



EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

IMPLEMENTATION OF THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

REGIONAL OR MINORITY LANGUAGES, No. 2



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Conference organised
by the Congress of Local and Regional Authorities of Europe
and the Secretariat of the European Charter for Regional
or Minority Languages in collaboration with the City of Innsbruck

Innsbruck (Austria), 14-15 December 1998

REGIONAL OR MINORITY LANGUAGES, No. 2

Council of Europe Publishing

French edition

Mise en oeuvre de la Charte européenne des langues régionales ou minoritaires

ISBN 92-871-92-4076-6

Council of Europe Publishing
F-67075 Strasbourg Cedex

ISBN 92-871-4077-4
© Council of Europe, September 1999
Printed at the Council of Europe

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I. INTRODUCTION

European regional and minority languages were the theme of a two-day discussion in Innsbruck, Austria between 14 and 15 December 1998. This conference, organised by the Council of Europe and the City of Innsbruck, brought together recognised experts in international law, linguists, politicians, national civil servants and non-governmental organisations to discuss the situation of regional and minority languages in the then forty member states of the Council of Europe. The discussions mainly centred on the European Charter for Regional or Minority Languages, since it is the legal instrument of the Council of Europe that aims to protect and promote the European linguistic heritage.

The conference examined the situation regarding signatures and ratifications of the charter, giving the existing contracting parties the opportunity to share with others their experiences with the ratification process and the adoption of the necessary internal measures for the implementation of the charter. The participants considered the problems encountered by other states currently working towards ratification and noted the considerable progress made to this end in a number of European states.

The conference discussed the international, national, regional and local impact of the charter on the minority languages that are presently spoken in different member states. Even though the charter provides the most comprehensive protection of regional or minority languages today, other international legal instruments exist giving these languages a degree of protection and promotion, in particular the Council of Europe's Framework Convention for the Protection of National Minorities. This specific instrument was presented by the Chairman of the Advisory Committee set up to monitor its implementation.

An essential element of the charter is its monitoring mechanism established within the Council of Europe in the form of a committee of experts and periodical reports to be presented by the contracting parties. The future work of this committee was outlined, and emphasis was also placed on the important role which associations legally established in the contracting states can play by providing insight into the real situation of regional or minority languages in their respective countries. They were encouraged to contribute actively by submitting comments on the national situation to the committee of experts.

The conference also examined the situation relating to non-territorial languages, such as Yiddish and Romany, which are protected under Part II of the charter. It was considered of great importance that, despite the lack of a territorial base, states should take specific measures on behalf of these languages, following the example of certain contracting parties.

The aim of the present publication is to make available to a wider audience the wealth of information and ideas, technical and political, which emerged from the Innsbruck conference concerning the protection of this important aspect of Europe's cultural heritage and the new international instrument designed for that purpose.

II. OPENING ADDRESSES

Herwig van Staa
Mayor of the City of Innsbruck and
President of the Chamber of Local Authorities
of the CLRAE

In a renowned Austrian newspaper, the following paragraph appeared recently in an article entitled “Is Europe losing its languages?”:

“The situation is paradoxical. On the one hand, increased mobility leads to closer intercultural contact, which heightens the importance of multilingualism. On the other hand, global mass communication increasingly exerts pressure to conform. A few dominant languages – especially English and French – are edging out smaller languages. The US National Science Foundation claims that about half of the 6 000 languages and dialects spoken worldwide are threatened with extinction.”

The basic problem described in the article was one of the main reasons why the Council of Europe adopted a charter in 1992, which came into force on 1 March 1998.

The European Charter for Regional or Minority Languages is intended to help protect and promote regional linguistic features as a part of the European cultural heritage. Under the charter, the use of regional and minority languages has to be permitted in education and the media, in dealings with administrative authorities, in business and in social and cultural life.

We have organised this information conference here in Innsbruck in 1998 to persuade as many Council of Europe member states as possible to endorse the content and aims of the European Charter for Regional or Minority Languages.

For forty-nine years, the Council of Europe has been working successfully towards the creation of a united Europe founded on freedom and democracy, human rights and the rule of law. With its two chambers (the Chamber of Local Authorities and the Chamber of Regions) the Congress of Local and Regional Authorities of Europe represents the third pillar of the Council of Europe, alongside the Committee of Ministers and the Parliamentary Assembly.

Preserving Europe’s cultural heritage, protecting human rights, including those of people belonging to minorities, consolidating European integration, and reinforcing local and regional democracy: those were the stated aims of the Congress of Local and Regional Authorities of Europe in deciding, back in 1983, to address the issue of the protection of regional and minority languages and cultures.

After several years' preparation, the Congress (known at the time as the Standing Conference of Local and Regional Authorities of Europe) adopted in 1998 the first draft of the European Charter for Regional or Minority Languages, now a Council of Europe convention.

It is a matter of great satisfaction for the whole Congress that the charter has now come into force in eight Council of Europe member states and is soon to be signed or ratified by other states.

Language is an essential component of the culture of every society and the main means of social communication. Before the charter was drawn up, the Standing Conference was conscious that regional and minority languages were under threat. In view of the weak position of some of these languages, the conference took the view that mere non-discrimination was insufficient.

In actual fact, the Convention for the Protection of Human Rights and Fundamental Freedoms already enshrined the principle of non-discrimination and expressly prohibited any form of discrimination on the grounds of language or association with a national minority. However, the convention laid down a right only for individuals as opposed to the positive idea of protecting minority languages and the communities that use them.

Consequently the Standing Conference of Local and Regional Authorities of Europe started work on preparing the charter, whose main task was to protect existing European regional and minority languages and to ensure their preservation. Today, the charter provides a framework for the protection and development of these languages, thereby contributing significantly to the preservation of the European cultural heritage.

In order to do justice to the wide range of historical, geographical and ethnic situations, the charter was kept as flexible as possible, without losing sight of its fundamental principles. However, it is important to emphasise from the outset that the charter is in no sense intended to affect the existence and use of official national languages. Neither should it be interpreted as an instrument for putting official languages at a disadvantage.

The primary aim is to combat all forms of discrimination that could jeopardise everyone's right to express themselves in their own language, especially when the language concerned is a regional or minority language.

The charter therefore lays down positive requirements to ensure the survival of these languages. For example, education systems in member states can make an important contribution to their survival.

Nevertheless, in the view of the Congress, it is not the charter's aim to threaten the institutional and political order. On the contrary, the charter considers languages to be cultural and social realities which, when they are protected, can contribute to territorial integrity.

The charter makes it possible for each member state, according to its particular circumstances, to introduce regulations that are appropriate to the regional or minority languages used on their territory.

The charter also offers local and regional authorities on whose territory these languages are spoken a real opportunity to protect regional cultures and hence address a much-voiced concern of local, national and international authorities and organisations.

Local and regional authorities are in fact crucial to implementing the charter. Even though the legislative framework has to be set up at national level, local and regional authorities are responsible for the day-to-day protection and promotion of regional and minority languages.

As I have already mentioned, the charter will not lead to the fragmentation of Europe's linguistic landscape. It is primarily concerned with promoting general multilingualism, which will unquestionably be a feature of tomorrow's Europe. This is entirely in keeping with the view of the Council of Europe's various bodies: the traditional wealth and diversity of European cultures is an essential part of European identity and needs to be protected and promoted.

Languages are an important part of European culture. Recognising the right to use one's own language and safeguarding this right in different walks of life can help speakers of regional or minority languages to feel at home in their own country or in Europe. Europe's cultural unity cannot be founded on linguistic standardisation. On the contrary, by stressing the right to be different, democracy reinforces the protection of regional and minority languages.

In my capacity as President of the Council of Europe's Chamber of Local Authorities, and as Mayor of Innsbruck, may I extend a warm welcome to you and wish our conference every success.

Innsbruck – the city by the bridge over the Inn – has always been a good place for bridge building.

Christa Achleitner
Head of the Department for Ethnic Minority Affairs
at the Austrian Federal Chancellery

The Federal Chancellor has asked me to convey his greetings to you. As you can imagine, his busy schedule has prevented him from attending in person and speaking to you. Nevertheless, he sends his very best wishes for this conference and he will of course be eager to see what results are achieved. As representative of the Federal Chancellor and head of the Austrian Department for Ethnic Minority Affairs, I would like to express my particular appreciation of the Council of Europe and its representatives who exert relentless efforts to make progress in the field of regional and minority languages, which is clearly not an easy task. As we heard from the previous speaker, this charter was opened for signature in 1992. While with similar international documents in other fields the number of ratifications in the intervening period has reached a significant level, in this case the ratification process has been much slower in getting off the ground. In the course of this conference we shall be attempting to pinpoint the reasons for this and, I hope, identify and show member states possible ways to get the ratification process moving.

I would also like to express my appreciation of the Council's Congress of Local and Regional Authorities of Europe which in organising this conference is lending its support to this matter. My special thanks also go to the Mayor of the beautiful city of Innsbruck for inviting us to such attractive surroundings. Pleasant surroundings make work all the more agreeable and, I hope, productive. The Mayor, Herwig van Staa, has already referred to the legal and the particularly important democratic aspects of the aims of the European Charter for Regional or Minority Languages. I shall therefore move directly on to the other important points and issues of the charter and also say a few words about the essential preservation of European cultural heritage.

In trying to define the identifying features of ethnic groups, minorities and linguistic minorities, we quickly come to the matter of language. Language is the main identification criterion of a group of people, and it is essential to encourage this and support ethnic groups in their desire to transmit to future generations the language and languages with which they have grown up and to which they are attached. In this way we shall be contributing to the preservation of the European cultural heritage and the cohesion of these ethnic groups.

The European Charter for Regional or Minority Languages contains a number of possible options for achieving this. However, I would like to look at yet another aspect that is a direct result of a good knowledge of different languages and different mother tongues. I am referring to the economic aspects that are acquiring increasing importance in Europe at the end of this century. An Austrian academic compares the languages kept alive by ethnic groups and minorities as uncut diamonds scattered throughout the landscape which must be preserved and encouraged so that the fire of language can be rekindled.

I would like to stress that it is clear that the state – and by that I mean central, local and regional government – cannot pursue this alone. The responsibility is a shared one. The members of the ethnic and minority groups must also strive to keep their language alive and play their own part to the full. It is only natural, particularly in a country such as ours where the media are primarily German-speaking, to try to keep the minority language alive among children and encourage within them an awareness of the value of multilingualism and their second mother tongue. I have already referred to the economic aspect. To quote just one example, given that approximately 17% of the world's population speak a Slav language, it is clearly a huge advantage for people who have been brought up in a Slav-speaking environment to have relatively easy access to this 17% of the world's population. This is a latent, economic factor that should be publicised. People should be made aware of it, and this resource exploited, in other words we should be seeking to polish these uncut diamonds which lie scattered in our landscape.

Furthermore, multilingualism also has cognitive advantages. A person who grows up among, and using, several languages learns about the world not in a one-dimensional way, from one view-point, one language, but experiences the world through several languages. That clearly leads to tolerance, acceptance, an awareness of diversity and, I hope, a peaceful Europe in which mutual understanding is prevalent. I am eagerly looking forward to the discussions we shall be having over these two days and the results that will emerge from them.

At the beginning I indicated that the charter has been in existence since 1992 but that the circle of states that have ratified it is still fairly restricted. But it is getting bigger. In the foreseeable future Austria too will be ratifying the charter and a government bill will be laid before parliament. We need to try and see why more states have not yet ratified the charter. I do not believe that it is because of uncertainty among ethnic groups, but rather because of uncertainties in the states themselves. However, Germany in particular has in recent months shown us how a state can address a subject such as this without creating different classes of minorities. One of the problems, or should I say one of the main priority issues, facing states is the need to avoid any form of differentiation between ethnic groups as a consequence of the list of criteria which they undertake to uphold. It is clear that very often it will not always be the same circle or range of undertakings contained in the charter that should be applied to all ethnic groups.

I hope that this conference will be a very successful one for all of us and that as a result of the information exchange at this event we will then be able to move on to the further stages of ratification.

Rudolf Joó
Deputy State Secretary of the Hungarian Ministry of Foreign Affairs
(on behalf of the Hungarian Chairmanship
of the Committee of Ministers of the Council of Europe)

The fundamental aim of the Council of Europe is to achieve stronger unity between its members, particularly by protecting and realising the principles that belong to the common European heritage.

The protection of regional and minority languages that has evolved over the course of many centuries contributes to the development and protection of Europe's cultural wealth and traditions; this is all the more important as some regional languages are in danger of dying out.

However, support for, and encouragement of, multilingualism and the co-existence of cultures should not be to the detriment of knowledge of official languages. Support for regional and minority languages contributes significantly to the development of societies based on the principles of democracy and cultural diversity.

It is a great honour for Hungary to have taken over the chairmanship of the Committee of Ministers at a time when this international organisation is preparing to celebrate its 50th anniversary. The Hungarian chairmanship coincides with the final phase of the first cycle of NATO enlargement and the start of accession negotiations between the European Union and a number of applicant countries.

This latter aspect underlines the idea that the Council of Europe, as an institution which brings together almost all the states of the European continent on an equal basis, plays an important role in strengthening and maintaining the political direction and European commitment of the countries which – either temporarily, or for a longer period, or definitively – are not included in the first enlargement cycle, as well as seeking to prevent the emergence of new political divisions. Politically all this ensures greater room for manoeuvre and even opens up further possibilities in the area of foreign policy.

Supporting democratic development and strengthening democratic structures, as well as monitoring member states' compliance with their commitments and consolidating the results of the enlargement process, are now among our priorities. In order for these goals to be achieved, co-operation should be increased between the Committee of Ministers, the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe.

The Hungarian chairmanship welcomes this conference, which has been organised as a means of promoting the implementation of the European Charter for Regional or Minority Languages in the contracting parties and encouraging Council of Europe member states which have not yet signed the charter to do so.

Monitoring of the implementation of the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities will begin during the first quarter of 1999.

Guidelines for the preparation of national reports have been drawn up and on the basis of the work carried out by the various countries it will be possible to obtain a detailed picture of the situation regarding the protection of national minorities. The Hungarian chairmanship attaches particular importance to monitoring and to the creation of structural and budgetary frameworks. Appropriate monitoring of the implementation of the European Charter for Regional or Minority Languages and the framework convention can contribute to the setting up of a modern system for protecting minorities in Europe.

III. REPORTS

Dónall O’Riagáin

**Secretary General, European Bureau for Lesser Used Languages
Ireland**

The political importance of the European Charter for Regional or Minority Languages

May I thank the Council of Europe for giving me the opportunity of being with you here today; it is both an honour and a pleasure. The charter had a gestation period of eight years and during that period a lot of hard work was done and a lot of diplomacy was employed. No one contributed more to its success than Ferdinando Albanese, who I am delighted to see is with us here. I know that he will not be offended when I say that he is truly the godfather of the charter, for without his unfailing dedication and sheer ingenuity we would have no charter today.

