

# The situation of the language rights in the Basque Country

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HIZKUNTZ ESKUBIDEEN  
**BEHATOKIA**

OBSERVATORIO DE DERECHOS LINGÜÍSTICOS  
OBSERVATOIRE DES DROITS LINGUISTIQUES  
OBSERVATORY OF LINGUISTIC RIGHTS

euskal **pen** kluba





# 1. EUSKAL PEN KLUBA & BEHATOKIA

## 1. SOME FACTS ABOUT EUSKAL PEN KLUBA (BASQUE PEN CLUB)

In 1950 Andima Ibiñagabeitia, Jokin Zaitegi, Jon Mirande, Federico Krutwig, Txomin Peillen and others set up an organisation known as the PEN Euskal Bilkura (Basque PEN Association), with the Spanish name PEN Club Vasco IDAZKORTZ. Its General Secretary was Manuel de la Sota and its headquarters were located in Miarritze (Biarritz), at the Etcheperdia villa.

The Basque Government in exile had a representative in London by the name of Angel de Gondra and thanks to him as well as to a request made by Basque writers living in Argentina, the Basque Group was accepted by the International PEN Club at its congress in Edinburgh.

An announcement in the bulletin Oficina de Prensa de Euzkadi (The Basque Countrys Press Office) published from Paris every day by the Basque Government in exile said that the Basque PEN Club would be operating within the sphere of the Sociedad Internacional de Estudios Vascos (International Society of Basque Studies) and St. Francis Xaviers Day, December 3, was chosen as its official day. Today, December 3 is International Basque Language Day. The Basque PEN Club under the name of Idazkortz was a brief initiative that lasted for about a year.

In 1987 a fresh attempt was made, this time under the name Euskal PEN Kluba (Basque PEN Club), and it lasted for two or three years. At that time Basque writers sat on two committees: the Writers in Prison Committee and the Translation and Linguistic Rights Committee. But this initiative was also suspended, because of the failure to create a satisfactory framework.

In 2004, at a time when Basque culture was going through a difficult time, an attempt was made once again to set up a Basque PEN Club with the intention of keeping it going. During its constituent assembly on April 23, 2004, a Board was formed and the following people appointed to sit on it:

Honorary President: Txomin Peillen

President: Laura Mintegi

Deputy President: Joxemari Iturralde

Secretary: Urtzi Urrutikoetxea

Treasurer: Lutxo Egia

Committee Members: Karmele Jaio, Paddy Rekalde, Asier Serrano and Teresa Toda

In September 2004 the Euskal PEN Kluba under the name of Basque PEN was admitted into the international organisation at the International PENs Annual General Meeting held in Norway. The founders of the Basque PEN Club are the authors who until that moment had applied for membership, but from then onwards anybody could apply to become a member whenever they wished.

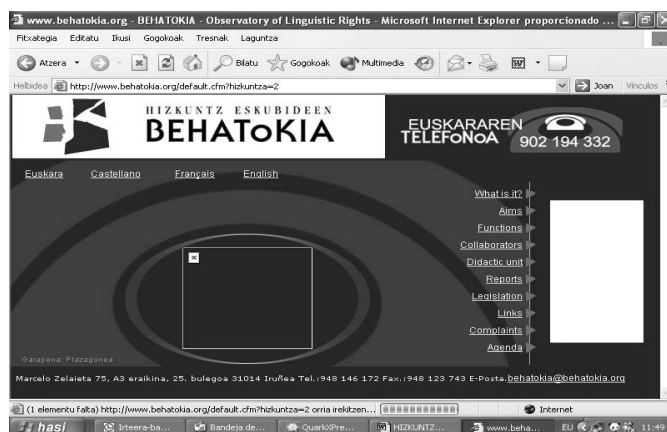
Basque PEN members are currently involved in three programmes: the Writers in Prison Committee, the Translation and Linguistic Rights Committee and the Women Writers Committee.

