explanations on the assumed costs (from the interviews the non-compliance or the omissive attitude of the Spanish government in relation to the cost (pecuniary and organizational) derived from their application).



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- 17) Finally, **future political costs** have been pointed out to the extent that the nominal progress of the agreements may end up harming, in a way, the future prospects of RML speakers, as a kind of 'sub-officiality' (rather than pre-officiality) is institutionalized, which may ultimately be detrimental to the aspirations of a European recognition of these languages by them a 'definitive solution', as well as motivating outsiders to not sufficiently understand what this recognition is, and asking “what else do the RML communities want”.

### Opportunities

- 18) First, among the requirements aimed at optimizing agreements, **the mechanisms should be clear to all parties involved and responsibilities should be clarified.**
- 19) In addition, a greater dissemination effort needs to be made within which **clear guidelines should be provided, and this information must be made aware of.** Citizens, politicians, civil servants and experts must know about the Agreements.
- 20) A dedicated **space for dialogue around this topic** should be created in order to reflect on the performance and discuss ways of improvement or possible modifications to existing agreements.
- 21) **Modern technology** should be considered and explored as a solution or help for the application of the Agreements.

In summary, the current language policy of the European institutions does not seem coherent with fundamental rights and democratic principles recognised both in the EU Treaty and in the Charter of Fundamental Rights. Since the EU is committed to the principle of linguistic diversity, more use of languages other than the 24 EU-official ones should be made in communications with European citizens.

The steps that have been taken to include RML into the European Union are important, but, in practice, not efficient and rather symbolic. Hence, there is still a long way to go: EU authorities and the concerned Member States should try to remove the existing barriers, especially before thinking about extending these agreements to other EU Member States and more RML.

The long-standing claim of more recognition is however still ongoing and the general evolution of the principle of respecting linguistic diversity opens up new perspectives for the languages and its speakers in the context of the EU.





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If there is political will on part of the EU institutions as well as the concerned national Governments, the foreseen measures and possibly more actions could be implemented. But for the time being, the recognition of the minimal language rights that can be implemented within the current EU legal framework have to be considered to properly value multilingualism in practice.

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