Some people would argue that the concept of the modern nation-state, as a sovereign entity, entitled to the allegiance of all its citizens, can be traced to the Peace of Westphalia in the seventeenth century. Personally, I would favour the school of thought that claims that the true prototype of the modern nation-state was, in fact, the first French Republic. At the time of the Revolution, France was not yet a nation of citizens: rather she was a federation of provinces.¹ It is estimated that only 30% of the French population spoke standard Ile-de-France French at the end of the eighteenth century. The majority spoke a variety of what are now called regional languages: Occitan, Corsican (close to the language of Tuscany), Breton, Basque, a variety of Dutch, Catalan, varieties of German in Alsace and Lorraine, not to mention the *langues d’Ool* such as Gallo and Picard. This situation presented no problem for the *ancien régime*. If the populace paid their taxes, participated in the occasional war and protested loyalty to the monarchy, then the king had no problem with his subjects speaking whatever language they chose. The Revolution ended all of that. The people were now citizens, entitled to certain rights while also owing fealty to the state.

The modern nation-state was bureaucratic and also centralist. It attached great importance to having its influence extend into hitherto largely untouched domains of life such as education, public administration and commerce. While the French revolutionaries started with a very liberal agenda they quickly switched to an authoritarian and centralist one, inspired by people such as Abbé Gregoire. State and nation, citizenship and nationality were perceived as being synonymous. One state, one nation and, of course, one language. Unity meant uniformity. With the establishment of unified nation-states in Germany, Italy, the United Kingdom (to mention but some cases) during the nineteenth century one can trace the beginning of the decline for most of Europe’s small linguistic communities. The only two notable exceptions were the Austro-Hungarian and Ottoman Empires where the sheer scale of linguistic diversity rendered the imposition of a monolingual policy impossible.

1. *The Ancien Régime in Europe* – E.N. Williams (Penguin Books, London, 1970)

The first world war left more problems unsolved than solved. Borders were changed in a purely arbitrary manner, very often without the slightest regard to the wishes of the people concerned. A British statesman, involved in negotiating the Treaty of Versailles, is reputed to have turned to one of his officials and said, “Remind me, old chap, was it Upper Silesia or Lower Silesia we gave away this morning?” Hitler exploited some of these anomalies with a ruthless efficiency. For example, the existence of a German-speaking minority in the Südatenland provided a ready-made excuse for invading Czechoslovakia. Rather than learning from their earlier mistakes, the victorious powers, at the end of the second world war seemed to be blinkered and even more suspicious of minorities than before and felt that the best way of ensuring stability in Europe was to keep minorities in firm check and accord priority to the integrity of nation-states. People such as Stalin, Franco, Tito and Salazar produced a certain form of “stability” within their own states but at a frightening cost in terms of human liberty and dignity.

As the dust settled on the second world war wiser counsels started to assert themselves. Four days ago we celebrated the 50th anniversary of the Universal Declaration of Human Rights. The Declaration clearly states in Article 2 that:

“Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status ...”

This was only the first of many international legal and political documents that upheld linguistic equality and the rights of those who use regional or minority languages. I have just finished editing a collection of these texts and I found it very encouraging to see not only how numerous they were but also the wide range of sources from which they emanated – the European Parliament, the Council of Europe, the United Nations, UNESCO, the International Labour Organisation and the Assembly of European Regions, to mention but some. It was also striking to note just how similar in many respects these texts were: how they recognised the importance of maintaining linguistic and cultural diversity, their understanding of what needed to be done in order to achieve this and their belief that linguistic and cultural human rights could be achieved without impinging on the sovereignty of states. Some of the texts are simply recommendations or declarations, others are formal resolutions (for example such as those from the European Parliament) while others again enjoyed the legal status of international conventions, legally binding on those states which ratify them. Some take the thorny issue of minorities by the horns and speak openly of national, religious, linguistic and cultural minorities. The promoters of these particular documents had to pay a price to win their acceptance – the price of being somewhat vague and even weak. Mrs Achleitner remarked earlier on the contrast between the number of ratifications of the framework convention *vis-à-vis* the charter. A very salient point.

While I sincerely welcome and support the Framework Convention for the Protection of National Minorities I have, as a realist, to recognise the very genuine limitations of a document which avoids stating what it means by a “national minority” and which requires commitments from ratifying states only in very general terms.

In contrast, the European Charter for Regional or Minority Languages requires very concrete, very precise commitments from states ratifying it and furthermore has an effective monitoring mechanism to see that these commitments are honoured. On the other hand, it does not contain the words “national minorities”, “*volksgruppen*”, “*groupes ethniques*” – not even “language communities”. It speaks only of “language”. It speaks among other things only of “users” of these languages but as no language can live without people who use it, it implicitly or indirectly confers certain rights on speakers of lesser used (regional or minority) languages. This Jesuitical approach cleverly side-steps those issues which cause concern to nation-state governments and focuses on those issues on which there is broad agreement.

The political importance of the charter and its approach to the issue of regional or minority languages for the European Union should not be underestimated. The European Union is, or soon will be, a federation of nation-states. The Union always had to engage in a delicate balancing act between the concept of European unity and the competing concept of national sovereignty. This balancing act is set to become even more delicate with the enlargement of the Union and with creeping centralisation. Accommodating linguistic and cultural diversity is one of the main challenges facing us today in the European Union although this fact is rarely publicly acknowledged. Although some of the Agenda 2000 case studies tend to conceal uncomfortable realities, it is clear that the estimated 50 linguistic minorities in the European Union today are set to double in the first decade of the next century. When I remind you that there are 16 linguistic minorities in Croatia alone and up to 23 in Romania you will appreciate that my estimate is well founded. Sensitivities are likely to be heightened in this evolving situation, which is also one in which some countries will have fewer MEPs, possibly no Commissioner and will have to agree to a further ceding of competencies to Brussels. (From my studies in economics, I am convinced that the introduction of the single currency will inevitably unleash irresistible pressures for the acceleration of greater political integration). Add to this a growing demand for more real subsidiarity and one quickly finds the ingredients of a real dilemma. This scenario underscores the importance of a legal instrument which, while fully respecting the territorial integrity of states, offers a formula for ensuring linguistic and cultural human rights, thus contributing to political stability within states, and at the same time underwriting widely accepted European values.

The Killilea Resolution, adopted by the European Parliament on 9 February 1994 concerning Linguistic and Cultural Minorities in the European Community,² states that the Parliament:

“supports the European Charter for Regional or Minority Languages, accorded the legal form of a European Convention, as an effective yet flexible instrument for the protection and promotion of lesser used languages”.

It goes on to say that it [the Parliament]:

“calls on the Member State governments which have not yet done so as a matter of urgency to sign and their parliaments to ratify the Convention choosing at all times to apply those paragraphs best suited to the needs and aspirations of the linguistic communities in question”.

This resolution was adopted by a landslide majority: 321 votes in favour, 6 abstentions and only 1 vote against. One could hardly expect a more resounding endorsement from the European Union’s only truly democratic institution.

The European Commission is at present preparing the text of a legal act, which if accepted by the main institutions of the European Union, will provide a legal basis for a multi-annual action programme in favour of regional or minority languages. This should underpin the commendable work done for our languages since 1982 by the Commission and the European Parliament. It is hoped that the text will be accepted by the Commission early in 1999. To be successful such an action programme needs a set of criteria that would provide guidelines for action. I respectfully submit that the charter offers such guidelines and the commitment of states to implement the measures set out in Part III of the charter should be borne in mind by the Commission when deciding on the optimum use of whatever resources may come on-stream as a result of this action programme.

Implementing the charter entails very real political decisions. In addressing these issues I would mention two key words: empowerment and realism. Let me explain. I believe that the most effective way for any government to put the provisions of the charter into effect is to empower those who use these languages to put in place the required measures. By that I mean that central government should devolve the relevant competencies and required resources to those regional, provincial and local authorities or other appropriate bodies that represent the users of regional or minority languages. The European Charter of Local Self-Government,³ now ratified by thirty European democracies, offers us clear guidelines on this matter. The Congress of Local and Regional Authorities spelt this out very clearly in its Recommendation No. 43, which was adopted on 27 May 1998. This Recommendation states that the Congress:

2. Resolution on Linguistic and Cultural Minorities in the European Community, adopted on 9 February 1994. OJC 061, p. 110 (A3-0042/94)

3. The European Charter of Local Self-Government (ETS No. 122) 15.10.1985

“... bearing in mind the fact that the concept of territorial autonomy does not necessarily imply that the powers assigned to a particular level of government – local, provincial or regional – are the same, but that, in relation to the same level of self-government, powers may be distributed differently in accordance with economic, geographical, historic, social, cultural and linguistic requirements ...

... recommends:

(a) to member states whose administrative sub-divisions of state are already established when the members of a minority within a given territorial authority constitute a substantial proportion of the population, justifying specific protective measures;

.....

(c) to grant the authorities in question wide-ranging powers, defined by law, in all fields that can afford an effective protection of the members of the minority and mainly in the fields of language, education and culture;

(d) to recognise the legitimacy in territories inhabited by minorities, of the existing specific legal provisions governing the main areas in which the minority's distinctiveness is expressed;

(e) to recognise the right of these authorities to join together with other authorities sharing the same characteristics, for the purpose of culture and language promotion and, in the case of border authorities, to establish transfrontier links for co-operation with similar authorities in neighbouring states;

(f) to re-grant these authorities the competence to rule on the use of regional or minority languages in their elected bodies and administration, in their relations with the citizens and, in accordance with Article 10 paragraph 2 g of the European Charter for Regional or Minority Languages, to adopt correct traditional forms of place-names in regional or minority languages, if necessary in conjunction with the name in official language(s);”.

In respect of empowerment, Belgium is a very interesting example. A federal state, with three powerful regions – Flanders, Wallonia and Brussels – it does not give competence for education and culture to these regions but rather to three communities – Dutch, French and German – which correspond to the three main linguistic groups within the state. Despite a stormy history on matters of language, Belgium, by empowering its three language-communities to work out their own solutions, seems to have found a workable formula.

The Spanish Constitution has nothing very exciting to say about the lesser-used languages in the Spanish state. Article 3.2 states:

“The other languages of Spain will also be official in the respective autonomous communities, in accordance with their statutes.”

But this rather unpretentious paragraph, by devolving responsibility for regional languages to the people who use them, opened up the way for some of the most progressive, dynamic and successful language normalisation or restoration policies to be found anywhere in the world. I am referring, of course, to Catalonia, Galicia and the Basque Autonomous Community.

The second key-word I used was realism. This applies to the promoters of regional or minority languages as well as to the authorities. Legislation, even an international convention such as the charter, is not a panacea for language problems. It merely provides us with a framework for solving these problems. And solutions can be found when there is determination and good will on all sides. I suggest that the Council of Europe sets up a panel of experts, with practical experience in language promotion, members of which could be called upon to help governments and users of regional or minority languages to find workable solutions. This service could be made available, not only to states which have already signed or ratified the charter, but also to states who wish to ratify but who have practical difficulties in meeting the required criteria.

My organisation, the European Bureau for Lesser Used Languages, has decided to create a form of associate membership. This will be open to regional, provincial or local authorities as well as to language planning agencies and similar bodies. It is our intention to formally launch this associate membership in 1999. Our hope is that the exchange of information and experiences, which meetings, conferences and publications will facilitate, will provide a forum for people like yourselves to discuss and collectively address practical issues of language promotion.

May I finish my paper by telling a story – a true story. The tragic story of Northern Ireland is one with which most of you will be only too familiar. While the conflict had its roots primarily in ethnic and political issues, there were also linguistic and cultural overtones. The Irish/nationalist Catholic community regarded the Irish language as their ancestral tongue and wished to have it recognised and accorded its due place in everyday life. The Unionist/Protestant community, on the other hand, wished similar recognition to be extended to Ulster-Scots, the language spoken by the descendants of the seventeenth century colonists from the south of Scotland. I hasten to qualify this rather crude generalisation by saying that there are Irish-speaking unionists and also nationalists who speak Ulster-Scots, but these tend to be the exceptions that prove the rule. The All-Party Agreement of Good Friday contains a number of positive references to both Irish and Ulster-Scots. When in June, the United Kingdom Government announced its intention to sign and ratify the charter, the European Bureau for Lesser Used Languages decided to make a contribution to the peace process by organising a seminar on language, focusing on the opportunities which the charter offered.

We established a small organising committee, representative of both language communities, and set to work. We envisaged a modest event involving 30 to 50 persons but we were wide of the mark. It developed into a full-scale conference, with 220 persons registering – people from all shades of political thinking. The opening address was given by one of the organisers of today’s conference, Philip Blair. The fact that Philip and I come from different political and religious backgrounds made no difference. We were singing from the same hymn-sheet – that of the charter. One of the organising committee wrote an article on the conference and I quote from it in translation (from Irish): “Some seemed as if they did not want to acknowledge the ‘other side’ but curiosity encouraged the others to engage in conversation”. So what, you may say! But let me remind you that some of these people had never felt enough common ground to speak to each other before. “They didn’t speak to each other for four hundred years”, as one wit said to me. But a debate was started that day, a debate around the charter, and, with God’s help, will continue and lead to positive action in the coming months and years. All I can add is that anyone present in Belfast City Hall on 23 October could only endorse my contention that the charter is of enormous political importance, not only in the European Union, but throughout Europe.

It is now up to us to use it to the full in shaping a Europe, united in its diversity.

Rainer Hofmann
Chairman of the Advisory Committee of the
Framework Convention for the Protection of National Minorities
Germany

A presentation of the Framework Convention for the Protection of National Minorities
and its contribution to the protection of minority languages

I would first of all like to thank the organisers for inviting me to this important event and for giving me an opportunity to address the participants on behalf of the Advisory Committee of the Framework Convention for the Protection of National Minorities.

As many of you know, the framework convention entered into force in February 1998, just one month before the entry into force of the language charter. The number of ratifications has doubled since then, and there are currently twenty-four state parties to the framework convention, the most recent news being that the framework convention entered into force in the Russian Federation just two weeks ago.

Since the framework convention also deals with language issues it is indeed important that the interrelations between the framework convention and the language charter are examined. The monitoring mechanism of both instruments is also now being launched – including the committee of experts of the charter and the advisory committee I have the honour to chair – and the first state reports under both mechanisms are due early in 1999.

This means that the reporting states and, most importantly the individuals affected by the charter and the framework convention need to be familiar with the differences and similarities between the two instruments.

Before going into linguistic issues, please allow me to start with a few remarks regarding the general nature of the framework convention.

As you all know, the protection of minority languages is only one – albeit a central – issue that falls within the scope of the framework convention. The framework convention also addresses a wide range of other instrumental issues relating to minority protection, such as effective participation in public affairs. It also covers freedom of assembly and other freedoms, all of which reflect the will to place the minority question firmly into the human rights context, as is also emphasised in the very first article of the framework convention. Whereas the charter's main purpose is a cultural one, the framework convention belongs to the human rights family of treaties of the Council of Europe.

