



Brussels, 17 July 2025
(OR. en)

11762/25

LIMITE

POLGEN 92
AG 118

NOTE

From: Spain

To: Delegations

Subject: Spanish legal report at the request of the Secretary of State for the European Union regarding the possibility or not of amending Council Regulation 1/1958, establishing the rules governing the languages used by the institutions of the Union¹ to include Catalan, Basque and Galician in these rules without amending the treaties



1. On 30 April 2025, a request was received from the Secretary of State for the European Union addressed to the State Attorney General, requesting that, in view of the time that has elapsed since the issuance of the report of the Attorney General of the State of 13 November 2023, a new report be issued ratifying and, where appropriate, expanding on that report with regard to the possibility of amending Council Regulation 1/1958, establishing the language regime of the institutions of the Union to include Catalan, Basque and Galician in that regime without amending the treaties.
2. In accordance with Article 4(b), it is the responsibility of the State Attorney General to 'issue the reports, proposals or recommendations referred to in Article 2(b), (c) and (d) that are directly requested by the Government of the Nation, its Delegated Committees, the heads of Ministries or State Secretariats, or which it may request for itself in view of their particular legal, political, social or economic importance'.
3. In order to answer the question referred and having regard to the draft report issued by the Deputy General Director for European Union and International Affairs, the following should be taken into account:

I. LEGAL CONSIDERATIONS

4. First of all, it is necessary to analyze the framework of primary law to be taken into consideration.

5. In the main, Article 342 of the Treaty on the Functioning of the European Union

must be taken into account, according to which:

"The rules governing the languages of the institutions of the Union shall be determined by the Council, acting unanimously by means of regulations, without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union."

6. There are, however, other articles in the Treaties relating to languages.

7. On the one hand, **Article 55 of the Treaty on European Union** provides

1. This Treaty, drawn up in a single original in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States..

2. This Treaty may also be translated into any other language determined by Member States from among those which, in accordance with their constitutional systems, have official language status in or part of their territory. The Member State concerned shall provide a certified copy of such translations, which shall be deposited in the archives of the Council.

8. Article 55(2) is a new paragraph introduced by the Treaty of Lisbon. The Declaration (No 16) annexed to the Treaty of Lisbon states: "*The Conference considers that the possibility of translating the treaties into the languages referred to in Article 55(2) contributes to the objective of respecting the rich cultural and linguistic diversity of the Union as set out in the fourth subparagraph of Article 3(3). The Conference recommends that Member States wishing to avail themselves of the possibility recognized in Article 55(2) communicate to the Council, within six months of the date of signature of the Treaty of Lisbon, the language or languages into which translations of the Treaties are to be made.*

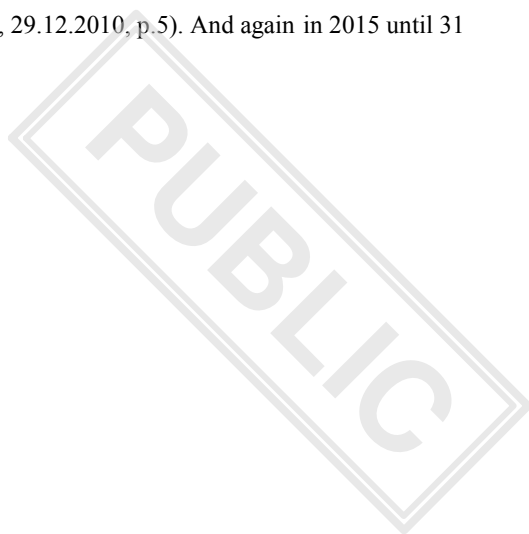
9. Furthermore, Article 20(2)(d) TFEU (ex Article 17 TEC) gives citizens of the Union the right "*(d) to address petitions to the European Parliament, to apply to the European Ombudsman and to address the institutions and advisory bodies of the Union in one of languages of the Treaties and to receive a reply in the same language. These rights shall be exercised under the conditions and within the limits defined by the Treaties and by the measures adopted to give effect to them.*". Article 24(4) TFEU also states that "*Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on*

European Union in one of the languages referred to in Article 55(1) of the said Treaty and receive a reply in the same language".

