

# LINGUISTIC RIGHTS IN HEALTHCARE: THE EVOLUTION OF PATIENTS' RIGHT TO INFORMATION IN MULTILINGUAL AND MIGRANT CONTEXTS

Belén Llopis-Pérez, University of Alcalá  
May 24, 2025  
SMLC 2025

# Introduction

---

## CONTEXT

- Importance of linguistic rights since the 80s.
  - Introduction of minimum protection standards to minorities (Pons Parera, 2006).
- Public Service Translation and Interpreting (PSTI): refers to the way communication is facilitated for individuals from a linguistic and cultural minority who are not familiar with either the language or the social reality of the host country (Corsellis, 1997: 80; Valero, 2003: 5; Burdeus Domingo and Arumí Ribas, 2012).

Where is the gap?

- Healthcare settings legal approaches, compared to legal domains, remain unexplored.



# Objectives

---

- 1.To trace the legal evolution of the right to information in healthcare in Spain since 1978 (after the end of the dictatorship).
- 2.To examine how informed consent and linguistic accessibility are framed across EU, national, and regional laws.
- 3.To identify the implementation gaps between what the law promises and what actually happens in practice.
- 4.To explore accountability mechanisms when communication failures result in harm.

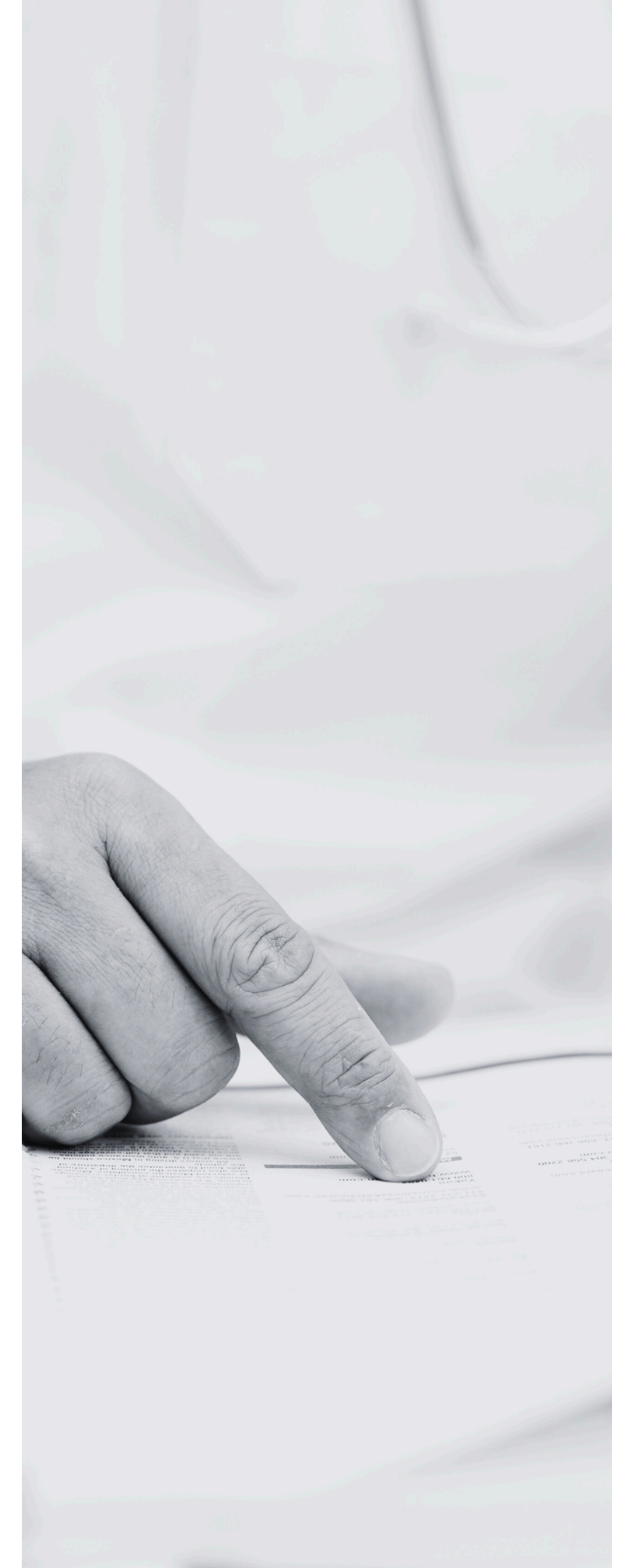
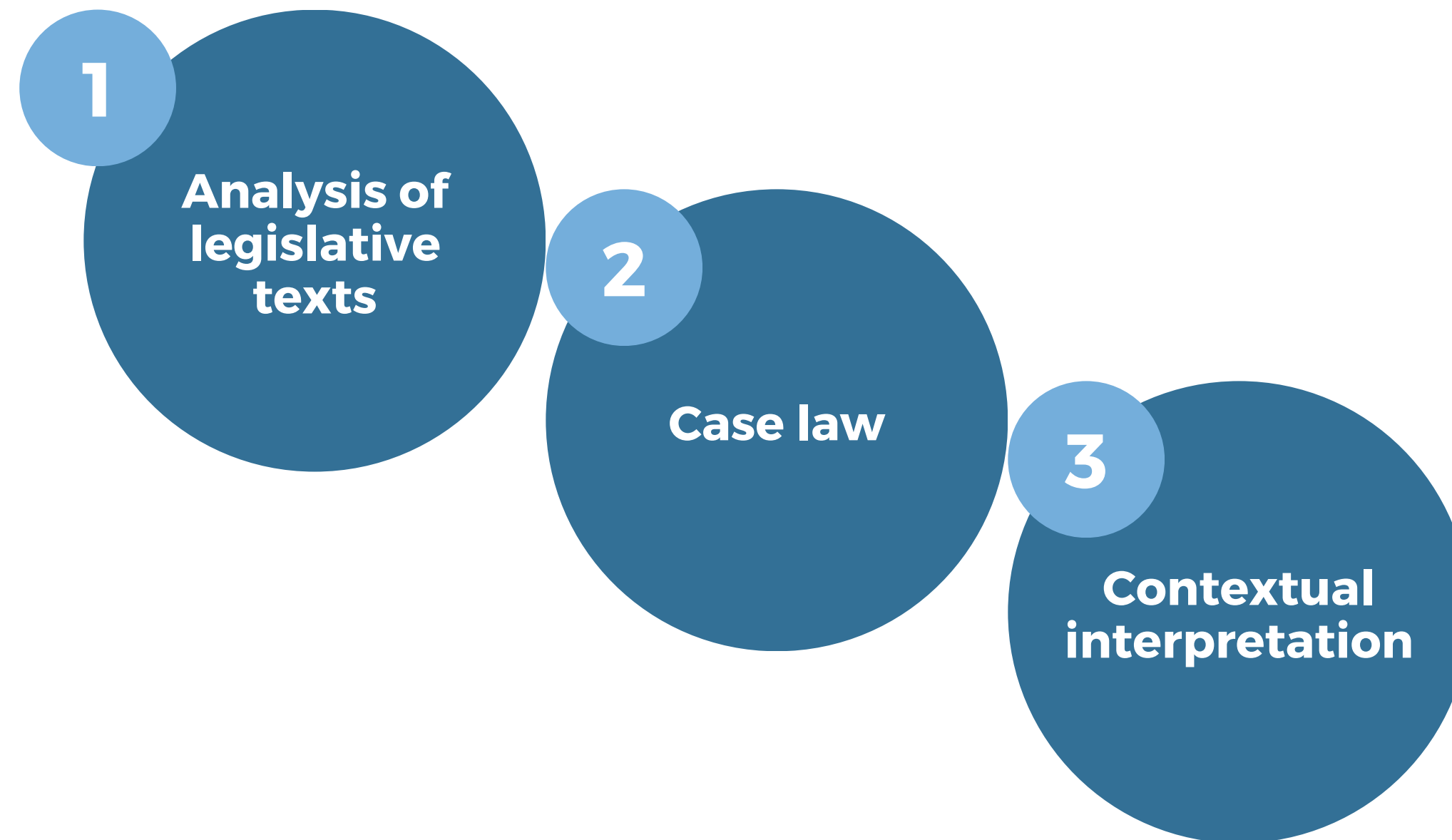


THIS PAPER AIMS TO PROVIDE A NUANCED ACCOUNT OF **HOW LINGUISTIC RIGHTS IN HEALTHCARE ARE FRAMED, INTERPRETED, AND ENFORCED**—OFFERING A FOCUSED LENS ON SPAIN'S CURRENT LEGAL AND INSTITUTIONAL LANDSCAPE.