Another significant difference is that the framework convention is not *à la carte* in character. This means that a state party that has not made any reservations is bound by every single provision of the framework convention. This probably contributed to the fact that the drafting of the framework convention was a very difficult exercise. Drafting difficulties were very much present also when linguistic issues were discussed, and the drafting committee (CAHMIN) had to ask the Committee of Ministers itself to draft some of the most hotly debated provisions in order for a suitable formulation to be found.

We do not have time for a comprehensive overview of all the articles of the framework convention that relate to language, especially since one can, indeed, conclude that most of its provisions are in one way or another linked to language issues. But even a brief look at some of the articles that explicitly touch upon minority languages will reveal that the end-result is very much a compromise. For instance, Articles 10 and 11 contain important principles for the protection of minority languages, but these guarantees are formulated in a very careful manner and on a number of points their wording leaves a relatively wide measure of discretion to state parties.

The right of every person belonging to a national minority to use his or her minority language freely and without interference in private and public is recognised in a straightforward manner in paragraph 1 of Article 10. But this paragraph does not cover the use of minority language in relations between individuals belonging to national minorities and administrative authorities. This issue is addressed in the second paragraph of the same article, and you will see that this provision is worded in a much more flexible manner. Terms such as “as far as possible” have been employed so as to reduce states’ concerns relating to the possible financial, administrative, and technical consequences of this paragraph.

The use of minority languages before judicial authorities was discussed at length during the drafting stage. The end-result can be read in paragraph 3 of Article 10 of the framework convention, which does not go beyond the safeguards contained in Articles 5 and 6 of the European Convention on Human Rights. In this context, I would like to stress that it is essential for the success of the framework convention that we keep a close eye not only on the developments regarding other minority instruments, but also on general human rights developments, in particular the case-law of the European Court of Human Rights. Its work will become even more relevant if the on-going efforts to widen the scope of the non-discrimination clauses of the European Convention on Human Rights prove to be successful.

Another area that proved, in the drafting stage, very sensitive is the one covered by Article 11. In its first paragraph, Article 11 provides the right to use names in a minority language and the right to their official recognition, but the reference to the modalities provided in domestic legislation implies among other things, that parties may use the alphabet of their official language to write the name of a person belonging to a national minority in its phonetic form. An individual's right to display, in his or her minority language, signs, inscriptions and other information of a private nature did not prompt major difficulties during the drafting. In contrast, the possibility of having local names, street names and other topographical indications in the minority language intended for the public was debated at length, and the compromise reached can be read in the third paragraph of Article 11, according to which states are entitled to take due account of the specific circumstances and the framework of their legal systems, including, where appropriate, agreements with other states.

Although I have pointed out the flexible and accommodating nature of some of the provisions of the framework convention, I very much hope that what has been described by some commentators as "escape clauses" will not be treated as such, but that these flexible terms will be interpreted in an honest, objective and human rights-oriented manner. Such an approach would ensure that, for instance, the term "where appropriate" indeed means "where appropriate" and not "whenever anybody thinks it might be appropriate". It also needs to be stressed that despite their flexible wording, all of these provisions are legally binding. As of today, it is premature for me to try to make detailed comments on the concrete meaning of these terms. But I expect the advisory committee to play an important role in this respect as the monitoring cycle commences in 1999.

I would also like to underline that the flexibility which is to be found in some of the provisions of the framework convention does not detract from the important legal and political significance of this instrument. Indeed, it has been a major achievement to agree on a single legally binding text which applies to all state parties on the continent – east and west.

Even though a more concrete meaning of the language provisions of the framework convention should be found through their implementation and monitoring, it is clear that the charter contains more detailed provisions in this field. Indeed, although some specific languages covered by the charter are not necessarily covered by the framework convention and *vice versa*, I believe that the detailed provisions of the charter can in many cases usefully complement the more general provisions of the framework convention. In this context, it is important to note that there are no incompatibilities between the texts of these two instruments.

Finally, let me stress that, given the links between the matters covered by, respectively, the charter and the framework convention, it is essential that the monitoring organs of these two instruments do not work in isolation. This is why I believe it is important that the rules of procedure of the committee of experts and of the advisory committee call for co-operation between these two organs. This conference can contribute to such co-operation, and I, together with my colleague Mr Bíró, Vice-Chairman of the Advisory Committee, who is also present here today, look forward to learning more about the charter and its implementation.

Ferdinando Albanese
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Council of Europe
France

The position of the European Charter for Regional or Minority Languages in the general context of the protection of minorities

Introduction

The entry into force of the European Charter for Regional or Minority Languages on 1 March 1998 raises the issue of its relationship to other international instruments.

For those instruments that do not rank as treaties (such as the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities), the co-ordination of legal rules does not raise any particular legal difficulties, since such instruments have the nature of recommendations.

For instruments ranking as treaties, however, the co-ordination of legal rules depends on their substance.

Where international instruments contain general articles (such as Article 27 of the United Nations Covenant on Civil and Political Rights or Article 5, paragraph 1 (c), of the Convention Against Discrimination in Education), co-ordination with the articles of the charter is simple, for the latter sets out very specific commitments which may be considered as a *lex specialis*.

The problem is different where, as in the case of the Framework Convention for the Protection of National Minorities, an instrument sets out to address the subject of national minorities by means of a series of specific, detailed provisions.

Moreover, as the framework convention and the charter establish machinery for monitoring compliance with the commitments entered into by states, the question of co-ordination of legal rules takes on a special dimension.

The position of the charter in relation to other instruments

The charter's position in relation to other international instruments for the protection of minorities is unique.

All such instruments, be they treaties or other texts drawn up within the framework of the United Nations, the Organisation for Security and Co-operation in Europe, the Central European Initiative or even the framework convention, approach the issue in terms of "rights" conferred on individuals belonging to national minorities.

In particular, the Council of Europe's framework convention aims to address all aspects of minority issues. Language is protected as one component of a minority's identity (see Article 5 paragraph 1, of the framework convention), but other rights, including political and religious rights, are also covered.

The protection and promotion of regional or minority languages are, however, the sole purpose of the charter. It focuses on languages rather than the social groups that speak them. The aim is to preserve languages as cultural phenomena essential to a regional, national or European heritage, rather than as the vehicles of an ethnic identity. To this end, languages are protected in the various spheres in which they are used: education, culture, the media, law, administration and so on.

The two instruments are consequently different in nature: the framework convention is juridico-political, whereas the charter is juridico-cultural. This divergence explains the differing approaches taken to:

- protection methods;
- the substance of protection measures;
- machinery for monitoring compliance with obligations entered into by the parties.

It may seem strange that a language is a beneficiary of an international conventional instrument. Normally, the subject of an arrangement carrying legal protection or requiring a bilateral commitment is a state, an institution or a person. The situation appears less strange if we consider that the charter does not attribute rights and that its objective is to encourage states to take concrete measures of internal law applicable to regional or minority languages.

Protection methods

The protection method adopted by the framework convention reflects its purpose, which is to lay down rules governing all the issues that arise in relation to national minorities.

The legal rules on protection are of a general nature: in principle, they apply to all national minorities regardless of their actual circumstances. Any difference contemplated is explicitly stated in the text of the articles, although this does not affect the basic aim, which is to accord a general protected status.

The cultural nature of the charter means that it produces effects quite different from those of the framework convention.

It is based on an awareness that European cultural identity is actually made up of multiple identities, both at state level and within states. These various identities, for which languages are an essential form of expression, are one of Europe's great assets and must therefore be preserved.

That diversity is also revealed in the actual circumstances of each regional or minority language (number of speakers, extent of use, large or homogeneous geographical area, etc.).

In Italy, for example, German is spoken by about 280 000 people in the Southern Tyrol/Alto Adige, whereas in other geographical areas it is used by groups of speakers ranging in number from 1 000 to 3 000 people (Carnici, Walser, Cimbri and Mocheni). In Calabria, Occitan is spoken in a village of about 3 000 people, whereas it is the language of about 178 000 people in Piedmont. Albanian is spoken by about 100 000 people living in villages dispersed over six southern regions, with no geographical contiguity. It is obvious that the same legal rules cannot be applied to such different situations.

In order to take account of this wide variety of *de facto* situations, the charter lays down a protection method consisting of a differentiated series of measures, ranging from maximal solutions to minimal solutions. Depending on the circumstances of a given language, it is up to each state to adopt a set of appropriate, effective measures. There is thus potential for great diversity in the legal rules governing protection of regional or minority languages.

Substance of protection and promotion measures

The provisions of the framework convention differ significantly in material substance from those of the charter.

In most cases, particularly in the articles on language (Articles 9, 10 and 14), the convention does not provide for precise, practical measures.

As paragraph 11 of the explanatory memorandum states, the framework convention contains:

“mostly programme-type provisions setting out objectives which the Parties undertake to pursue. These provisions, which will not be directly applicable, leave the states concerned a measure of discretion in the implementation of the objectives which they have undertaken to achieve, thus enabling them to take particular circumstances into account.”

In this respect, Article 10, paragraph 2, is a typical example:

“In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Party shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.”

In contrast, the articles of the charter set forth a series of precise legal undertakings, the choice of which is left to the contracting parties, bearing in mind the circumstances of each language.

Machinery for monitoring compliance with obligations entered into by the parties

The different nature of the two instruments – juridico-political in the case of the framework convention, and juridico-cultural in that of the charter – results in different types of monitoring machinery.

An initial difference concerns the body responsible for monitoring implementation. In the case of the framework convention, that body is the Committee of Ministers, a quintessentially political organ that is, however, assisted by an advisory committee of independent experts. In the case of the charter, Article 17 provides for a committee of experts, a technical body composed of “individuals of the highest integrity and recognised competence in the matters dealt with in the charter”.

A second difference lies in the kind of monitoring undertaken by the two organs.

Under Article 26 of the framework convention, the Committee of Ministers “evaluate[s] the adequacy of the measures taken by the parties to give effect to the principles set out” in the convention.

Given that the framework convention does not contain protection standards but “programme-type provisions” and that monitoring consists of evaluating the “adequacy” of measures taken by states to implement the principles set out in the convention, it may be expected that the Committee of Ministers will have to make value judgements about the capacity of a given measure to achieve an aim whose nature as a “principle” and “programme” implies that it may be spread out over a period of time as part of a legislative trend. The machinery of the convention is thus a framework within which the contracting parties have agreed to discuss their policies on minorities together, a procedure that is clearly political in nature.

For its part, the charter does not specify the kind of steps the committee of experts will have to take. In my view, however, useful clues may be found in the content of the national reports and the text and structure of the charter’s provisions.

Article 15 provides that the party shall present “a report on their policy pursued in accordance with Part II” of the charter “and on the measures taken in application of those provisions of Part III which they have accepted”.

This wording implies that the steps taken by the committee of experts in order to monitor implementation of Part II of the charter are similar to those carried out by the Committee of Ministers in connection with the framework convention. With regard to Part III, the precise, detailed nature of the measures stipulated implies that consideration will be given to whether measures taken under states' domestic law comply with the letter and spirit of the relevant charter provisions. Such a procedure is clearly juridical in nature. Moreover, since most of the articles in Part III provide that practical measures must be selected "according to the situation" of each language, it seems likely that the committee of experts will have to judge whether measures adopted by a state are appropriate to the circumstances of a given language. If, for example, a language were spoken by a very large number of people and the protection and promotion measures were systematically selected from among the minimal solutions, the committee of experts would have to give an opinion as to the capacity of those measures to achieve the objectives of the charter.

It follows that the committee of experts, even though not a legal body (though it may formulate opinions and propose recommendations), will be called upon however to carry out, in the most part, work of an essentially legal nature.

Conclusions

Although all the charter's articles deal with the protection and promotion of regional or minority languages, whereas only three articles of the framework convention address the linguistic aspect of the protection of national minorities, it is clear that both monitoring organs will have to consider the same subject-matter, with potential for interference, inconsistency and conflict.

In point of fact, the question of co-ordination of legal rules does not arise where states have ratified only one of the two instruments.

In the case of states which have ratified both of them, co-ordination gives rise to some delicate issues, although all those who have studied the matter agree that, in principle, there is no danger of conflict, since measures taken in pursuance of Part III of the charter are likely also to enable states to achieve the objectives of the framework convention in the linguistic sphere. The two instruments are therefore complementary.

Such a conclusion must be supported and endorsed, provided that the Committee of Ministers, in its role as part of the monitoring machinery for the framework convention, confines itself to taking note of measures implemented by parties in pursuance of the charter. If it were to review the adequacy of such measures in relation to the programme-type provisions of the convention, there would unfortunately be potential for interference between the two instruments. It must be hoped that the Committee of Ministers will ensure the harmonious application of the two texts.

Consequently it would be opportune if a genuine collaboration were to be set up between the advisory committee and the committee of experts or, at least, between their chairs.

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The Netherlands

The experience of the Netherlands in implementing the charter

In this paper I will discuss the experiences the Netherlands had in ratifying and implementing the European Charter for Regional or Minority Languages and I would like to do this by addressing three questions. First, why did the Netherlands decide to ratify the European Charter for Regional or Minority Languages? Second, does the ratification of the charter interfere with a member state's liberty to formulate its own policy on regional or minority languages? Third I will address the issue of how the ratification by the Netherlands affected the policy and the ways of thinking already existing in our country regarding regional or minority languages.

As one of the principal aims of this conference is to assist member states in their ratification process, this paper focuses on the experiences of the Netherlands in the ratification of the charter. Emphasis will be on a number of critical decisions made in the process of ratification. These decisions relate to issues that may be relevant to other member states also considering ratification. Consequently, this paper will emphasise the second and third issues. The first one, important as it may be, will be touched upon only briefly.

Before discussing these three points, I would like to mention that on 5 November 1992 the Netherlands was among the first eleven member states that signed the charter. For our country it took almost four years before the ratification could be completed. On 2 May 1996 the instrument of acceptance was submitted to the Secretariat General of the Council of Europe. Three member states had already ratified the charter before us.

Rationale for ratification

Why did the Netherlands decide to ratify the charter? In the Ratification Bill, our government demonstrated two major reasons. First, by ratification of the charter the government wanted to provide a solid legal basis for the position of the Frisian language within the province of Friesland. Secondly, as apparent from the Ratification Bill, the Netherlands Government holds the view that the charter can contribute to European stability. This view also prevailed in the Council of Europe, as the Parliamentary Assembly explicitly requested that, for some of the newer member states, the admission to the Council of Europe would be possible only on the condition that they ratify the charter. For the Netherlands, the ratification of the charter underlines the wish of our country to be a party as well as a partner in a matter which so clearly represents the core values of the Council of Europe.

The flexibility of the charter

This brings us to the second question. What are the consequences when a state decides to incorporate its policy on regional or minority languages into a European charter? Is there reason to be concerned that ratification of the charter would interfere with the liberty of the Netherlands as an autonomous state to direct and develop its own policy on regional or minority languages? The latter certainly is not intended by the charter. The charter is designed as a flexible instrument that leaves as much room as possible for the contracting parties to make their own policy according to the situation of each language concerned. The flexibility of the charter seems therefore to be a useful feature, as the divergent situations of the various regional or minority languages may justify different treatment. The message that can be drawn from the charter and its explanatory report is that it is precisely its flexibility that enables states to ratify the charter and, in that way, to do justice to the great diversity of regional and minority languages spoken in Europe.