10. Entering now into the analysis of the instrument adopted on the basis of former Article 290 TEC, current Article 342 TFEU, Council Regulation 1/1958, it should be noted that its Article 1 states that "*The official languages and the working languages of the institutions of the Union shall be Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish*".
11. The languages included in Article 1 of Council Regulation 1/1958 have normally coincided with the authentic languages included in the Treaty, through its successive modifications.
12. This practice does not respond to an obligation derived from primary law. The Irish language can be mentioned as prove of it. Although it was included as an authentic language since 1972, it was incorporated into Council Regulation 1/1958 as working language of the institutions only in 2007¹.
13. Based on the legal framework outlined in the previous paragraphs, we will develop below the legal arguments on which bases, it is considered that the Treaties, as interpreted by the Court of Justice of the European Union, do not establish any obstacle for Catalan, Basque and Galician to be incorporated as official languages of the European Union via amendment of Council Regulation 1/1958 in accordance with Article 342 of the TFEU.

¹ Until December 31, 2006, Irish was not listed in Article 1 of the Regulation by virtue of a 1971 agreement between Ireland and the Community which stipulated that Irish was an official language of the Community; it provided that only primary law (treaties and conventions between Member States) would be drafted in this language. As of January 1, 2007, Irish is considered an official language of the European Union for all purposes, with a transitional derogation for a renewable period of 5 years (see Council Regulation (EC) No 920/2005 of 13 June 2005 (OJ L 156, 18.6.2005, p. 3), which stipulates that "The institutions of the European Union shall not be subject to the obligation to draft all acts in Irish and to publish them in that language in the Official Journal of the European Union" except in the case of

regulations adopted jointly by the European Parliament and the Council. This derogation was extended until 31 December 2016 by Council Regulation (EU) No 1257/2010 (OJ L 343, 29.12.2010, p.5). And again in 2015 until 31 December 2021.



14. From the literal wording of Article 342 of the TFEU, it is clear that this article does not establish any limit to the competence of the Council in relation to the languages to be used by the institutions. The provision does not limit such regime to the authentic languages either expressly -directly or by reference to Article 55(1) TEU- or tacitly.
15. Nor does any limitation on the power of the Council result from a teleological and systematic interpretation of the above precepts since it has a different purpose. We must insist that Article 55 TEU and, by reference, Article 358 TFEU, are the last precepts of both treaties, before the date and signature and enshrines the authentic texts of the Treaties, in line with Article 33 of the Vienna Convention on the Law of Treaties, according to which, where a treaty has been authenticated in two or more languages, the text shall be equally authoritative in each language, unless the treaty provides or the parties agree that in case of discrepancy one of the texts shall prevail, and that a version of the treaty in a language other than that in which the text has been authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree. Therefore, paragraph 1 of Article 55 TEU establishes the authentic languages of the Treaty for the purposes of interpretation, a category that those of paragraph 2 would not have in case of discrepancy. However, it does not seem that it is possible to extract from this precept a consolidation and even less a categorization of the official languages to be used by the institutions of the Union. Article 55 TEU foresees only the languages in which the Treaties are drafted and which of them are authentic for the purposes of interpretation in case of discrepancy.
16. On the contrary, Article 342 of the TFEU refers to the linguistic regime of the institutions, that is, to the official and working languages in which the activity of the institutions of the European Union is carried out.
17. There is nothing in the treaties that determines a connection between the two provisions in relation to their purpose.
18. The same conclusion is reached by a systematic interpretation of the Treaties as a whole. Article 3 of the TEU enshrines among the objectives of the EU that of "respecting the richness of its cultural and linguistic diversity", Article 4 that of "respecting its "national

identity", Article 6 of the TEU refers to the Charter of



Fundamental Rights, giving it the same value as the EU Treaties, and the Charter includes as a fundamental right the respect of linguistic diversity by the European Union². Likewise, Article 55(2) and the Declaration annexed to it reveal a willingness to incorporate other official languages in the Member States into the European Union.