# Methodology

---



# Diachronic evolution of regional linguistic rights in Spain

Legal Source or Institution	Year	Key Content	Impact	Socio-Economic Context
Spanish Constitution [ <b>Constitución Española</b> ]	1978	Article 3: Recognizes Spanish as the official state language and mandates respect and protection for co-official regional languages.	Foundational legal basis for linguistic rights, including healthcare access in co-official languages.	Transition to democracy; emphasis on pluralism and regional autonomy; low immigration.
Statute of Autonomy – Catalonia [ <b>Estatuto de Autonomía de Cataluña</b> ]	1979 (reformed 2006)	Establishes the right to healthcare in Catalan.	Affirms citizens' right to receive healthcare in their language.	Assertion of Catalan identity; strong regional government initiatives for cultural protection.
Statute of Autonomy – Basque Country [ <b>Estatuto de Autonomía del País Vasco</b> ]	1979	Establishes Basque as a co-official language, ensuring its use in public services, including healthcare.	Legal guarantee of healthcare in Basque.	Post-Franco recovery of Basque identity; efforts to revitalize the language in public life.
Statute of Autonomy – Galicia [ <b>Estatuto de Autonomía de Galicia</b> ]	1981	Recognizes the right to use Galician in administrative interactions, including healthcare.	Ensures access to healthcare in Galician.	Response to cultural marginalization; policy support for regional language recovery.
Law on the Normalization of the Use of Basque [ <b>Ley de Normalización del Uso del Euskera</b> ]	1982	Guarantees the right to use Basque in public administration and healthcare.	Promotes healthcare access in Basque, especially in areas with high Basque-speaking populations.	Socio-linguistic revitalization of Basque; growing investment in bilingual public services.
Language Normalization Law – Catalonia [ <b>Ley de Normalización Lingüística de Cataluña</b> ]	1983	Promotes the use of Catalan in public administration, including health institutions.	Obligates health services to respect the right to be attended in Catalan.	Driven by strong regional nationalist sentiment and widespread use of Catalan.
Act on the Use and Teaching of Valencian [ <b>Ley de Uso y Enseñanza del Valenciano</b> ]	1983	Grants citizens the right to use Valencian in administrative and healthcare contexts.	Similar to Catalonia and Galicia, promotes Valencian in healthcare.	Cultural revival in the Valencian Community; emphasis on linguistic identity.
Language Normalization Law – Galicia [ <b>Ley de Normalización Lingüística de Galicia</b> ]	1983	Guarantees the right to use Galician in public and healthcare services.	Strengthens Galician presence in the healthcare system.	Support for Galician as a co-official language in a region with strong rural linguistic roots.



# Diachronic evolution of regional linguistic rights in Spain

Legal Source or Institution	Year	Key Content	Impact	Socio-Economic Context
General Health Law [ <b>Ley General de Sanidad</b> ]	1986	Recognizes the right to understandable information for users.	Interpreted to support the right to receive healthcare in co-official languages.	Expansion of the welfare state after democracy; low levels of immigration; focus on universal public healthcare.
Regional Health Service Regulations [ <b>Normativas específicas de los Servicios de Salud Autonómicos</b> ]	From 2000 onwards	Include linguistic normalization plans, bilingual signage, hiring bilingual staff, translation services.	Practical implementation of linguistic rights in regional healthcare systems.	Healthcare decentralization; strengthening of regional identities; response to increasing cultural diversity.
Organic Law 6/2006 – Reform of Catalonia’s Statute [ <b>Ley Orgánica 6/2006, de Reforma del Estatuto de Autonomía de Cataluña</b> ]	2006	Article 33: Right to be attended in either Catalan or Spanish in public administration, including healthcare.	Explicitly guarantees healthcare in Catalan.	Context of rising Catalan nationalism; assertion of cultural and linguistic rights through legal means.
Law 39/2015 on Common Administrative Procedure [ <b>Ley 39/2015, del Procedimiento Administrativo Común de las Administraciones Públicas</b> ]	2015	Article 13: Recognizes the right to interact with public administration in official languages.	Covers healthcare services under administrative rights in co-official languages.	Reform aimed at improving bureaucratic transparency and equity in multilingual contexts.
Internal Health Service Rules & Exams [ <b>Reglamentos y Normas Internas de los Servicios de Salud Autonómicos</b> ]	2000–Present	Require linguistic skills in competitive exams, promote staff training in co-official languages.	Ensures professionals are equipped to provide care in regional languages.	Reflects demands for equitable care and increasing multiculturalism in healthcare settings.
Court Rulings & Ombudsman Resolutions [ <b>Sentencias Judiciales y Resoluciones de Defensores del Pueblo</b> ]	2000–Present	Constitutional Court rulings confirm linguistic rights; Ombudsman reports encourage enforcement.	Reinforces legality of linguistic rights and pressures administrations to comply.	Rise of civil society involvement and legal accountability; increased reporting of linguistic discrimination.