Obviously, the flexibility of the charter is not absolute. A state that accepts and ratifies the charter will have to apply the provisions of Part II to all the regional or minority languages spoken within its territory and which comply with the definition for such languages given in Article 1. But I assume that the acceptance of such minimum standards should not be problematic because these entail basic common values and standards that are part of the socio-political heritage of any democratic country in Europe.

In view of the importance of the flexibility of the charter I would like to consider this aspect in some more detail. I will do this by setting out how the Netherlands proceeded with the implementation of the charter. In the case of the Netherlands, I would like to illustrate the point of flexibility and the point of subsidiarity/autonomy by the following three items:

- the state's competence to decide which languages should be classified as regional or minority languages – within the meaning of Article 1;
- the state's competence to decide to which regional or minority languages Part III of the charter will apply;
- and, in case a state agrees that Part III applies to one or more regional or minority languages that are spoken within its territory, the obligation for the contracting state to select a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the charter.

Definition of regional or minority languages

How did the Netherlands use the option to choose the languages to be denoted as regional or minority languages? From the start it was obvious that in the Netherlands three languages complied with the definition of Article 1 of the charter. In the definition it is underlined that regional or minority languages are languages traditionally used by nationals of the state who form a group numerically smaller than the rest of the state's population. Such languages should be different from the official language(s) of the state. In addition, the definition does not cover either dialects of the official language(s) of the state or the languages of migrants.

Based on the definition, first of all, Frisian was to be included as it is considered a territorial minority language within the meaning of the charter. In addition, Yiddish and the Romany languages were also covered by the definition of Article 1, as they are considered non-territorial minority languages within the meaning of the charter. Furthermore, it was evident from the charter that our immigrant languages and dialects of Dutch did not comply with the definition.

The position of the Lower-Saxon and Lower-Frankish speech varieties spoken in the north-east and south-east part of the Netherlands, however, was more difficult to determine. The charter itself does not provide clear-cut guidance as it does not list the regional or minority languages of Europe. Section 32 of the explanatory report remarks only that "it will be left to the authorities concerned within each state, in accordance with its own democratic processes, to determine at what point a form of expression constitutes a separate language".

Thus, this left the decision on the status of varieties of Lower-Saxon and Lower-Frankish up to the Netherlands Government. In consultation with philologists from universities and research institutes, such as the Royal Netherlands Academy of Arts and Sciences, it was agreed that the varieties of Lower-Saxon spoken in the Netherlands should not be considered dialectical forms of the Dutch language. By contrast, they should be denoted as variants of a distinct language category which in the Netherlands is called Lower-Saxon and which in Germany is called Low German. Consequently, the government was willing to agree that the varieties of Lower-Saxon spoken in the Netherlands are to be considered regional languages within the meaning of the charter.

A similar conclusion was drawn as to the varieties of Lower-Frankish. And again, the Netherlands Government was willing to agree – upon request of the provincial government of Limburg – that the varieties of Lower-Frankish spoken in the province of Limburg are to be considered a regional language within the meaning of the charter under the common denominator "Limburger language".

Summing up the first item of flexibility, that is, does the charter provide a feasible instrument for the contracting states to decide which forms of expression should be considered a language? For the Netherlands the conclusion can be in the affirmative.

Application of Part III of the charter

Secondly, I would like to address how the Netherlands used the option to determine to which languages Part III of the charter should apply. In this respect the government proceeded as follows. It opted to codify the prevailing government policy on regional or minority languages. This codification approach served to determine whether Part III of the charter could be applied to any of the particular regional or minority languages spoken in the Netherlands.

From the very start it was clear that Part III of the charter could be applied to the Frisian language in the province of Friesland. In fact, this was one of the reasons to draw up the Ratification Bill. It should be noted that over the past five decades the Netherlands already had devised and implemented a policy in favour of the Frisian language. As such, this policy experience facilitated the Netherlands Government's agreement on the application of Part III to the Frisian language. First, the legislation regarding the Frisian language was sufficiently well developed to justify this step. Moreover, the Provincial Assembly of Friesland and the Frisian-language organisations had clearly indicated that they also would welcome such a step. Finally the decision was facilitated by the widespread support among the Frisian population for the use of Frisian in official language domains.

For the other languages, Yiddish, the Romany languages, Lower-Saxon and Lower-Frankish (or Limburger language) such a step was considered not possible. For the non-territorial languages – Yiddish and the Romany languages – this was justified in the explanatory report, where in section 37 it was argued that:

“In the absence of a territorial base, only a limited part of the charter can be applied to these languages. In particular, most of the provisions of Part III aim to protect or promote regional or minority languages in relation to the territory in which they are used.”

For the regional languages – the Lower-Saxon and Limburger languages – the government pointed to the level of language policy so far and to the difference in language awareness and language situation.

In sum, the second item of flexibility asks whether the charter provide a feasible instrument for the contracting states to determine to which regional or minority languages Part III applies. As for the Netherlands the conclusion can again be in the affirmative. From the prevailing policy on regional or minority languages the government had ample possibilities for determining its choice in accord with the spirit, the objectives and principles of the charter.

The *à la carte* character of Part III of the charter

This brings us to the third issue of flexibility and subsidiarity: the *à la carte* character of Part III. How did the Netherlands proceed regarding the option to choose which paragraphs or sub-paragraphs among the provisions of Part III would apply to the Frisian language? Did the government comply with the charter's intention to adopt the "stronger" alternatives of the options entailed in Part III and to accept "weaker" alternatives only when the situation of the Frisian language precluded the "stronger" option? To address these questions, first, I will outline how the Netherlands proceeded as to Part III.

As said before, for ratification of the charter the Netherlands opted to codify the prevailing government policy in favour of regional or minority languages. This was also applied to Part III. The Netherlands Government decided which provisions and which options to choose from Part III,¹ based on the large number of legal provisions and policy documents regarding the Frisian language, such as the 1989 and 1993 Frisian Language Covenants between the central and provincial government.² All in all, forty-eight paragraphs and sub-paragraphs were selected in such a way that the major fields for protection of regional or minority languages, such as education, judicial authorities, administrative authorities and public service, media etc. are covered.

As I have said, in the selection of paragraphs and sub-paragraphs in Part III the Netherlands opted for a codification approach. Consequently, for the sectors where the charter leaves room for the choice between "stronger" and "weaker" options, the Netherlands adopted a policy of choosing the "strongest" alternative whenever possible.

Summing up the third item of flexibility, that is the *à la carte* character of Part III of the charter: did the obligation for the contracting state to select a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III work out as a feasible way to reflect and codify government policy on the Frisian language? Again, for the Netherlands the answer is in the affirmative.

1. From a comparative European perspective it might be relevant to note that the Netherlands Constitution does not include any specific provision regarding Dutch being the official language of the Kingdom of the Netherlands. Some years ago, on the initiative of some members of parliament, a bill was presented aimed at introducing such a provision in our Constitution, but it did not pass.

2. An overview of legal provisions regarding the Frisian language as well as an overview of policy documents - such as the 1989 and 1993 Frisian Language Covenants between central and provincial government - is included in the first periodical report that is to be presented by the Netherlands Government to the Secretary General of the Council of Europe in February 1999.

Main effects of ratification on current policy regarding regional or minority languages

This brings us to the third question of my paper. Did the ratification by the Netherlands influence our policy and the ways of thinking on regional or minority languages? To answer this question I wish to focus on matters regarding the Frisian language. It is hardly an exaggeration to state that the ratification of the charter in 1996 pushed the government into taking several initiatives in accord with the objectives and spirit of the charter, as I will try to show by the following three examples.

Establishment of a monitoring committee for the Frisian language

First, in 1998, the Ministry of the Interior established a monitoring committee for the Frisian language to advise the government on language policy and to monitor the implementation of the charter. The committee consists of three members, a former Minister of the Interior, a former member of the Provincial Assembly of Friesland and a judge who previously had been responsible for language policy in the provincial government of Friesland. The monitoring committee has been established in accord with Article 7, paragraph 4 of the charter and was officially set up in January 1998. Its task is, first, to take into consideration the needs and wishes expressed by Frisian-language groups, second, to monitor government policy on the Frisian language, and third, to advise the government on all matters pertaining to the Frisian language. On the initiative of the committee, the government was advised to have an independent evaluation report drawn up on the implementation of the charter and the government decided to act on this advice.

Independent evaluation report on the Frisian language

In the second example, the Netherlands Government requested the Fryske Akademy to draw up an independent evaluation report on the measures taken in application of those provisions of Part III that the Netherlands had accepted with respect to the Frisian language. The purpose was to investigate whether all the ratified paragraphs, sub-paragraphs and options had already been implemented, and to check whether the Netherlands might have ratified “weaker” options than those complying with the objectives and spirit of the charter.

As researcher in charge of the evaluation I would like to share with you some of the experiences I had while working on the evaluation. First of all, I felt that it was appropriate to have the research findings discussed with the monitoring committee and with all the ministries concerned. Based on their reactions and based on additional research the text of the report was improved and finally submitted to the Netherlands Government. The government decided to consider this independent evaluation report on the Frisian language as an integral part of its first periodical report within the meaning of Article 15 of the charter and to have it officially presented to the Council of Europe.³

3. The full text of the “Report on the measures taken by the Netherlands with regard to the Frisian language and culture” (rapporteur: Auke Sj. van der Goot) is available in Dutch and English and can be obtained from the Netherlands Ministry of the Interior. Address: Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, DBFO/BenW, Postbus 20011, 2500 EA Den Haag, The Netherlands .

While discussing the first draft of the evaluation report on the Frisian language with the monitoring committee, it was suggested that information on the extent of the financial efforts and government subventions be included. However, for several practical reasons this task proved too difficult to be carried out within one year after the ratification date. Therefore, it was accepted that in this first evaluation report emphasis should be on presenting an up-to-date account of which legal and other policy measures were taken by the Netherlands in order to meet the standards of the provisions accepted under Part III. For subsequent evaluation reports it was suggested that the emphasis should be on the implementation policy on the one hand, and on changes in legislation and policy on the other. In addition, information on financial inputs and government subventions is to be included in the subsequent evaluations.

Adaptation of the Frisian Language Covenant system

This brings us to the third effect of the implementation on government policy. It should be mentioned, just as a matter of information, that from 1989 a Frisian Language Covenant has existed, that is an agreement between the national government and the provincial government of Friesland, that is updated every four or five years, with interim evaluations. By the 1989 and 1993 covenants the central government and the provincial government laid down their plans for a policy to be developed over the following few years to support the Frisian language: This policy included agreements on the necessity of creating new legislation, agreements to establish committees to advise on Frisian-language policy issues, agreements on financial incentives, etc. Thus, for some time already a structure for mutual consultation and discussion on Frisian-language policy development has been operating in the Netherlands.

As a result of the acceptance and ratification of the charter, an adaptation of the covenant system was considered necessary. It was felt that a Frisian Language Covenant should have a longer term of operation, say ten years. In addition, it was suggested that the interim evaluations of the covenant would take place every three years as this would fully fit in with the charter's system of periodical reports at three-yearly intervals. Moreover, the content of the covenant should from now on be in accord with the model of the charter, that is the first sections of the covenant should deal with education, the next sections with judicial authorities, followed by sections on administrative authorities and public services, etc. This exerts a positive effect by itself, for instance by drawing the attention of central and provincial government to the lack of agreements in the Frisian Language Covenants on the use of Frisian in social and economic life.

Finally, the acceptance of the charter has led to an awareness, at least in the Netherlands, that this is one more policy domain to which common European standards apply. A comparison with other European states has already led to a growing awareness among policy-makers and advisory bodies in the Netherlands that differences exist in the respective policies on regional or minority languages of different states. These differences are not necessarily explained by the variations in language situation. The monitoring committee on the Frisian language therefore has suggested that these discrepancies deserve more attention in accord with the spirit, objectives and principles of the charter. In this way, I hope, our country can contribute to the protection and promotion of at least a part of Europe's rich linguistic and cultural diversity.

Laura Yli-Vakkuri
Special Adviser
Legal Affairs
Finnish Ministry of the Interior

The experience of Finland in implementing the charter

Introduction

The instrument for the protection of regional and minority languages was the result of a long process. Concern over the situation of regional and minority languages in Europe had been expressed by various bodies for decades. The European Charter for Regional or Minority Languages was finally opened for signature on 5 November 1992.

Finland signed the charter in November 1992 along with eleven other member states of the Council of Europe. A preliminary survey of the possibilities of ratifying the charter had already been made before the signing. The outcome of the survey was that there were no obstacles to signing the charter and that the ratification could take place in due course, after a more in-depth study. However, a prompt ratification was considered important since Finland had actively participated in the preparation of the charter.

During the preparation of the Finnish ratification of the charter, the ministries concerned and the bodies representing various language groups were heard. The Ministry of Foreign Affairs coordinated the preparatory work.

The structure of the charter is somewhat complex. The protection of each language depends on the specific situation of that language and much is left to the discretion of the contracting states when it comes to the protection granted. Because of these characteristics of the charter special importance was placed on the co-operation between different ministries and contacts with minority groups.

The first step was to study the content of the charter and what kind of languages the drafters had meant. According to the definitions in Article 1 and Article 3 paragraph 1, the languages protected by the charter can be divided into three groups, that is into “regional or minority languages”, “the official languages less widely used” and “non-territorial languages”.

As we know, in defining the languages protected by the charter, the historical aspect and the nationality of the users is emphasised. Thus the charter does not apply to the languages of migrants. Neither does it by definition apply to dialects of the official languages of the contracting state.

When identifying the languages and assessing the possibilities of ratifying the charter the starting point for the Finnish ratification was the existing legislation. The relevant authorities went through the legislation in their respective fields and gave their opinion. Likewise, language groups had the opportunity to express their views.

The survey was completed in autumn 1994, and Finland ratified the charter in November 1994.

I would like to add that those dealing with the ratification process were very fortunate as regards the timing of the project: the new provisions of the Finnish Constitution concerning fundamental rights were being debated in parliament. Of special importance for the preparation of the ratification was the fact that the constitutional provisions concerning minority rights were being clarified and strengthened at the same time.

The historical and cultural situation of different languages is reflected in the new provisions of the Constitution. According to section 14 of the Constitution Act the national languages of Finland shall be Finnish and Swedish. The Sami as an indigenous people, as well as the Romanies and other groups, shall have the right to maintain their own languages and cultures.¹ These rights shall be guaranteed by special laws. The constitutional laws and these other laws were the basis of our ratification process.