## 1.2. SOME FACTS ABOUT BEHATOKIA (THE OBSERVATORY OF LINGUISTIC RIGHTS)

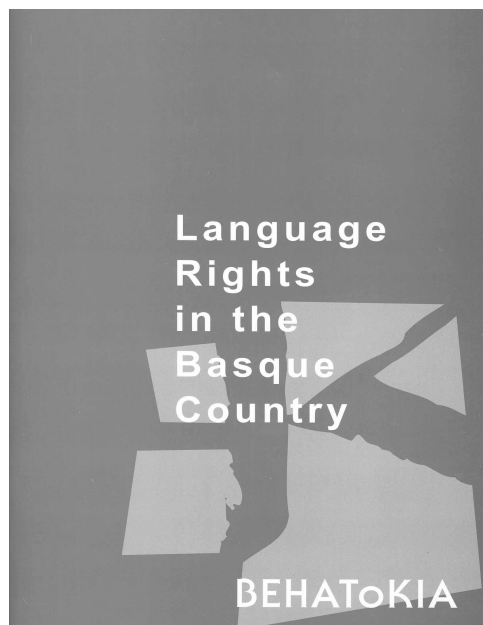
The Observatory of Linguistic Rights, Behatokia, is a trust that the Council of Social Organisations in support of Basque, Kontseilua, has created. Behatokia deals with the language rights of the citizens of the Basque Country, and aims to guarantee that else rights are respected in the whole of the Basque Country, both in the public and private area.

For that aim Behatokia attends citizens' complaints when their right to use Basque in the Basque Country has been breached or when speaking Basque has been detrimental to them.

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Behatokia has established a free service called *Euskararen Telefonoa*. *Basque Language Hotline* just to receive the citizens' complaints. Behatokia process the complaints and takes them to public and private organisations and has recourse to law when necessary. Since it was created, the Observatory of Linguistic Rights has started more than 2500 proceedings. Most of them have been complaints sent by Basque citizens when their language rights have been breached.



Apart from that, Behatokia carries out studies and writes reports on the situation of language rights and shows them to Basque society, to the administrative organisations, to inform about the language rights discrimination of Basque speakers and to press for the respect of these basic rights.

Behatokia also spreads the content of language rights and defends them as the right of Basque society to use the local language in all social fields. According to that, Behatokia prepared a textbook to use with scholars, just to study with them some concepts as: language diversity, language rights, language community and so on.

In the international arena Behatokia has presented some communications about the situation of the language rights in the Basque Country in different congresses, conferences on symposium in London, Oxford, Trieste, Barcelona, Diyarbakir, Athens, Galway i.e. Apart from that, Behatokia has published a special report in English. The report presents data about Basque language communities and the language rights situation. Anyone interested in receiving the report should contact us.

## 2. EUSKAL HERRIA: THE COUNTRY OF THE BASQUE LANGUAGE

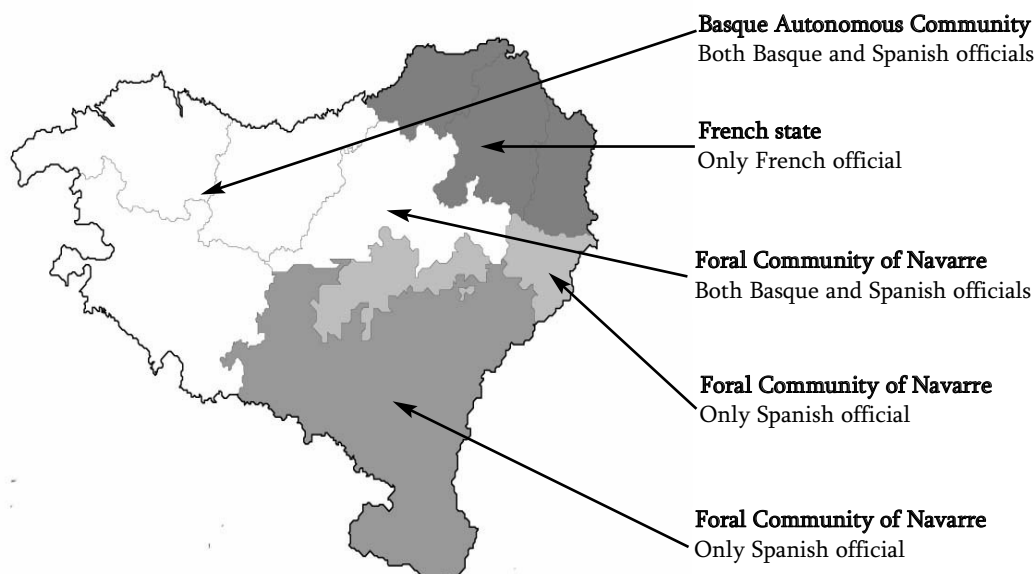
The Basque name of the Basque Country is Euskal Herria, the etymological meaning of which is “Country (or People) of the Basque Language”, making this community whose determination designates features in terms of its language.