19. It should also be taken into account that the expression official languages was not present in the Treaties. They refer only to authentic languages (current Article 55(1) TEU) or to languages of the Treaties (current Articles 20 and 24 TFEU). Only Protocol No. 1 refers to the official languages of the Union in relation to the draft legislative acts (Articles 4 and 6), an expression that we understand that refers to those that are qualified as such precisely in the linguistic regime to be established in accordance with Article 342.
20. Precisely the introduction of the second paragraph of Article 55 TEU referring to other languages which are official in the Member States according to their constitutional rights, contributes according to the attached declaration *"to the objective of respecting the rich cultural and linguistic diversity of the Union as set out in the fourth subparagraph of Article 3(3)"* and the Conference included it to confirm *"the Union's commitment to the cultural diversity of Europe". and the special attention it will continue to pay to these and other languages"* as recognized in Article 22 of the Charter of Fundamental Rights of the European Union.
21. This mention to other official languages expressly included in the Treaties after Lisbon constitutes one more element to consider that it is not possible to deduce from them a prohibition for the linguistic regime of the institutions regulated in Article 342 to incorporate languages other than the authentic languages of the Treaties.

² The Council Declaration of 13 June 2005 (10020/05 ADD 1) accompanying the amendment of the Council Regulation 1/1958 to incorporate the Irish language also stated *"In adopting this Regulation, the Council emphasises its concern to uphold linguistic diversity in the Union, and to uphold all the official and working languages of the Union. The resulting increase in the number of the Union's official and working languages does not justify any attempt to restrict the rights, currently enjoyed by Member States' citizens and public authorities, to contact the Union and receive a reply in any official and working language of the Union they may choose and to receive documents sent to them by the institutions in that same language, in accordance with the law applicable"*.

22. Finally, the reference contained in Articles 20 and 24 TFEU in relation to the petitions that citizens can submit to the institutions can be understood as a minimum rule, which cannot exclude the possible extension of this right of citizens to communicate in other official languages in the national territory, by means of secondary law. The combination of these precepts (Art. 20 and 24 TFEU), leads in fact to the conclusion that the languages of Art. 55 TEU are, no more and no less, *languages of the Treaties*.
23. The concept of official languages is thus not a concept of the Treaties but of Council Regulation 1/1958 itself, which is the one that establishes, which are the official languages and that the regulations and other texts of general scope shall be drafted in the official languages and that the Official Journal of the European Union shall be published in the official languages. Only Protocol No. 1 refers to the official languages of the Union in relation to the draft legislative acts (Articles 4 and 6), an expression which is therefore made by reference to those which are precisely qualified as such in the Council Regulation 1/1958 on the language regime established in accordance Article 342 TFEU.
24. The freedom that Article 342 of the current TFEU attributes to the Council was in fact confirmed by the case law of the Court of Justice which noted in the Kik case that the official languages do not completely coincide with the authentic languages and confirmed the General Court's judgment that referred that the Treaties did not fix the language regime of the institutions, but the Treaty empowers the Council to determine or modify it by unanimity.
25. Specifically, the Court of Justice of the European Union, in case C-361/01 P³, recognizes in its paragraph 84 the lack of coincidence between these articles (in its version of the previous treaties) by stating that:
- "84. Moreover, Article 217 of the Treaty authorizes the Council, acting unanimously, to determine the rules governing the languages of the institutions of the Community. Pursuant to that provision, the Council adopted Regulation No 1, Article 1 of which determines the official languages and the working languages of the institutions of the Community. It should be noted that these official languages do*

³ Judgment of the Court of Justice of 9 September 2003, Kik, C-361/01 P, ECLI:EU:C:2003:434.



not coincide entirely with the languages referred to in Articles 8d and 248 of the Treaty.