The cultural and legal setting of minority languages in Finland

Before dealing with the languages mentioned in the Finnish instrument of ratification I would like to give a short overview of the cultural and legal setting of minority languages in Finland.²

The geographical area nowadays called Finland could be characterised as the northernmost meeting point of eastern and western European cultural influences. It is reasonable to emphasise that the Finns have been in a position of political power in the country for only a short period of time. The Finns were under the dominion of the Swedish Crown until the early nineteenth century, after which they became subjects of the Russian Empire. Finland gained its independence in 1917.³

As an eastern periphery of Sweden, the Finns themselves formed a minority group within the Swedish population. During the last decades before independence the Finnish ethnic element had been gradually recognised and gained increasing influence. Although Swedish is the second official language in Finland, its position is today clearly that of a minority language. The national languages being Finnish and Swedish, it would, however, be wrong to assume that the Finnish society is or has been homogenous. At the time of Swedish rule other cultural and linguistic minority groups, such as the Sami and the Romanies, lived in the area now known as Finland.⁴

1. An English translation of Article 14 is attached.

2. See also: "The Swedish-speaking minority in Finland: A Case Study" by Karmela Liebkind, Roger Broo and Fjalar Finnäs, "The Sami People in Finland" by Irja Seurujärvi-Kari, Matti Morottaja, Lassi Saressalo, Juha Pentikäinen, Vuokko Hirvonen and Ulla Aikio-Puoskari, and "Finnish Rom: A Forgotten Cultural Group" by Martti Grönfors, all of these articles in *Cultural Minorities in Finland. An Overview towards Cultural Policy*, Publications of the Finnish National Commission for Unesco No. 66, Helsinki 1995, pp. 48-83, 101-45 and 147-60.

3. Juha Pentikäinen, "Finland as a cultural area", in *Cultural Minorities in Finland. An Overview towards Cultural Policy*, Publications of the Finnish National Commission for Unesco No. 66, Helsinki 1995, p. 11.

4. See *ibid*, p. 19.

Swedish⁵

The Swedish-speaking Finns constitute a purely linguistic minority of only 6% of the population (approximately 300 000 persons). As described above, the strong position of the Swedish language and culture today is based on Finland's common history with Sweden. And as mentioned earlier, according to the Constitution there are two national languages in Finland: Finnish and Swedish, and the needs of each language group are to be satisfied in an equal manner. As a consequence both languages can be used in dealings with the authorities or courts of law all over the country, and all parliamentary documents, including all laws and regulations, as well as international agreements to which Finland is a party, are published in both Finnish and Swedish.

Municipalities are monolingual or bilingual depending on the size of their minority. If the size exceeds 8% of the population or 3 000 persons, a municipality is considered as being bilingual. In Finland, politics may be conducted in Swedish. For instance, the Swedish People's Party is supported by 70 to 80% of the Swedish-speaking Finns. Many other political parties are bilingual having Swedish-speaking sub-organisations. In practice there are no restrictions for Swedish-speaking Finns that would prevent them from rising to the most prominent positions.

The position of the Swedish language in Finland complies with the definition in the charter concerning the official languages less widely used in the territory of a contracting state. At the time of the ratification, Finland declared that it would apply a total of sixty-five provisions of Part III to the Swedish language. The status of the Swedish language, as the other national language, enabled Finland to choose from among the options the ones that provide a very high level of protection.

Sami

The Sami people, a minority in the far north, differ from the majority from a linguistic, ethnic and cultural point of view. The Sami homeland extends from the Kola Peninsula through Finnish Lapland to northern Sweden and Norway. It is estimated that there are 20 000 to 45 000 Samis in Norway, 20 000 to 25 000 in Sweden, approximately 7 000 in Finland and 2 000 in Russia. In Finland and Norway the Sami are recognised constitutionally as an indigenous people. They are guaranteed a cultural autonomy in respect of their language and their culture. The 7 000 Samis in northern Finland represent 0.1% of the population. About half of them speak the Sami language.

5. As regards the social situation of the Swedish, Sami and Romany languages in Finland, the author would like to thank Ambassador Holger Rotkirch, Director General for Legal Affairs, Finnish Ministry of Foreign Affairs, for the permission to make use of his presentation at the seminar organised by the Finnish Delegation to the Parliamentary Assembly of the Council of Europe, held on M/S Silja Symphony on 1 April 1996.

Within the Sami area there are seven main languages, three of which are spoken in Finland. The Sami Language Act was drawn up by the Sami Parliament⁶ in co-operation with the Finnish Ministry of Justice. Its primary objective is to preserve Sami culture as a living entity and to give the Sami language a more equal status in relation to the rest of the population.

In its instrument of ratification, Finland declared that it shall apply a total of fifty-nine provisions of Part III to the Sami language, which is the only regional or minority language in the Finnish territory complying with the definition of Article 1 of the charter. The existing Finnish legislation, policy and practice towards the Sami enabled Finland to choose a great variety of provisions concerning cultural and social life as well as judicial and administrative issues.

As to the declaration concerning the Sami language, it should be noted here that the level of protection does not depend solely on the number of provisions chosen; some of the options are not necessarily alternatives but may be accepted cumulatively and some options may provide a “stronger” protection than other ones concerning the same area of protection.

With regard to education, Finland undertook an obligation to make available within the territory in which the Sami language is used, among other things, pre-school education, primary education, secondary education and a substantial part of technical and vocational education in the Sami language, and to provide facilities for the study of that language as a university and higher education subject as well as offering it as a subject for adult and continuing post-secondary education.

As regards media, Finland undertook an obligation, within the territory in which the Sami language is used to respect the independence of the media, for example to encouraging and/or facilitating the creation of at least one radio station, the creation and/or maintenance of at least one newspaper, the production and distribution of audiovisual works and broadcasting of television programmes in the Sami language.⁷ In other fields of cultural activity and facilities, Finland further undertook an obligation to encourage and promote measures to activate the Sami language. In addition, transfrontier exchanges are facilitated and promoted.

6. A representational body of the Sami people.

7. Radio programmes in the Sami language have been broadcast for fifty years. A Sami radio channel has been functioning since 1991. There is text-TV as well as an internet page in the Sami language.

Finland specified those situations where the Sami language can be used: within judicial and administrative districts in which the number of residents using the language justifies such measures.

According to the Sami Language Act⁸, all laws and regulations which particularly relate to the Sami people may be published in the Official Journal of Finland in the Sami language. In addition to Finnish and Swedish, the text of the charter was translated and published in Sami in the Treaty Series of the Official Journal.

Romanies and other minority language groups

From the estimated total (15 000 to 20 000) of the Romany population in the Nordic countries some 7 000 persons live in Finland. The size of the group is equivalent to that of the Samian group and represents 0.1% of the population. Romanies have lived in Finland since the middle of the sixteenth century. The majority can speak Romany to some extent but its use is diminishing in spite of special measures taken by the state to encourage the study of that language. Today Finnish Romanies speak Finnish as their mother tongue.

To illustrate the special emphasis given in the Finnish Constitution to the situation of the Romanies and their culture, Finland deposited, at the time of the ratification of the charter, a declaration to this effect. Finland declared that it undertakes to apply the principles listed in Part II to the Romany language and to the other non-territorial languages in Finland.

This type of declaration was not required by the charter. The purpose of the declaration was to emphasise the meaning of Part II for the non-territorial languages to which the precise rules of Part III cannot be applied, and to give a positive sign to this effect. The text of the declaration is written in such a way that it specifically mentions the Romany language but does not exclude other non-territorial languages.

Application of the charter

As for Finland, legislation on this subject was already in place before the ratification. It is important that during the monitoring process provided for in the charter, we can assess the situation and test the laws in force in the light of the charter. In realising international human rights obligations, the laws and their correct application are of vital importance. In this context I would like to mention the role of the Parliamentary Ombudsman and the Chancellor of Justice of Finland in safeguarding the realisation of human rights. Among other things their task is to oversee the courts and other public authorities as well as to ensure that public officials comply with the law and fulfil their obligations in the performance of their duties. The Chancellor and Parliamentary Ombudsman shall also supervise the implementation of fundamental rights and international human rights.

8. See section 13 of the Sami Language Act (516/1991).

For instance, the Parliamentary Ombudsman has instructed the authorities to take into account the right of the Swedish-speaking Finns to use their mother tongue in legal proceedings as this is their lawful right. This has been duly noted by the authorities and action has been taken.

As we know, the application of the charter shall be reviewed by a committee of experts and the Committee of Ministers of the Council of Europe. Each contracting state shall, to this end, present periodical reports on their policy pursued in accordance with Part II of the charter and on the measures taken in application of those provisions of Part III which the contracting state concerned has accepted. The first reports are due shortly.

The representatives of various language groups play an important role in reviewing the application of the charter since bodies and associations may participate in the examination of the reports with the committee of experts. It is for each contracting state to decide to what extent these bodies and associations may participate in the preparation of the national report. In Finland, interested bodies and associations are normally heard at the preparatory stage of reports like these. This is also the case as regards the charter.

To conclude, opening the charter for signature is an important step in stressing the value of regional and minority languages as a cultural heritage and an essential part of Europe's cultural traditions. We should note that the charter is a living instrument. The ratification of the charter should not freeze the situation in the ratifying country. There is always more to be done to protect regional and minority languages.

The Constitution Act of Finland

Section 14

(17 July 1995/969)

The national languages of Finland shall be Finnish and Swedish. The right of everyone to use his own language, whether Finnish or Swedish, as a party in proceedings before a court of law or other authority, and to obtain documents from them in that language, shall be guaranteed by Act of Parliament. Public authorities shall take care to provide for the educational, cultural and social needs of the Finnish-speaking and the Swedish-speaking populations of the country according to similar principles.

The Sami as an indigenous people as well as the Romanies and other groups shall have the right to maintain and develop their own languages and cultures. Provisions governing the right of the Sami to use the Sami language before the public authorities shall be prescribed by Act of Parliament. The rights of those who use sign language and of those who require interpretation or translation because of a disability shall be guaranteed by Act of Parliament.

Bernard Poignant
Mayor of Quimper
France

Prospects for ratification of the charter by France

Why is France now preparing to sign and ratify the European Charter for Regional or Minority Languages ?

In Europe, France is the country that has the largest number of languages spoken on its territory, including the overseas departments and territories. It is therefore subject to major domestic pressure in this area, although it has not devoted much attention to the issue in the past. We are now witnessing a new page in French history.

Some of the salient features of the nineteenth century and the fleeting twentieth century have disappeared:

- colonial history has ended (witness the 1998 agreements on New Caledonia);
- the anticlerical disputes with the Roman Catholic Church have ended;
- the conflict in the education sector (between Roman Catholic private schools and secular state schools) has eased, following two periods of tension in 1984 and 1994;
- lasting peace has been achieved between France and Germany, as illustrated by the ending of compulsory military service;
- the centralised government system focused on Paris has been called into question. It is the Jacobin system that is at stake here, even though the reform of the state is only just beginning.

These five examples show that the history of France is changing. This explains the new approach the country can take to its linguistic and cultural diversity.

There have been many changes over the past twenty years and moreover, the process has been accelerating recently.

- France's commitment to Europe is now clear. The Treaties of Maastricht and Amsterdam confirm this commitment even more strongly – to the extent that the country is preparing to give up its national currency. When you are willing to give up your national currency, you can hardly be afraid of the impact of a regional language on national sovereignty.
- France's involvement with other European countries, its discovery of their particular practices and its desire to help shape developments in eastern Europe are moving it towards significant changes in this area.

- As could have been expected, the decentralisation process that started in 1982 and the direct election of regional councillors since 1986 have quite naturally increased the pressure for the recognition of regional languages.
- The interest shown by politicians, trade unions and the public at large in local issues was bound to lead to growing support for regional cultures and languages.
- Efforts to promote local democracy cannot ignore this aspect of life, and efforts to promote local development as a response to the recession cannot gloss over this aspect of our fellow citizens' personality.
- Globalisation has naturally increased people's interest in their local environment: the places where they work, have chosen as their homes, were born or happen to be. Similarly the United Nations has seen considerable growth in the number of states at a time when the free movement of individuals, ideas, goods and capital is turning our planet into a global village. Because human beings are not abstract concepts, even if we think globally, we do have to call somewhere our home. The identity issue is therefore taking on crucial importance. And it is better for it to be dealt with by republicans and democrats than by nationalists and xenophobes.

There are also things(see below) that must not change in France, that is there are areas where no compromises can be made. Those who want to use the language issue to make changes in these key areas are wasting their time. I cannot see any public support or possibility of achieving majority support at the political level for changes in these areas. Three issues involved are:

- *National unity:* France, a unitary nation-state, is not heading down the path of federalism. Its government system must undergo further devolution and decentralisation, and could become increasingly contractual in nature, with the state acting as the guarantor or partner of the public and their interests. However, France will not be dismantled. Obviously, there can be no question of separatism. As for the French people, they are one because they are the only sovereign force.
- *Republicanism is our form of government:* This is not a neutral statement, as it makes direct reference to our history. In the past, opponents of the republican system have exploited regional interests and regional languages to oppose the establishment of the republic with its motto, its human rights and its universal suffrage. And the Roman Catholic Church played a central part in the conflict. Today, this threat has disappeared except among certain extremist political groups.
- *French will remain the only official language:* Given its role as their shared language and a world language, the vast majority of the population would not understand why any changes should be made in this respect, both because of their attachment to the language and quite simply for practical reasons.

In short, then, those are the reasons why France's position on the regional language question is changing, and the conditions that must be met if progress is to be made. Perhaps this is just one step along the way and future generations will have to come back to the matter, as change in the field of languages is a slow process.

How has France approached the signature and ratification of the European Charter for Regional or Minority Languages ?

Declarations and undertakings

President Jacques Chirac indicated in Quimper (Finistère, Brittany) on 29 May 1996 that he would not oppose France's signing of the charter.

The then Prime Minister, Alain Juppé, asked the *Conseil d'Etat*, the country's highest administrative court, for an opinion, which it presented on 24 September 1996. Except in the fields of education, culture and the media, the court found that the charter was incompatible with the constitution.

On 29 October 1997, Prime Minister Lionel Jospin asked Ms Nicole Pery, a member of parliament from the Pyrénées-Atlantiques *département* in the French Basque Country, who is now State Secretary for Vocational Training and Women's Rights, to submit a report setting out analyses and proposals, the drafting of which was then assigned to Bernard Poignant, Mayor of Quimper (Finistère, Brittany) on 8 April 1998. The report, which was submitted on 1 July 1998, recommended that France sign and ratify the Council of Europe charter.

On 10 July 1998, Guy Carcassonne, Professor of Public Law at the University of Paris X Nanterre, was commissioned to prepare a report examining the compatibility of the charter with the French constitution, sub-paragraph by sub-paragraph. The conclusions of his report, which was presented on 7 October 1998, were also positive.

On 28 September 1998, the Prime Minister made the following statement to the parliamentary members of his own political party in Tours:

“If we wish to show respect for and promote pluralism, we must recognise the contribution that regional cultures and languages make to our national heritage.

Among the proposals (in Bernard Poignant's report) which I intend gradually to implement, one stands out because of its symbolic importance: the government will take steps to enable the Council of Europe's Charter for Regional or Minority Languages to be signed and ratified. The time when national unity and the plurality of regional cultures seemed to conflict with each other has passed.”

