EDITORIAL

THE SENTENCE OF THE CONSTITUTIONAL COURT (STC) 31/2010, OF JUNE 28

On August 9, 2006, the new Statute of Autonomy of Catalonia came into force, the basic institutional regulation, according to the Constitution, which, compared to the preceding Statute of 1979, introduced major novelties in the regulation of multilingualism in Catalonia. The passing of the Statute and its contents in language matters was echoed in the «Editorial Note» which headed issue 47 of the Journal, and through the specific articles we commissioned and published in that same issue and the following two.

As is well known, different appeals were lodged against the Statute as unconstitutional. Two of these appeals — one lodged by the Partido Popular and one promoted by the Ombudsman — questioned the constitutionality of a considerable number of precepts that govern the legal system of official languages in Catalonia.

In June, the Constitutional Court finally resolved, with its Sentence 31/2010, of June 28, the first of the two appeals, namely the one brought by ninety-nine MPs of the Partido Popular parliamentary group. The Sentence disfigures the most salient aspects of the Statute, and on the matter of linguistic regulation, declares that part of one of the precepts challenged is unconstitutional, and interprets others to make them fulfil the Constitution. Although the Court may seem to have been benevolent on the linguistic issue, the result is quite the opposite: the legal framework left by the Sentence is inadequate for preserving Catalan language.

The Court, undermining the concept of own language, does not allow Catalan to be used preferentially to Spanish in the official sphere in Catalonia, as neither does it afford it, in principle, greater presence, unless so justified by the policy for the promotion and dissemination of Catalan; on the other hand, thanks to the excessive content it affords the constitutional duty to know Spanish —excessive because this content in fact goes hand in hand with the official status of a language—, Spanish obtains a clearly preferential position in Catalonia as well. It is true that the criterion applied by the Constitutional Court to the contents of the duty to know Spanish is not new — it had already developed this in sentence STC 82/1986, of June 26 —, but it is worthwhile underlining that it now confirms and reinforces it, and that it does so precisely in examining the constitutionality of the duty to know Catalan which the Statute had brought in to put Catalan on the same level as Spanish; a duty which, without daring to declare it unconstitutional, the Court

denaturalises completely by linking this duty to existing specific cases where one is obliged to know Catalan.

The supreme interpreter of the Constitution has broken the constitutional pact: the duty of knowing Spanish understood as a guarantee of communication between all Spaniards has been definitively transmuted into a mechanism called upon to subordinate Catalan to Spanish in Catalonia; a subordination reinforced by denying any effects to the character of own language attributed to Catalan. This all generates a framework that is conducive to cornering the language. A framework which under no circumstances can be permitted.

In a crucial question such as the school language model, the Court seems to essentially uphold the preceding doctrine, which it had expressly stated in the STC 337/1994, although, in view of the silence of the Statute, it places greater emphasis on the idea that Spanish cannot cease to be a vehicular language and a language for learning, and makes it even clearer that education in Spanish must not be limited to basic studies.

Neither do the ambiguity, contradiction and confusion which at times hover in the Tribunal's line of argument in any way help to consolidate Catalan language, which, once again, is questioned in something which for Spanish *va de soi*, finding itself in a permanent situation of doubtful legality, with the subsequent negative sociolinguistic effects. In this context, appeals will multiply, such as those lodged pursuant to the doctrine contained in the STC 31/2010 against the Reception of Immigrants and People Returning to Catalonia Act, the Code of Consumption of Catalonia Act and the Cinema Act, which are little more than the example of a full-on legal linguistic response geared towards nipping in the bud any legal vestige that places Catalan above Spanish in Catalonia; in other words, by invoking the bilingualism from a hypocritical standpoint, to corner Catalan and to implicitly obtain the right — by now almost won, barring the sphere of education — to dispense with Catalan in Catalonia.

Greater sensitivity and prudence might have been expected of an institution whose mission is, through its *juris prudentia*, to be the supreme interpreter of the Constitution, and even more so in this case, on being called upon to decide upon a unique law, voted by two Parliaments, those of Catalonia and of Spain (with its two chambers: the Congress of Deputies and the Senate), and which, it must be said, was upheld by referendum. The deceitful political blockade that prevented the renovation of four members of the Court (still exercising their functions almost three years after the expiry of their term of appointment) and the objecting to one of the members are facts which are not unrelated to the regrettable outcome. The appeal lodged by the Ombudsman is pending resolution. As the renewal of the Court has become bogged down, a change of opinion would not seem to be immediately forthcoming. In any case, Catalonia cannot remain indifferent to this contempt.