# Diachronic evolution of foreign languages and LLD linguistic rights in Spain

Stage / Source	Law / Norm	Key Content	Impact on Linguistic & Healthcare Rights	Languages Involved	Socio-Economic Context
Spanish Constitution (Constitución Española, 1978)	Articles 14 and 43	Equality before the law including foreigners; right to health protection without nationality or status distinction	Legal basis for universal healthcare access for foreigners; no explicit mention of language access	All	Post-Franco democratic transition; growing immigration but limited policy focus on migrants
General Health Law (Ley General de Sanidad, Ley 14/1986)	Article 10	Right to understandable information, especially in health	Obligation to provide linguistic translation and interpretation, especially for vulnerable groups	All necessary for comprehension	Expansion of welfare state; increasing migrant population and demand for health services
Aliens Law (Ley de Extranjería, Ley Orgánica 4/2000 & reforms)	Article 12	Right of foreigners to public healthcare under equal conditions regardless of administrative status	Recognizes interpretation as part of effective healthcare access	Most spoken migrant languages	Large increase in immigration; social integration challenges emerge
Patient Autonomy Law (Ley 41/2002, de Autonomía del Paciente)	Article 4	Right to adequate, comprehensible, and accessible information	Healthcare centers must provide interpreters for less common foreign languages if needed	Arabic, Chinese, Romanian, Wolof, etc.	Growing ethnic diversity; rising awareness of cultural-linguistic needs in healthcare
Royal Decree-Law 16/2012 (Real Decreto-ley 16/2012)	Emergency measures restricting healthcare access for irregular migrants	Limited access to public healthcare except emergencies, minors, pregnant women	Linguistic barriers increased; less availability of interpreters	N/A	Economic crisis (2008+); austerity policies; increased social vulnerability of migrants



# Diachronic evolution of foreign languages and LLD linguistic rights in Spain

Stage / Source	Law / Norm	Key Content	Impact on Linguistic & Healthcare Rights	Languages Involved	Socio-Economic Context
Royal Decree-Law 16/2012 (Real Decreto-ley 16/2012)	Emergency measures restricting healthcare access for irregular migrants	Limited access to public healthcare except emergencies, minors, pregnant women	Linguistic barriers increased; less availability of interpreters	N/A	Economic crisis (2008+); austerity policies; increased social vulnerability of migrants
Royal Decree-Law 7/2018 (Real Decreto-ley 7/2018)	Restoration of universal healthcare	Reinstated universal healthcare for irregular migrants under equal conditions	Strengthened obligation to ensure linguistic accessibility via interpreters	Arabic, Wolof, Romanian, English, French, etc.	Economic recovery phase; social movements pushing for migrant rights
Regional regulations and linguistic accessibility plans (Normas autonómicas y planes de accesibilidad lingüística)	Plans in Catalonia, Andalusia, Valencian Community	Rights to care in native language with interpreters; cultural mediators created	Mediation and interpretation services in hospitals to serve migrant languages	Arabic, Urdu, Chinese, Wolof, Romanian, French, English, Bambara	Regional diversity in migrant populations; decentralization favors tailored responses
European and International Norms (Normas europeas e internacionales)	Directive 2011/24/EU; Migrant Workers' Rights Convention	Rights to cross-border healthcare with accessible information; migrant workers' right to public healthcare	Emphasizes accessible info and interpreter presence in healthcare centers	English, French, German, migrant languages	EU integration deepens; international human rights frameworks influence national policy
Court Rulings and Ombudsmen Resolutions (Sentencias judiciales y resoluciones de defensores del pueblo)	Constitutional Court 31/2010; TSJ rulings; Ombudsmen	Validates right to care in co-official languages and foreign languages; obligation to provide interpreters	Reinforces linguistic rights for foreign patients and mandate of interpreters in healthcare	Catalan, Galician, Basque, Valencian, and foreign languages	Increased judicial activism; pressure from civil society on public institutions