The Prime Minister confirmed this decision at the UNESCO headquarters in Paris on 14 November 1998 on the occasion of the Jean Jaurès Foundation's symposium on culture.

That is where we stand today.

The charter and the French Constitution

Article 2 of the Constitution states that “the language of the Republic shall be French”. This provision was added in 1992, when the constitution was amended prior to the ratification of the Maastricht Treaty.

The Constitution also states that France is “an indivisible Republic” and does not accept any form of communitarianism. Nevertheless, Mr Guy Carcassonne did conclude that France could sign and ratify the charter for two reasons and on two conditions:

- The first reason: the charter is aimed primarily at preserving an aspect of the cultural heritage and helping to protect and develop the relevant languages in those states which so desire. It is not a matter of enshrining inalienable and unconditional rights to speak or write a language other than the national one at all times and in all circumstances.
- The second reason: the charter offers signatories a very wide choice in terms of the commitments they have to make. As numerous practices already exist, France would have no difficulty in granting them legal status.
- The first condition: the charter makes several references to the concept of “groups”. I would reiterate Professor Carcassonne’s view on this issue in full:

“The French people are one, and France, which affords all of its citizens the same rights, has never recognised minorities within its midst. It goes without saying that this principle must not be undermined. To make this clear and, at the same time, be done from the outset with the alleged implications I have already mentioned, I would suggest that France should make an interpretative declaration if it signs the charter. This would make clear that France takes “groups” to mean the individuals that make them up and believes that they cannot in any circumstances form entities that are separate from those individuals and have their own rights.”

- The second condition: we must not fall into a vocabulary trap. Here, again, I would reiterate in full Professor Carcassonne’s conclusions:

“The charter stresses the right to use languages in private and public life. To French ears, the term ‘public life’ automatically suggests the relations between individuals and the authorities (the justice system, public administration, etc). However, this is not at all what is meant, and no room should be left for ambiguity. With the term ‘public life’, the charter actually means the whole range of contacts people have outside their own homes, not only with the authorities, of course (in two of its articles), but also in the fields of education, the media, business, banking and so on.”

On that basis and providing the above conditions are met, France can accept fifty-two subparagraphs of the charter, selected as the Council of Europe wished when the text was adopted.

Conclusion

Much is already being done in France, but legal recognition is taking a long time to materialise.

There has been no shortage of declarations by political leaders.

Dozens of parliamentary bills have been tabled but never debated. The only one ever actually to have been debated was tabled in 1951 by Joseph Deixonne, a member of parliament from the department of Tarn (Occitan).

Signing and ratifying the Council of Europe charter would mean taking the plunge. In doing so, France would be showing confidence in the future. It would be a wonderful gift for the twenty-first century.

John Walter Jones
Chief Executive
Welsh Language Board
United Kingdom

Prospects for ratification of the charter by the United Kingdom

“The Celts are coming!” went the cry in the year 387 BC through the unpaved streets of a small town in central Italy. It was only the betraying crackle of geese during the night that saved the remaining defensive stronghold from ultimate conquest. The town was Rome and the price paid by its inhabitants for the retreat of the Celts after seven months under siege was 1 000 pounds of gold.

About 400 years later Rome had destroyed the Celtic world; only a few individual tribes in north-west Europe were able to preserve their independence and their language.

Those words appear in a book published in 1980 to mark the opening of an exhibition on the Celts in Middle Europe in the town of Hallein here in Austria. I was present at the event and it was a memorable occasion. During the opening ceremony, the Archdruid of Wales, responding to the official welcome by the President of Austria said that while the artefacts and the archaeological evidence had been assembled in Hallein, the breath of life was to be found in Wales and the other Celtic countries. Perhaps he should have added the words “in varying degrees”.

Nearly two millennia after Rome had conquered the Celts, some of the individual tribes in north-west Europe – in Ireland, Scotland, Wales, Brittany, Cornwall and the Isle of Man – are still hard at it preserving their independence and languages with, it must be said, varying degrees of success. At least so far as the preservation of our language is concerned, we in Wales have been one of the most successful.

According to the last census in 1991, nearly one-fifth of the population of Wales – just over half a million people – could speak Welsh. If you count the number of Welsh speakers outside Wales as well, you reach an estimated total of three-quarters of a million. The indications regarding the next census in 2001 are fairly promising, and we are hopeful that the results will actually show an increase for the first time in the numbers and percentage of people who are able to speak the language. Much of this success can be put down to the phenomenal growth in Welsh-medium education, the effects of which were already evidenced in the increase, from 1971 to 1981 and from 1981 to 1991, in the numbers and percentages of schoolchildren able to speak Welsh. The Welsh language is now a central part of the national curriculum in Wales. This means that every child in Wales will learn Welsh up to the age of sixteen. But the most encouraging part is that this growth has largely been as a result of parental choice. Parents, the majority of whom do not speak Welsh, are recognising the value of the language as part of their children’s education.

Take Cardiff as an example. In 1949, the first Welsh-medium primary school opened with 19 pupils. Today, 1 937 primary and 1 477 secondary-school children receive Welsh-medium education in the capital city. And whereas in 1949, the demand for Welsh-medium education came from Welsh-speaking households, today some 75% of children come from households where neither parent is able to speak Welsh, and from all areas of the city.

But Welsh is not simply the language of the classroom. We are very well served by Welsh language television and radio. Indeed, S4C (the Welsh Channel 4) which provides high quality programming through the medium of Welsh is the envy of the minority language communities the world over. And with the development of digital broadcasting, S4C is able not only to increase the number of hours of Welsh language programmes it provides, but also to reach many Welsh speakers who live outside Wales.

Much else is available on the cultural and entertainment front: books, films, drama, music and festivals, including the uniquely Welsh *Eisteddfod* – probably the largest cultural festival of its kind in Europe. In other words, the language does not exist in a vacuum but within a sustaining infrastructure. A very important part of that sustaining infrastructure is an Act of Parliament, the Welsh Language Act of 1993. It was this act that established the Welsh Language Board to, amongst other things, “promote and facilitate the use of the Welsh language”. The act also established the principle that in the conduct of public business and the administration of justice in Wales, Welsh and English should be treated on a basis of equality. This is the key principle to which the Board has consistently sought to give practical effect. I do not want to go into any more detail at this stage about the Board’s activities, but if you are interested in these please visit our website¹.

Suffice to say that as a result of this legislation and associated measures, there has been a change for the good in the language’s profile and in its position as a natural part of daily life in Wales. A visitor to almost any town in Wales, comparing the situation five years ago with the situation today, would immediately notice a huge increase in the use of the Welsh language on signs and shop-fronts and in general information provided to the public. An increasing number of public sector bodies, voluntary organisations and private companies are all seeking to implement robust Welsh language policies to meet the needs of their Welsh-speaking clients.

1. www.netwales.co.uk/byig/home.htm

I believe that this will develop further as a result of changes in the way Wales will be governed in future. Many of you, I am sure, will be aware that these are very exciting times for us in Wales. In September 1997 the people of Wales voted, albeit by a slim margin, in favour of the establishment of a Welsh National Assembly – in other words, devolution from the Westminster Government in England. We are in the process of giving practical effect to that decision, and in May 1999 a totally new form of government will be elected, namely the Welsh Assembly. This offers tremendous opportunities for the language. The United Kingdom Government has already committed itself in the Government of Wales Act 1998, which sets up the Assembly, to ensuring that the new body will operate in accordance with the principle of equality set out in the 1993 Act. The Welsh Language Board has been actively involved in advising the government on the practical implications of using two languages, Welsh and English, in the Assembly.

It is against that very brief background that I now would like to discuss the European Charter for Regional or Minority Languages.

Given the relative strength of the Welsh language in Wales today, and given the various forms of support for the language that exist, I could say with little fear of contradiction that the Welsh language will survive whether the United Kingdom ratifies the charter or not. The fact is that the future of the Welsh language is not dependent on the existence of the charter and its provisions, or on its ratification by the United Kingdom Government.

However, to look at the situation only from the narrow-minded perspective of one's own language would be to display a total ignorance of the broader significance of the charter. The charter is not specifically about the Welsh language in Wales, or the Breton language in Brittany or any other specific language in a specific part of Europe. It is much broader than that. It is part of an on-going global process of codifying human rights – in this particular context, the right to communicate and to express oneself through the medium of one's own language within one's own community.

The significance of the charter is that it forces member states to address the issue of how far they are willing to go in order to ensure that we, and other language communities throughout Europe, do not disappear altogether. The question we must ask is what price are we willing to pay to ensure that cultural and linguistic diversity is maintained today? It is an issue that has to be addressed, for the simple reason that finance is not infinite, and hard choices have to be made in the field of safeguarding minority languages as in every other field of expenditure. We cannot afford to divorce ourselves from reality.

If we are mature in our approach, then we have a right to expect member states to be mature in their approach to the charter and its implications. We have a right to expect them to address the issues. One of the key building blocks of greater European co-operation is mutual respect for cultural differences – and I'm not simply referring to language. Cultural differences colour perceptions. Between member states, these differences are now respected, understood and taken into consideration within the decision-making process. In the context of the charter, I want to see that kind of understanding and respect extended downwards, and inwards, to include minorities within the members' own states. That to me is "the big idea", the opportunity which the charter provides. It enables national governments to equip minorities to safeguard their linguistic heritage with state support, and more importantly, understanding and respect.

The implications of signing and ratifying, especially the financial implications, will obviously vary from state to state. Each state will also face its own individual problems arising as a consequence of the variants. The challenge is to find practical solutions so that we can minimise problems and maximise potential. "Don't get your priorities wrong, because you only get one chance in this game", as Professor Fishman puts it.

Turning to a matter which affects members of the European Union, I would like to comment briefly on the situation which came about earlier in 1998 and resulted in the freezing of the European Commission's budget line B3-1006. The budget line – incidentally the only European action that was specifically directed at minority languages and cultures – provided financial support for a wide range of minority language projects which otherwise would not have gone ahead. And at some 4 million ECUs per annum we are not talking about a large sum of money in European terms! I appreciate that there were important legal principles involved and that it was absolutely necessary for this budget line to have a proper legal basis. Nonetheless, the effect of freezing the line was to put at risk a number of on-going Europe-wide minority language initiatives, which had no alternative source of support.

If member states really are concerned about the situation of our minority languages, I would like them to prove that, by ensuring that the new programme currently being drafted by DG22 proceeds quickly through the parliamentary process and is not unnecessarily delayed. I am convinced that there are a number of worthwhile minority language projects that are unable to go ahead until the programme is approved and funds are made available. Until then, it is difficult to see how projects that seek to involve different language communities working in partnership can be developed. In the meantime, of course, without financial support there is a risk that many action programmes within minority language communities will not proceed – to the detriment of those communities. We are talking here of sustainable development, a concept which is understood and accepted in so many other areas of everyday life. Is it too much to ask, in terms of languages, for a programme that sustains the development of this unique element of the social fabric of our communities?

That said, the European Charter for Regional or Minority Languages offers us – and I am referring to the community of European indigenous languages – a means to ensure our linguistic survival. Because that to me is what the charter is all about: providing languages with a realistic opportunity to survive. In the final analysis, of course, the charter will not of itself safeguard the future of any language. As I suggested earlier, the survival of any language is not dependent on the charter: survival depends on many factors, as diverse as the economic well-being of the area in which it is spoken and its transmission from generation to generation. What the charter does, however, is provide a framework and list domains in which language-use can, given the will of national governments amongst other things, become a practical reality.

When I first read the charter, I must confess that I considered it solely in the context of the Welsh language in Wales. I felt quite comfortable with what was set out, indeed I could tick off the provisions in the Welsh context almost entirely. To be perfectly honest I felt quite smug. But then I tried, objectively, to consider the other side of the coin. I read the provisions again and tried to imagine a situation where, instead of a tick of approval, my copy of the charter contained crosses, denoting what I and fellow Welsh speakers could not do, or were prevented from doing, through the medium of our own language. Only then did I realise that for some communities the struggle of trying to keep their languages alive in the face of intense pressure from other, stronger linguistic influences is very much on-going, and far more problematic than the position in Wales.

It is quite apparent that not every minority language is as well provided for as languages such as Welsh, Catalan, or Basque. All too often people who are part of a minority language community can feel alienated and marginalised by a lack of provision for their language and what appears to be a lack of will on the part of their national governments to do anything about it. I believe that we “stronger” languages are in a position – indeed have a duty – to help communities that are not as well provided for. How? By lobbying our regional governments and member states, and through them European institutions such as the European Parliament and the Council of Ministers, to encourage other member states to continue to develop and strengthen the situation of minority languages across Europe by adopting specific measures outlined in the charter. But we also have to face facts.

That which is possible in one area might be no more than a forlorn hope in another. If I can turn briefly to the Welsh Language Act, and to one phrase in that act, namely “appropriate in the circumstances and reasonably practicable”. Only by the judicious application of this key phrase have we been able to make realistic progress, because the phrase recognises linguistic differences and allows for different approaches in different circumstances. Contrary to what some would like to believe, however, it is not a phrase that allows for inactivity.

This is how I interpret the charter: action must be “appropriate in the circumstances and reasonably practicable”. If governments therefore approach the question of signing and ratification from this perspective they need not be fearful of the consequences. The charter allows for this approach. At its simplest it is a shopping list. It recognises that different linguistic situations exist in Europe. It provides for flexibility. Governments can, therefore, set their own goals within the framework of the charter, but central to everything is the call for “resolute action to promote regional or minority languages in order to safeguard them”. That is what a signature really conveys: the will on the part of a government to work realistically. It is up to individual governments to set the rate at which they progress, and up to their citizens and other governments to ensure that they are doing more than merely paying lip-service to their responsibilities under the charter.

The charter therefore offers choice – choice that can thereafter be implemented on the basis of what is reasonable and practicable. I have no problem with that, because this opens the door for we representatives of language communities where the choice is both reasonable and practicable, to help other language communities not so fortunate. We can do the grafting, the hard work, and pass on our experience to others. Someone once described it as the twin-track approach.

This charter therefore provides a unique opportunity for the strong to support the not-so-strong, for cross-border and inter-regional co-operation on an Europe-wide basis for, as the charter puts it, “the maintenance and development of Europe’s cultural wealth and traditions”. It is estimated that around 50 million EU citizens speak a language other than the official languages of the states in which they live. This is not an insignificant number. Politicians and policy makers, take note! We all have a vote!

Developing this cross-border and inter-regional co-operation was one of the main aims of the European Conference on Community Language Planning which the Welsh Language Board organised in Cardiff in June 1998. To return briefly to the point I made earlier about finance, this conference was made possible only because of a grant from DG22, which only just got through before the budget-line was frozen. I would therefore like to take this opportunity to thank the people at DG22 for their work, assistance and perseverance.

Because it is a good example of the type of co-operation to which I refer, I would like to talk a little about our project. Briefly, the aim of the project of which the conference was the first part, is to develop a compendium of guidelines and examples of best practice in the field of community language planning, drawing on the experience and expertise of a number of key players throughout Europe. I believe I can safely say that the conference was a success. Not counting Wales, nine European communities were represented by nineteen people with practical expertise and relevant experience in the field of community language planning. In truth, the level of networking which developed among the delegates was particularly impressive, which bodes well not only in relation to the development of this project, but also for other Europe-wide projects in the future.