The Basque Country is located on the Bay of Biscay, in Western Europe. The present-day Basque Country is bounded on the northeast and by Béarn (Occitania); on the north by the Landes (Occitania); on the northwest by the Atlantic Ocean; on the west by the autonomous communities of Cantabria and Castile-Leon (Spain); along most of its southern border by the river Ebro and the Autonomous Community of Rioja (Spain), and on the south and southeast by the Autonomous Community of Aragon (Spain).

The Basque Country has a population of almost three million inhabitants and an area of nearly 21,000 sq. km divided into 683 municipalities. The Country is inside two States (Spain and France) and divided in seven territories, four of them in Spanish State and three in French State.

The language rights of the Basque Country and its citizens are subject to no fewer than five different kinds of legal status. Basque language rights are governed by the legal regimes of the two sovereign states between which its territory has been divided.



### **2.1.1. NORTH OF THE BASQUE COUNTRY - FRENCH STATE**

Basque is not recognised as official language at all and the community of Basque speakers, like the rest of minoritised languages in this State, as Breton, Corsican i.e., is not legally protected subject. French is the official language of the Republic, as stated by the Constitution in force after a change carried out in 1992:

Taking this axiom at face value, all other languages belonging to the French State are to be treated within the framework of tolerance, although article 2.1. of the Constitution proclaims the principle of equality.

Monitoring by Behatokia over a five-year period has proven that the French state shows no tolerance at all for languages other than French. The passing of legislation regulating the use of the French language, and displays of intolerance for other languages, are signs of this.

Thus Basque does not have any legal recognition, and the rights of its speakers are not guaranteed

We must also mention that France has refused to ratify or sign some international rules, and in others has specified something on articles related to the rights of the minorities. When the French State has to sign or ratify agreements or norms at a European or world level, it has two positions but one objective, which is always to ensure the invisibility of any other language but French:

This has direct consequences both for citizens' perception of their language rights and for the French state's monolingual policies.

1. The position of not signing up to or ratifying international standards' agreements:

- **The Framework Agreement for the Protection of National Minorities.**
- **The European Charter for Regional and Minority Languages.**

2. The posture of signing up to agreements on international standards but adding the rider, in any clause making reference to national minorities, to the effect that, in the French State, there is no differentiation of minorities. They carried out this with the:

**The International Covenant on Civil and Political Rights** (Article 27).

In the light of article 2 of the Constitution of the French Republic, the French Government declared that article 27 is not applicable so far as the Republic is concerned.

- **The Universal Declaration of the Rights of the Child** (Article 30).

As well as the International Covenant on Civil and Political Rights, the Government of the French Republic declared that, in the light of article 2 of the Constitution of the French Republic, article 30 is not applicable so far as the Republic is concerned.

The United Nations' Social, Economic and Cultural Rights Commission, in a report on France's implementation of the International Covenant on Civil and Political Rights, recommended to the Republic of France that it should comply with the standards for international minorities regarding the rights of minority groups by approving and signing the Framework Convention for the

Protection of National Minorities and withdrawing an exception clause it had previously made to Article 27 of the International Covenant on Civil and Political Rights, recognizing the rights of French citizens who are members of minorities.

The Commission also recommended that France increase its efforts in favour of the survival of regional or minority languages and cultures, and take measures to ensure such languages were both taught and used as a teaching medium.

The fact that the committee of experts of the International Covenant on Economic, Social and Cultural Rights has recommended that France comply with standards on international minorities in the area of human rights is significant.

This Covenant, together with the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, forms part of the set of basic international declarations on human rights, which for all intents and purposes lay down international regulations and define minimum human rights standards.

Thus, in effect the Commission's report acknowledges that France fails to meet minimum international standards regarding linguistic minorities. In the Commission's view, the French Republic's legislation, which seemingly ensures the equality of its citizens, and declarations to the same effect, should not be interpreted as a denial of the right to exist of minority groups.

France has received similar accusations not only from the Commission, but also from the Council of Europe, the experts on the assessment committee of the European Charter for Regional and Minority Languages, and numerous non-governmental organizations.

Numerous countries have ratified the European Charter for Regional and Minority Languages since its adoption by the European Commission in 1992 in order to protect and promote Europe's regional and minority languages, seen as an endangered part of Europe's cultural heritage.