# Informed Consent & Linguistic Rights

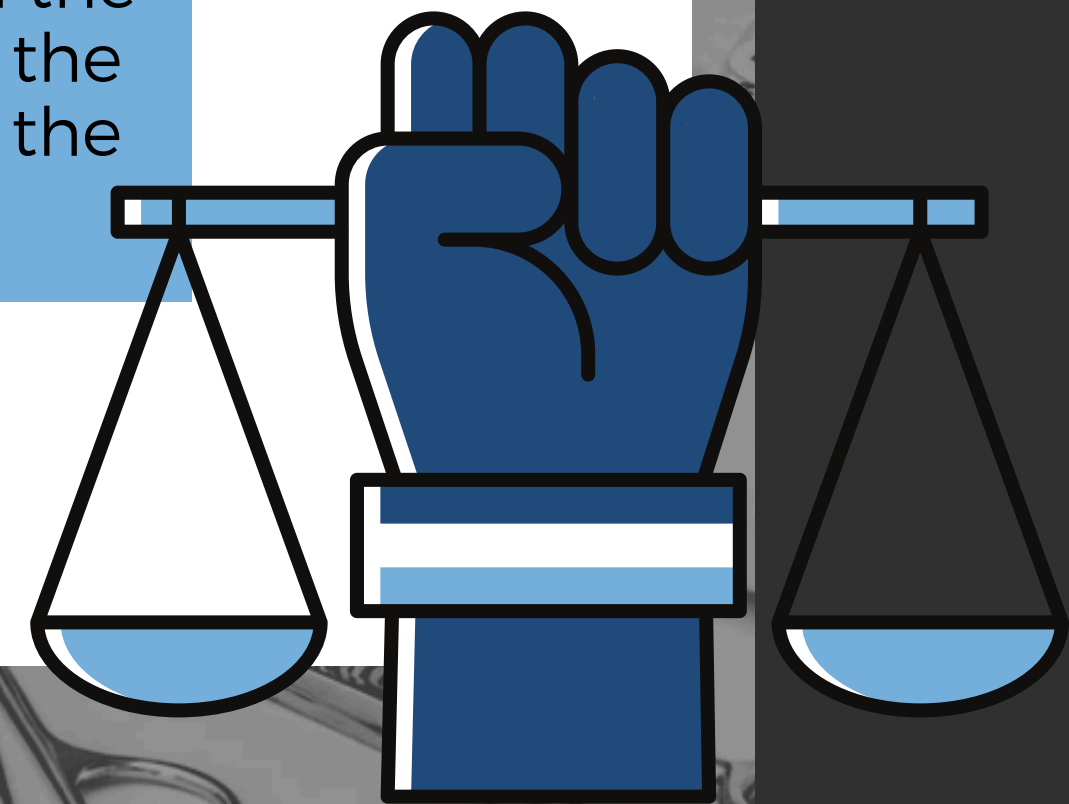
## Context (Pena, Merino & Llopis, 2024)

- Definition and significance of Informed Consent (IC)
- Link to patient autonomy
- Legal requirement: Understandable communication
- Consequences of failure (ethical/legal)

DIRECTIVE  
2011/24/EU on the  
application of  
patients' rights in  
cross-border  
healthcare

Act 3/2001, of 28  
May, regulating  
informed consent  
and the clinical  
history of patients.

Act 41/2002 2 of 14  
November on the  
regulation of the  
autonomy of the  
patient



# Case law examples

**STS 3209/2015** (Pena & Llopis-Pérez, forthcoming)

- **Context:** Mr. Manuel sued the insurance company to seek compensation for Ms. Adelaida due to an artificial insemination performed without her written informed consent (IC).
- The Supreme Court confirmed that the omission of informed consent constitutes a violation of the physician's obligations under the *lex artis ad hoc*.

## Importance of Informed Consent:

- Article 8 of Law 41/2002 establishes that informed consent is a fundamental component of medical responsibility.
- It emphasizes that informed consent must be provided in a comprehensible and written manner, enabling the patient to make informed decisions.