26. Moreover, after Lisbon, the new second paragraph of Article 55 uses the expression "official" precisely to refer to other official languages in all or part the territories of the Member States in accordance with their constitutional systems, other than the authentic languages of the Treaties referred to in paragraph 1.

27. The judgment cited above confirms the judgment of the Court of First Instance in Case T-120/99⁴ in paragraph 58 of which it stated that:

"58. (...) , it should be pointed out that the Member States did not establish in the Treaty a language regime for the institutions and bodies of the Community, but rather Article 217 of the Treaty empowers the Council to establish and modify, by unanimity, the language regime of the institutions and to establish divergent language regimes. This article does not establish that, once approved by the Council, these rules can no longer be modified at a later date. It follows that the rules governing languages laid down by Regulation No 1 cannot be assimilated to a principle of Community law".

28. It can therefore be concluded that the authors of the Treaties unanimously entrusted the Council with the competence of determining the language regime of the institutions, without identifying it with the authentic languages and also without restricting it to the authentic languages.

29. If the willingness would have been to restrict the linguistic regime to what the treaties provide , it would not have been deferred its determination to a Council Regulation and established a procedure of adoption and modification by unanimity, since a reference to the treaty reform procedures would have been enough.

No effect on the principle of legal certainty

30. On the other hand, the possibility of incorporating an official language in a Member State as an official language of the European Union in accordance with the provisions of Article 342 of the TFEU is not contrary to the principle of legal certainty.

⁴ Judgment of the Court of First Instance of 12 July 2001, Kik, T-120/99, ECLI:EU:T:2001:189.



31. The fact that secondary legislation or acts of general application are drafted and published in an official language which does not correspond to the authentic languages of the Treaties does not compromise the principle of legal certainty precisely by application of the principle of uniform interpretation of Union law.
32. This is so because we must start from the principle of linguistic equality of the authentic languages of the Treaties and of the official languages of the Union, the latter being enshrined in Council Regulation 1/1958.
33. The need for a uniform interpretation of the acts of the Union excludes the possibility that, in case of doubt, the text of a provision is to be considered in isolation. Instead, it requires that it is interpreted and applied in the light of the versions drafted in the other official languages.
34. In principle, all language versions must be recognized as having the same value, which means that in the event of a discrepancy between the various language versions of a legislative act of the Union, the Court of Justice cannot limit its assessment to a literal interpretation of one of those language versions.
35. The wording used in one of the language versions of a provision of European Union law cannot constitute the sole basis for the interpretation of that provision. On the contrary, Union provisions must be interpreted and applied uniformly in the light of the different versions in all the authentic languages, in the case of the Treaties, or official languages in the case of secondary legislation. In the event of divergence between the various language versions of a provision of Union law, the latter must be interpreted in the light of the general structure and the normative purpose in which it is incorporated.
36. This principle applies even when the discrepancy between language versions is decided against the language version of the language of the State that raises a question for a preliminary ruling. This was the case in the Danish preliminary ruling, *HK Danmark*, C-476/11 (paragraph 43) referred to the interpretation of Article 6(2) of Directive 2000/78 (equal treatment in employment), where the Court pointed out that although in the Danish version of the Directive the possibility of establishing differences of treatment on grounds of age with regard to occupational social security schemes was

not restricted to benefits relating to old age or invalidity risks, such a restriction was contained in the other versions (it referred the French, German, Spanish, English and Polish versions as indicative) and that, in view of the purpose of the provision, the latter interpretation should prevail.