In the same year, 1992, France amended the second Article of its Constitution adding the sentence: "le français est la langue de la République" (French is the language of the Republic), apparently for the purpose of making it possible for France to claim that the Charter contradicts its constitution. France signed the Charter on the seventh of May, 1999 but has yet to ratify it. Since signature of the Charter is not binding on the signing country until ratification occurs, France has not committed itself by signing.

On the fifteenth of June, 1999, the Constitutional Committee resolved that the Charter is contrary to the Constitution of the Republic, and therefore determined that ratification of the European Charter for Regional and Minority Languages would require that the French Constitution be amended.

Finally we are going to write down all the international rules French Government does not fulfill:

## **UNITED NATIONS**

**Universal Declaration of Human Rights**

Article n. 7

**International Covenant on Civil and Political Rights**

Articles: 2, 14, 26 and 27

**Convention on the Rights of the Child**

Articles 29 and 30

**Declaration on the Rights of Persons Belonging to National or Ethnic,  
Religious and Linguistic Minorities**

Article 1.

## **UNESCO**

**UNESCO Universal Declaration on Cultural Diversity**

## **OSCE Organization for Security and Cooperation in Europe**

**The Hague Recommendations Regarding the Education Rights of National  
Minorities**

Recommendation n. 4.

## **COUNCIL OF EUROPE**

**Framework Convention for the Protection of National Minorities**

Articles 4, 10 and 26

**European Charter for the Regional or Minority Languages**

Articles 8, 9 and 10.

**Convention for the Protection of Human Rights and Fundamental  
Freedoms**

Articles 5, 6 and 14



## **2.1.2. SOUTH OF THE BASQUE COUNTRY - SPANISH STATE**

The Southern Basque Country, which is located within the Spanish state, has an area of 17,954.9 sq km (7,182 sq mi) and a population of 2,720,506. The provinces making up the South are Araba, Bizkaia, Gipuzkoa and High Navarre. While these are each recognised individually as provinces, they are organised into two autonomous communities: High Navarre makes up one (the Foral Community of Navarre), while Araba, Bizkaia and Gipuzkoa belong to the other (the Basque Autonomous Community). The former's administrative capital is Iruñea (Pamplona), that of the latter, Gasteiz (Vitoria).

As regard as the south of the Basque Country, it is the Consitution of the Spanish State the lays down the law regarding the language of the State:

### ***THE SPANISH CONSTITUTION***

#### ***ARTICLE 3***

*1. Castilian is the official Spanish language of the State. All Spaniards have the duty to know it and the right to use it.*

*2. The other Spanish languages shall also be official in the respective Autonomous Communities in accordance with their Statutes.*

According to this, there is one official language, i.e. there is just one language that is obligatory to know, and only this is stated as having rights of usage. In the second part, there is mention of the autonomous community languages within the State having official status. Decisions concerning the designation of a language other than Spanish as official depend on the governments of the relevant Autonomous Communities.

However, their formal legal equality does not correspond to the real situation of these languages. Despite the official status of both languages, they are in a situation of imbalance, and Basque is in a minority situation. On account of this, and given that their co-officiality is not neutral, authorities have launched normalization processes aimed at reaffirming equality between the languages. Recognition of a language as official implies public functions.

Spain signed the European Charter for Regional and Minority Languages on the fifth of November, 1992 and ratified it on the first of April, 2001, undertaking a number of commitments.

Nonetheless, Behatokia, together with representatives from a number of bodies promoting the Basque language, in a report to the European Council on the implementation of the Charter, have made it patently clear that the State has failed to fulfil its commitments therein.

Fortunately Behatokia is not the only entity to have taken note of this. The Spanish state signed the European Charter for Regional or Minority Languages on the 5th of November 1992 and ratified it on the 9th of April 2001.

In September 2005, the Council of Europe Committee of Ministers made recommendations to the Spanish state on the commitments it had contracted. It is important to note that two of the six recommendations made by the ministers refers to the Spanish administration:

Recommendation ReChL (2005) 3 of the Committee of Ministers on the application of the European Charter for Regional or Minority languages.

The Committee of Ministers, recommends that the authorities of Spain take account of all the observations of the Committee of Experts and, as a matter of priority:

1. take the necessary legal and practical measures needed to ensure the implementation of the undertakings under article 9 of the Charter, in particular by ensuring that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter has a working knowledge of the relevant languages.
2. review the recruitment, career and training schemes for the staff of the State administration offices with a view to ensuring that an adequate proportion of the staff in this field posted in the autonomous communities concerned by the application of Article 10 of the Charter has a working knowledge of the relevant languages.