**The absence of informed consent represents a breach of the physician's obligations and must be addressed in accordance with positive law (Law 41/2002).**

# Hospital protocols

---

## NURSING PATIENT ADMISSION PROTOCOL

- PROT-AE-03 (Hospital La Paz, Madrid)
- Main purpose: to “provide only the necessary information while maintaining effective communication.”
- Goals:
  - Strengthen communication
  - Foster patient safety and trust
  - Build confidence in both healthcare staff and the institution
- Cultural competence in a global context:
  - Recognize and respect cultural diversity
  - Adapt communication strategies to align with patients' cultural belief systems



# LIABILITY AND ACCOUNTABILITY



**Civil**



**Administrative**



**Criminal**

**Case studies: Consequences of communication failures**



# Case law examples

---

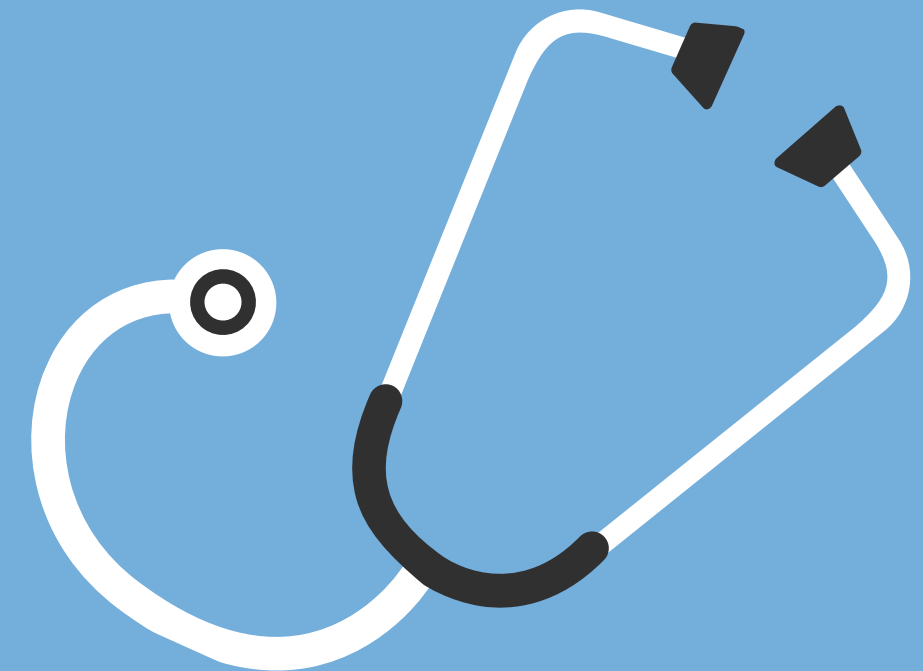
**STS 3209/2015** (Pena & Llopis-Pérez, forthcoming)

- **Context:** María José sued her doctor due to permanent aftereffects from a breast reduction surgery.
- **Supreme Court:** Emphasized that written documentation of informed consent is important, but it does not replace verbal communication, which is essential to ensure the patient's proper understanding of the procedure and its risks.



**Verbal communication is crucial in medical practice to ensure that the patient understands the procedure and its risks, thereby providing truly informed consent.**

BOTH EXAMPLES ILLUSTRATE THE **PHYSICIAN'S OBLIGATION TO PROVIDE CLEAR AND UNDERSTANDABLE INFORMATION** SO THAT THE PATIENT CAN GIVE INFORMED CONSENT. THIS REQUIRES USING **BOTH VERBAL AND WRITTEN** COMMUNICATION TO COMPLY WITH LEGAL STANDARDS AND PROTECT THE PATIENT'S RIGHTS.



# Discussion

---

## WHERE SHOULD WE GO FROM HERE?

- Integrate PSTI services structurally into healthcare delivery, not treat them as optional.
- Train healthcare professionals in basic intercultural communication skills.
- Monitor compliance with linguistic accessibility norms.
- And most importantly, develop stronger accountability frameworks, so that communication failures are treated as breaches of care—not unfortunate accidents.