The main focus of the conference was to agree a practical framework to guide future developments in this field. I am pleased to say that we achieved this aim. I do not intend to go into further details at this stage, I am afraid that you will have to wait until the package is published on our website in 1999. Nevertheless, I am confident that the package will prove to be a useful resource to assist communities everywhere in the task of safeguarding their languages and to protect or establish socio-linguistic networks for maintaining minority languages in situations where fragmentation might well occur. We are not trying to tell people what do, we are only trying to show them what has worked for other communities. This is very much in accordance with the ethos of the charter, of course.

Unfortunately, as you know, a few governments have dragged their feet somewhat in relation to signing the charter. The United Kingdom, until this year, fell into that category. Despite our best endeavours as a Board and the support of the then opposition party and MEPs such as Eluned Morgan who has been very active on behalf of European minority languages generally, our previous Conservative government continually refused to sign the charter, even in respect of the Welsh language about which they had a relatively good story to tell. Nonetheless, because of the support we had received from the Labour Party in opposition, we were hopeful that the United Kingdom would finally become a signatory to the charter when there was a change of government in May 1997.

We were not to be disappointed, nor did we have too long to wait. On 4 June 1998 in response to a Parliamentary Question, the United Kingdom Government stated that it had “concluded that it would be appropriate” to sign the charter. This decision was publicly announced later that same day during the European Conference on Community Language Planning organised by the Welsh Language Board. Some of you here today were present when the then Secretary of State made his announcement, and I can tell those of you that were not with us on that Thursday evening in June, that it was quite an emotional moment.

It is worth repeating the government’s answer in full:

“Her Majesty’s Government has given thorough consideration to the merits of the United Kingdom becoming a signatory of the charter, which entered into force on 1 March 1998. We have concluded that it would be appropriate to do so. Part II of the charter sets out general principles of recognition and support for indigenous minority languages and removal of discrimination against them. We readily subscribe to these principles. We also intend to specify the Welsh language in Wales and, when the necessary procedural arrangements are in place, the Gaelic language in Scotland under the provisions of Part III which require adherence to a number of specific measures taken to promote the use of these languages in public life. It is also intended to specify the Irish language in Northern Ireland at an early date. Part II of the charter will apply to the Scots language. We will be considering which, if any, other languages will be bound by the general principles in Part II and might be specified under Part III in due course.”

I have already shown, I believe, that the position so far as Welsh is concerned is relatively good and, as we have said for years, the United Kingdom Government should have no difficulty in signing the charter in respect of the Welsh language. The government, however, has more work to do in relation to the other languages named. Nevertheless, it has already clearly demonstrated its willingness to take the charter's principles to heart, and to promote and support the use of minority languages in practical ways.

Cardiff had the honour of hosting the final Summit of the United Kingdom's Presidency of the European Union on 15 and 16 June 1998. It is to the government's credit that they decided to issue the Presidency Conclusions in Welsh as well as English. This admirably reflected not only the spirit of the Welsh Language Act 1993, but also the spirit of the charter and the government's commitment to signing it. Not since the use of Welsh by Lloyd George at Versailles has the language been elevated to such heights!

This new openness on the part of the government to the use of languages other than English can also be clearly seen in the text of the agreement reached in the Northern Ireland Multi-Party Negotiations – the Good Friday Agreement. The Agreement was endorsed by the United Kingdom and Irish Governments, eight political parties and by a majority of the electorate in a referendum, and recognised the importance of respect, understanding and tolerance in relation to linguistic diversity, including the Irish language, Ulster-Scots and the languages of the various ethnic minority communities.

So, to sum up the prospects for ratification. Well, I have it on good authority that there is every likelihood that the charter will come into force in the United Kingdom in 1999.

“Coming into force in the United Kingdom in 1999” is a simple enough statement to make, but behind the apparent simplicity lies a host of complex issues which need to be addressed. What is important is that they are being addressed constructively and creatively - in respect of Welsh, Gaelic and Scots in Scotland, and Irish and Ulster-Scots in Northern Ireland. The charter of course allows for this diversity, and it is important to address the practicalities of each language community.

The government's announcement said that, for Scots, Part II of the charter would apply. This means that the principles and objectives set out in Article 7 will in future underpin the approach of the new Scottish administration to the Scots language. The government announced that the Gaelic language would be specified under Part III of the charter. In the months since the announcement, the Scottish Office has been finalising details of which measures from Part III will apply. I understand that at least thirty-five paragraphs will be implemented. The Welsh Language Board has friendly relations with bodies working for Gaelic and I am well aware of how greatly the implementation of the charter will be welcomed in Scotland.

In relation to Irish, we have already seen how the Good Friday Agreement referred specifically to the Council of Europe Charter for Regional or Minority Languages and committed the United Kingdom Government to take action to promote the language, to facilitate and encourage its use, and seeking to remove, where possible, restrictions on its development. These commitments were very similar to Part II of the charter. When the government made its announcement in June 1998 on the charter, it announced that Irish would be specified under Part III at an early date. The government has also announced that it is commissioning research into Ulster-Scots, which will help it to make a decision on whether it should be treated as a language for the purposes of the charter.

Which brings me back to Welsh. The government said that Welsh would be specified under Part III of the charter. The details of which measures from Part III will be applied to Welsh are being finalised by the Welsh Office. I expect a wide range of measures from the charter will be applied to Welsh. In fact, as I have already said, the vast majority of the measures outlined in the charter are already a reality in Wales. But the implementation of this Council of Europe charter is eagerly awaited in Wales as well. The charter will underpin what has been achieved for Welsh to date with all the force of an international agreement. Implementation of the charter will after May 1999 be the responsibility of the new National Assembly in Cardiff.

The Welsh Language Board understands that the necessary preparatory work to enable Gaelic and Welsh to be specified under Part III is well advanced, and that the government will then set in motion the formal procedures leading to signature and ratification of the charter.

That, therefore, is how things stand. I certainly believe that the prospects are good and encouraging, and a clear indication to doubters that progress is possible given the right attitude on the part of everyone involved, and a desire to co-operate.

Sigve Gramstad
Chairman of the Committee of Experts
for the European Charter for Regional or Minority Languages
Norway

The adaptability of the charter to national situations

The charter was specifically constructed to adapt to various national situations. An important goal for the authors was to make it possible for all European countries to accede to the charter. The regional and minority languages of Europe are an integral part of Europe's heritage. To make a convention that could cater only for some linguistic situations would therefore not fulfil the task.

There is a great variety in the situations of regional and minority languages in European countries.

Some languages are spoken only in one country (Welsh in the United Kingdom and Breton in France), some are spoken in two or more countries (Sami in Finland, Norway, Russia and Sweden and Basque in France and Spain). Regional or minority languages in one country are majority languages in other countries (German in Denmark and Hungarian in Slovakia). Languages may be concentrated in one geographical area or spread over a large territory (such as French in the Aosta valley and Albanian, both spoken in Italy). Some languages have no territorial base, although they may be spoken by a significant number in a state (such as Romany in Hungary).

The languages vary greatly in number of speakers, from Catalan, spoken by approximately six million people, to Mocheno in Italy, spoken by a few thousand people. The language base within the territory also varies from a low percentage of the total population to a large majority.

The level of support or protection also shows great discrepancies, from having almost no support at all, to extensive protection and support measures.

The aim of the charter is to cater for all the different language situations, and to give each contracting state – based on a minimum standard of protection and support – the possibility of choosing its own level of protection.

What choices exist for the state?

Part III of the charter contains the concrete rules from which a state may choose.

A state must in the first place decide to which language(s) Part III shall apply.

Secondly, the state must decide to which territory of the state Part III shall apply for the language(s) in question.

Part III contains seven articles:

- Article 8 Education
- Article 9 Judicial authorities
- Article 10 Administrative authorities and public services
- Article 11 Media
- Article 12 Cultural activities and facilities
- Article 13 Economic and social life
- Article 14 Transfrontier exchanges.

Part III covers the whole range of public life. Each state in applying Part III has to choose at least thirty-five paragraphs and sub-paragraphs, including at least three chosen from each of the Articles 8 and 12, and one from each of the Articles 9, 10, 11 and 13.

If we take a look at Article 8 Education, we find that the article covers the whole range of education:

- pre-school education
- primary education
- secondary education
- technical and vocational education
- university and other higher education
- adult and continuing education courses.

Within each level of education, the contracting state may choose from a menu of options. For example, in primary education, the following choices are available:

- to make available primary education in the relevant regional or minority languages;
- to make available a substantial part of primary education in the relevant regional or minority languages;
- to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;
- to apply one of the measures provided for under the points above at least to those pupils whose families so request and whose number is considered sufficient.

In addition the article contains rules dealing with:

- the teaching of the history and the culture of the languages;
- basic and further training of teachers;
- a supervisory body to monitor the measures taken.

In Article 8, a contracting state can choose ten rules that shall apply. But there are in total twenty-six options within the article. Choice should be made “according to the situation of each of the languages”, as stated in Article 8 paragraph 1. In Articles 10 and 13 (paragraph 2) the state may in addition take into account the condition “as far as this is reasonably possible”. All articles are constructed in the same manner. This shows the flexibility of the charter in adapting to the various national situations.

If we look at existing ratification, and restrict ourselves to only one language in those states that have included more languages in their ratifications, the variety is clearly visible. I have taken Article 8 (Education), paragraph 1 as an example:

Table 1: Article 8 paragraph 1

	a				b				c				d				e			f			g		h	i
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	1	2	3				
C			x					x				x				x		x			x		x	x		
F	x				x				x					x				x			x		x	x	x	
G				x				x			x				x			x			x		x	x	x	
H				x				x				x				x			x			x	x	x	x	
N		x				x					x							x		x			x	x	x	
N			x					x				x				x		x			x		x	x	x	
S				x	x						x					x							x	x	x	

The countries are: Croatia, Finland, Germany, Hungary, Netherlands, Norway and Switzerland.

Throughout the text of the charter we can also find other elements which the contracting state may consider in choosing the level and type of protection and promotion of the regional or minority languages in Part III.

In Article 8 we saw that a contracting state can apply educational measures to pupils if the number is considered sufficient. It will be up to the state to decide which number is sufficient. However, the number decided upon must be in conformity with other national regulations relating to education, the spirit of the charter etc. If a state fixed the number at one hundred, the state would not have acted in accordance with the charter.

By Article 9 a judge may overrule specific regulations on the use of a regional or minority language if it is considered “to hamper the proper administration of justice”. But such a decision can also in most countries be challenged and brought before an appeal court.

There are limits to the national choice. I will mention three limits.

If a state has acceded to Part II of the charter, that part includes all regional and minority languages. A state can make reservations to paragraphs 2-5 of Part II, but not to paragraph 1. No state can pretend that a certain regional or minority language in the country does not exist.

Article 2 of the charter sets a lower limit as to how few paragraphs or sub-paragraphs a state can choose, and that there has to be choices from all articles in Part III except Article 14. So far, no ratifying state has chosen only the minimum number of rules.

In Part III there is a lowest possible level of protection or promotion. No state can go below that.

There is also a limit, which is based on what one could call “The Spirit of the Charter”. By acceding to the charter, states recognise regional and minority languages as an expression of cultural wealth, and demonstrate the will to safeguard them. This places an obligation upon each contracting state to secure a proper form of protection – to safeguard the language(s), but also to make it possible for the language(s) to thrive and develop in a positive way.

Only through the fulfilment of that obligation will the situation of the regional and minority languages of Europe be secured and improved, thus contributing to the enhancement of Europe’s cultural wealth.

Gabor Kolumban

Chairman of the Harghita Provincial Council, Member of the CLRAE Chamber of Regions, Chairman of the Working Group “Federalism, Regionalism, Local Autonomy and Minorities”

Romania

What opportunities will the charter provide for local and regional authorities in regard to regional or minority languages?

It is a great honour for me to speak before you at this conference.

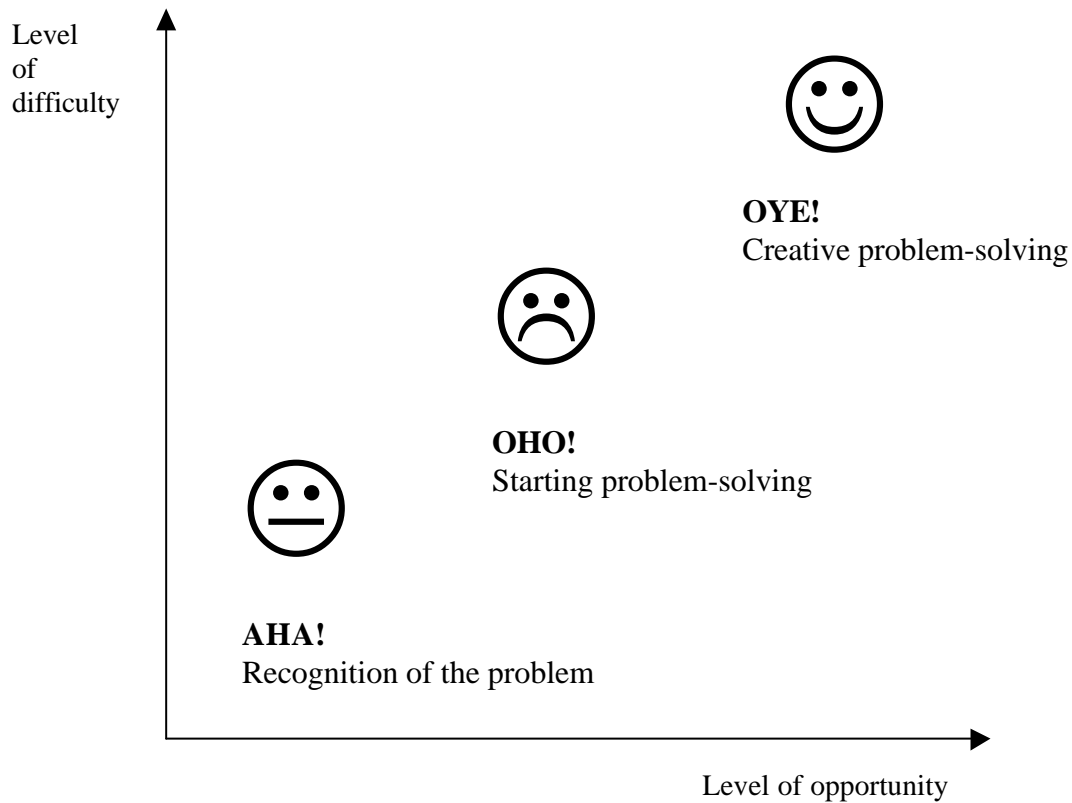
As you can see the title of my presentation concerns the opportunities given by the charter for local and regional authorities. In fact there are two possible presentations of the issue. The first is very short, it lasts about one minute, the other one is much longer, it could last hours. If I were to ask you which one you would prefer to hear, you would opt for the first one, but I still prefer the second.