Reference to Public International Law

37. The different role between authentic and official languages is also clearly established in public international law.
38. The Vienna Convention on the Law of Treaties of May 23, 1969, regulates in its Articles 31 and 32 the way in which its provisions must be interpreted according to the traditional hermeneutic criteria and contemplates in its Article 33 the case in which the Treaty has been authenticated in several languages, offering a solution analogous to the one reached by the CJEU in its case law by indicating that all versions will have equal value.
39. It is important to note that the Report on the work of the Plenary Committee at the first session of the United Nations Conference on the Law of Treaties (Document A Conf 39/14 of 1 May 1969) in the commentaries to the Article 29 already indicated that in multilingual treaties *"It may be that each of the versions has the character of an authentic text of the treaty; or it may be that one or more of the texts is simply an "official text", i.e. a text which has been signed by the States participating in the negotiation but which they do not regard as an authoritative document¹⁴; or it may be that one or more are simply an "official translation", i.e., a translation prepared by the parties or by a particular government or by an organ of an international organization"*.
40. In fact, an example of this distinction and of the fact that the number of authentic languages need not be equal to or greater than the official languages of the international organization is found in the United Nations itself, which distinguishes between authentic languages, official languages and working languages.
41. Pursuant to Article 111 of the Charter of the United Nations:
This Charter, the Chinese, French, Russian, English and Spanish texts of which are equally authentic, shall be deposited in the archives of the Government of the United

States of America. Duly certified copies thereof shall be sent by the said Government to the Governments of the other signatory States.

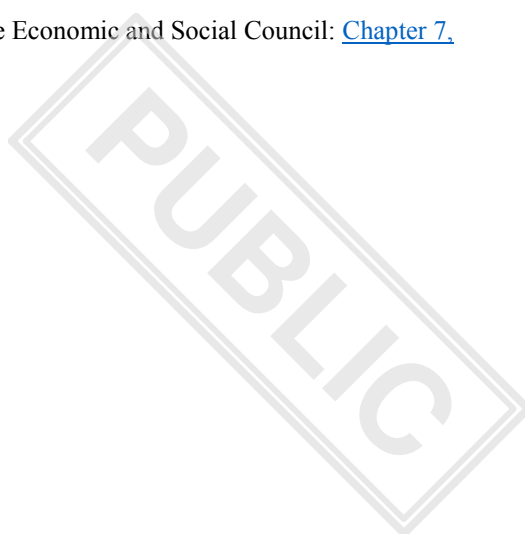
In witness whereof the Representatives of Governments of the United Nations have hereunto subscribed this Charter. Signed at the city of San Francisco, this twenty- sixth day of June, one thousand nine hundred and forty-five.

42. The official and working languages do not coincide exactly with the authentic languages mentioned, since Arabic has been added by resolutions of the various bodies without having been incorporated into the authentic languages of Article 111 of the Charter.
43. Official languages are those in which official United Nations documents are issued. Working languages are those used for internal communications among staff. In the Secretariat of the Organization, English and French are used as working languages. Some of the other official languages are used as working languages in the Regional Commissions.
44. The official languages of the United Nations appear in the rules of procedure of each organ⁵, which are the authentic languages plus Arabic, and are used for speeches, publications of meetings and resolutions adopted.

II. CONCLUSION

For all the above mentioned reasons , the State Attorney General concludes that the proposal submitted by the Spanish Government to the Council of the European Union to amend Council Regulation 1/1958 to include Catalan, Basque and Galician does not require the amendment

⁵ Rules of Procedure of the General Assembly: [Chapter 8, Rules 51-57](#), Provisional Rules of Procedure of the Security Council: [Chapter 8, Rules 41-47](#), Rules of Procedure of the Economic and Social Council: [Chapter 7, Rules 32-35](#).





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STATE ATTORNEY GENERAL'S OFFICE -

of the Treaties and can be implemented in accordance with the procedure laid down in Article 342 TFEU.

This is all that I am able to inform you, however, you will resolve

The State Attorney General

David Vilas Álvarez