# Conclusion

- Linguistic rights in healthcare are legally recognized in Spain and across the EU.
  - **Legal recognition is not enough.**

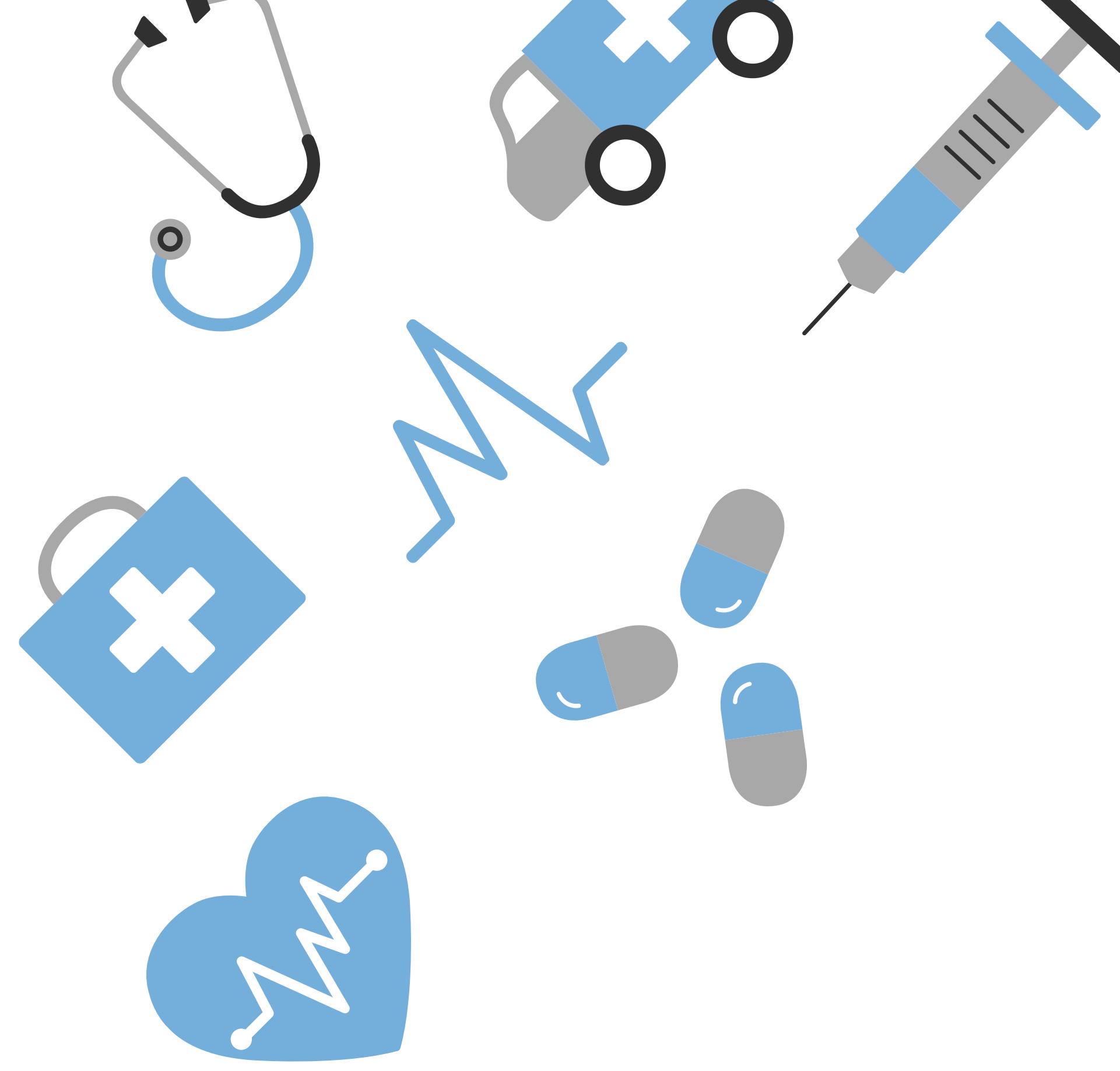
¿WHY? Because...

- Without consistent implementation, informed consent loses its meaning.
- Without accountability, patients' rights are rhetorical rather than real.

¿WHAT'S THE SOLUTION THEN?

- It lies in adopting interdisciplinary approaches that bring together law, healthcare, linguistics, and ethics to build a truly inclusive system.





# Thank you for you attention Do you have any questions?

---

**Belén Llopis Pérez**  
University of Alcalá

**Email address**  
[belen.llopis@edu.uah.es](mailto:belen.llopis@edu.uah.es)