According to the findings of the Observatory of Linguistic Rights reports, violations by the Spanish administration of the language rights of Basque speakers in the Basque Autonomous Community and the Community of Navarre are systematic.

-- Government services under the Spanish administration continue to send out notices, forms and other documents in Spanish only, and often exhibit clearly discriminatory behaviour when citizens request attention in Basque.

-- Forms the completion of which by a company is an obligatory requirement are sent in Spanish only, even disregarding the company's explicit request for Basque forms.

-- Spanish civil servants' language training and proficiency are inadequate to enable them to respect the language rights of citizens. Knowledge of Basque is a requirement for just one of the 1,405 civil service posts of the Spanish administration in the Community of Navarre. In 2002 knowledge of Basque was only required of 2.21% of the 4,568 Spanish civil servants in the Basque Autonomous Community.

-- The courts still ignore the official status of either language and it is impossible to obtain a trial in Basque. Even though it is one of the official languages of their community, the only way citizens wishing to be tried in their native Basque language can avail themselves of this right is through an interpreter. In the southern Basque Country, in other words, Basque speakers are treated by the courts as if they were foreigners, in violation of two other rights: the right to a fair defense and the right to proper legal representation.

-- The Spanish administration not only violates language rights but also infringes laws in force in the Basque Autonomous Community and the Community of Navarre, which are

parts of the Spanish state.

-- Spain fails to observe commitments undertaken through its ratification of the European Charter for Regional and Minority Languages.

-- Spain's violations of language rights imply the violation of other basic rights too, including those that are acknowledged in the Spanish Constitution.



### 3. PROPOSAL: TOWARDS LANGUAGE EQUALITY

Basque Pen has surveyed the state of language rights in the Basque Country above. Unfortunately, Basque is not the only minority language either in Europe or in the world. Let us recall here that experts forecast that 95% of the world's languages could disappear during the twenty-first century.

There have been some attempts to improve the chances for survival for languages, but they are inadequate. The Council of Europe, for instance, has announced an agreement to protect non-state languages which however guarantees neither the survival of these languages nor equality between languages, since it determines that it is the states who will decide what commitments to make and which languages will be covered. Furthermore, even if all the commitments contained in the European Agreement on Regional or Minority Languages were made good, the survival of minority languages would still not be ensured.

This Pen Club committee was set up in a meeting in Mallorca in 1993, and adopted the Universal Declaration of Language Rights in Barcelona in 1996. This achievement was the culmination of a series of considerations:

All languages have equal dignity. We all have a right to individual and collective diversity.

Most endangered languages belong to peoples lacking sovereignty, and the chief factor impeding such languages' development and accelerating language shift is the lack of self-government and the policies of states that impose their own political and administrative structures and languages.

Etc.

It also led to some gains and innovations:

- The principle of equality.
- Language communities are subject to equal rights.
- These are inseparable and interdependent: individual and collective rights.
- It is a complete document.
- It is based on rights, and does not state obligations, prohibitions or needs.
- It covers up shortcomings of other international agreements on language rights, in which no mention is made of language rights.

The long-term goal is to get the UNESCO to recommend recognition by the United Nations General Assembly as an International Agreement on Human Rights or as part of the Universal Declaration of Human Rights, but unfortunately, especially since Federico Mayor Zaragoza stepped down, the obstacles to achieving this have increased.

## **Therefore, the Basque Pen Club requests the Committee of Translation and Language Rights**

- 1.** To undertake plans to strengthen the Universal Declaration of Language Rights, because at this time when threats from globalisation and major languages are growing it is necessary to support an international agreement that proclaims the equality of all languages.
- 2.** In recent years languages like ours are once again being classed as minority languages and marginalized, with language equality moving further out of reach. For this reason, we wish to ask the Committee to activate a committee to monitor the Universal Declaration of Language Rights.
- 3.** Pen Club International has committed itself to producing a bi-annual report on the state of language rights based on the Universal Declaration of Language Rights
- 4.** This report should be presented to international organisations, and all organisations for the defence of human rights should be informed directly of the situation.

In all these things the Basque Pen Club, and the Observatory of Linguistic Rights on its behalf, wish to offer their assistance

*Basque Country, September 2006*





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