The first answer to the question: “What opportunities does the charter provide ?” is that there are a lot of opportunities for local and regional governments. If you have followed the lectures during these past two days, you have received much technical detail and information with regard to specific tasks and possibilities concerning education, the judicial sphere, public life, the economy and so on.

One of the big advantages of the charter is that these opportunities can be made the best of at the level of local and regional authorities if – and this is where my second presentation begins – if the local and regional authorities are in a position to apply these propositions or these measures.

I will start by giving you a short outline of problem-solving. When people are faced with problems, they realise that the level of difficulty may vary. When something raises a little difficulty the British say they have a problem. When there is much more to it they say: “Aha, this is interesting”. And when the problem is even more difficult they say: “Okay, this is challenging, let’s try to solve it”.

Figure 1



This is the situation concerning the charter; we are somewhere at the “challenging” stage because the problems we face, the problem of minorities, and opportunities given by the charter, are at the same level. This is why I am happy to have this opportunity to speak at this conference.

Let us recount briefly the challenges faced by the countries in central and eastern Europe. There are similar challenges in certain western countries, but, unfortunately, there are still enough differences between western and eastern countries to warrant a separate discussion.

Challenges

- Transition to: Democracy
Free-market economy
- European integration

In the framework of:

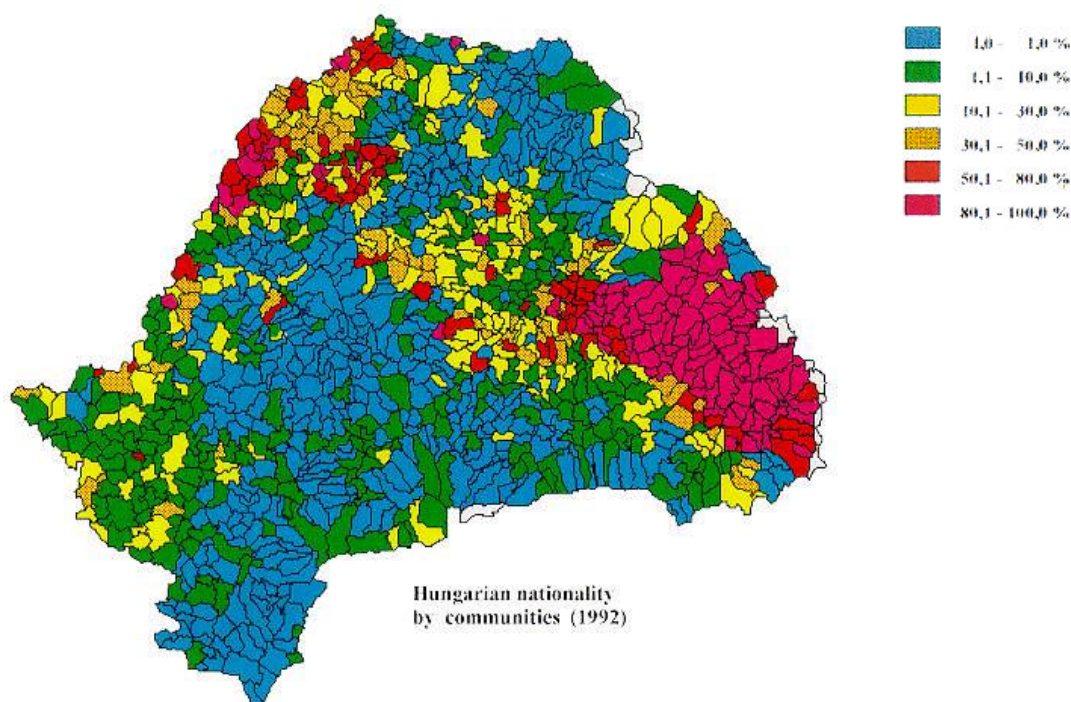
Globalisation
Knowledge-based society → open society

The first challenge is the transition towards democracy and free-market economy. The second big challenge is European integration. All this should be done within the framework of globalisation and transition to a completely knowledge-based society that leads to an open society.

Just to demonstrate the level of the complexity of this issue, I would like to show you a map of a region that is very famous. You may recognise it, it is Transylvania. It is a geographic area in Romania, and if I were to ask you what do you associate with Transylvania you would answer... “Oh, yes, Count Dracula”. Transylvania is most famous because of Dracula. But I would like to draw your attention to the fact that it was at Turda, in Transylvania where the Transylvanian Dieta declared religious freedom for the first time in Europe in 1568.

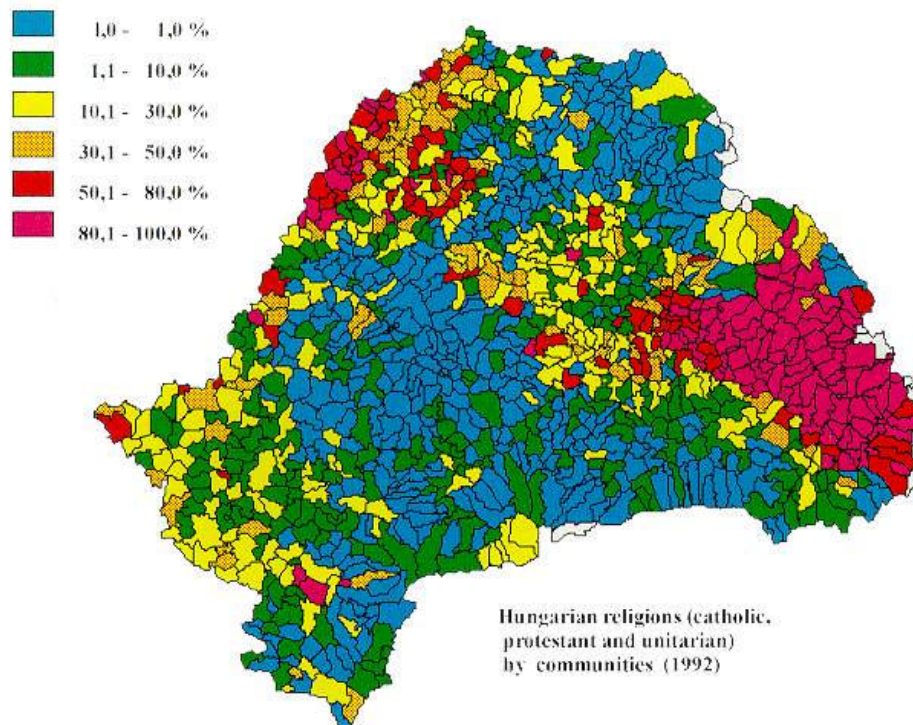
The two maps (Figures 2 and 3) show the complexity of the minority issue in Transylvania. Not all the minority issues from Romania are localised in Transylvania. There are many other minorities in other regions of Romania, but Transylvania is the most interesting, the most challenging case.

Figure 2



In Figure 2 one can see the different shades denoting the different percentages of the number of ethnic Hungarians in Transylvania according to the census in 1992. These small clusters are the actual administrative units, so there are local administrative units of so-called “communes” of that region. If you want to discover more about the diversity of this region, then you can look at the religious diversity of the Hungarian population living in this region (Figure 3).

Figure 3



However, as far as the charter is concerned, we are currently interested in Figure 2, and if we add also the other nationalities, people speaking other languages, then this map will become much more complex.

I come from Harghita county which is located in the eastern part of Transylvania where the Hungarian-speaking population is a local majority or let us say a regional majority, as well.

I will refer further to this situation. Let us see which opportunities we would like to discuss. I have just mentioned some of them. This list is not exhaustive.

The first opportunity is given or provided by the definition. The charter, as was mentioned, has taken a very innovative approach by not defining the minorities. We can also say that this definition is very good for the actual situation in eastern Europe because all other definitions are wrong. Because now in the public life, the minorities are defined as something other, different, and as something which is less than the others. So this definition has two parts: one is a positive one, that the minorities are different, but there is also a negative one which is that minorities are defined by the fact that they are less than others. This is why this definition and all the political debates around it are not supported by the minorities themselves. Minorities do not like to be defined in such a negative way. So this language charter solves the problem by saying that we are not dealing with minorities, as such, but with the language, which is related to the “otherness”, to the difference of the community. And this is why the minority communities can and will support the implementation of this charter.

Also an emphasis on the language comes from this definition. The contingency approach best explains the very concise manner of answering the question as to how this charter will apply to a certain country – the answer being “it depends”. It depends on the situation of the country and here the flexibility of the charter is demonstrated. There are three other very important features of the charter: the charter is an enabling document, so it provides a capacity for different institutions to solve their own problems. This is a very innovative approach, and only a few documents in international legislation have such enabling characteristics instead of the traditional compulsory or binding provisions. The flexibility also enlarges this enabling facility.

Also, it is very important that the charter provides statements and recommendations at an operational level. So if one asks “Who is the charter for?” then the answer is “the charter is for the minorities”. “But what is the charter doing?”, “the charter is promoting languages in all respects and all the aspects of normal daily life through institutions”. It is very important that the charter statements are not abstract statements, are not political declarations saying that people should do this, that or the other.

The charter gives an indication of how to solve a problem and while reading the charter, one sees that it gives political answers as well. Firstly, how to establish the level of the number of minorities to whom the charter should apply and how to resolve very delicate political problems in the charter. If we look at the territoriality principle, which is a very important but also a very problematic part of the charter, the language should be linked to a territory. But if you look at Figure 2, then you can see that in many respects the territorial administrative units are not the same as the linguistic areas. So it happens that in some areas one has a linguistic minority but in that particular area that minority is not significant enough to warrant the application of the charter.

In Romania, this problem was very difficult to resolve and an emergency ordinance was brought in by the new government of 1996 that established this level at 20%. It is possible to say that this 20% is significant. For Finland, 4% is significant, but for others it is not. So it leaves a little too much room for political debate on how much of the minorities are significant or not – and this reminds me of the negative part of the minority definition. But we will see that Recommendation 43 developed by the Working Group on Federalism, Regionalism and Minorities attempts to solve this problem.

I will go further and highlight one of the most important opportunities provided by the charter: its political opportunity. Some minutes ago it was maintained that the charter is not a political document. But for the eastern European countries at least, the major opportunity arising from the charter is a political opportunity, and I would like to raise the question faced by all the eastern European countries, that is, what kind of society would we like to have in the future? This dilemma was solved by some of the countries after 1989 but has still not been solved by others in eastern Europe. I cannot avoid the observation that the first eastern European countries to have started negotiations to enter the European Union are those countries who have already solved this dilemma, that is the dilemma of the nation-state. We are faced with a very serious political challenge – some of the eastern European countries are very young and it seems that they are not ready to change from the nineteenth century traditionalist approach of the nation-state. This is based on strong centralised government, in some cases on ethnocentric policy-making at the national level, a tendency towards uniformity (one culture, one language, one history), and its sequential problem-solving which is an attitude adopted in response to the challenges highlighted by Figure 2. These countries would like to solve the problem of transition toward a market economy, democracy and a knowledge-based society step-by-step, and they are saying that there is no possibility of making the democratic transition until they have made the economic transition, and until they can make the economic transition, it will be impossible to develop the country into a post-industrial society.

There is also another alternative: a decentralised approach towards an open democratic society based on the values of democracy, human rights and also respecting diversity. It is very interesting that this problem-solving approach is a synergistic one, that these countries try to solve problems in parallel because they already recognise that there are possibilities of using resources from the other problem to solve one of the challenges. They can use knowledge-based technology to solve minority issues. It has been mentioned that applying the charter in practice depends also on the capacity of the society to use modern technology.

Table 2: The changing directions of the nation-state after 1989

Centralised	Decentralised
Ethnocratic	Democratic
Uniform	Divers, open
Sequential problem-solving	Synergistic problem-solving
Based on the nineteenth century concept of the nation: one language one culture one history	Based on the values of: democracy human rights diversity

One of my key convictions is that applying the charter in real life helps us to motivate the political élite to make the right choice between the two possibilities. My argument is that the charter helps that model of open democratic society to be applied in eastern Europe.

Some advantages of having this choice, this flexibility – not of the charter, but of the society which evolved from this – is the adaptability of that society to the modern challenges, the creativity which is very high in such societies, there is a dynamic stability of that society and high capacity of information-processing and problem-solving.

Advantages of a complex society:

Flexibility
 Adaptability
 Creativity
 Dynamic stability
 High capacity of information-processing and problem-solving

We should say to our political élite that they can be confident in changing the old model of the nation-state into another model because there are a sufficient number of guarantees that these changes will promote development and will be for the benefit of the country and the community.

I am not fighting against the nationalistic approach as such, as I believe that for nationalist politicians these are also arguments in favour of having an open society in their countries. But who will make this society work? It is a very salient fact that this society is extremely complex and the diversity within the society should be managed; it is not good to have a very diverse society if you are not able to manage that diversity. I think that here the charter helps local government to move towards a value-based society and also to apply the principle of subsidiarity in order to solve the important issue of the minorities, and to give local government the opportunity to manage the diversity at local and regional levels. It is very important that the charter enables citizens and institutions to act, promoting languages in schools, public life and the economy. But how can this be implemented, at least in eastern Europe?

You have seen – it is to this point that I wish to draw your attention – that when a presentation has been given by western experts or politicians, the technical or the legal issue was the most important. On the other hand, when questions were raised from the auditorium by eastern European participants, the problem was mostly a political one. So this is one of the differences between the two approaches to the situation. In western countries, after having taken the political decision to ratify the charter, the problem becomes a technical one for the executive, a legal matter, because the political debates have come before the ratification of the charter. In eastern Europe, the signing of the charter will be much easier, but the ratification very difficult, and you will find political debate lasting even into the implementation period. I therefore anticipate that in eastern Europe, ratification of the charter will not stop the political debate on its issues, and this will continually re-invent the situation.

This is why the implementation of the charter in eastern Europe is faced with a high risk – the risk that the authorities will ratify the charter merely as a formality in order to show their commitment towards the European Union and its values. One cannot solve the implementation of the charter before we have settled this dilemma. If you follow some of the policies of the eastern European countries, you will see that there is a wavering between the two models. In some cases you will find very ethnocentric solutions, and in some cases you will find very liberal and very European solutions. Thus the lack of convergence and internal cohesion in the state model in eastern Europe raises one of the biggest difficulties in implementing the charter.

The charter is a strategic document, in the sense that when applied, it affects the whole system of the state and public administration. So it is very difficult to say “this is the state model, this is the charter” and at a certain moment when the charter is ratified and will start to be implemented, this is what will happen. Because at the moment when the charter begins to be implemented, the state model will change and will then create another variation in the interpretation of the charter, provoking a political debate, and then this will supply a new interpretation to the charter which will create another change to the political model. Therefore, what we should be expecting in eastern Europe is a further changing of the whole system in the process of implementing the charter, which is a big difference between western and eastern countries. I believe that, because of these historical reasons, integration into the European Union does not create such a big change in western countries as in the eastern countries.

I have a solution for this problem, and I would like to introduce two concepts. One is the “hard region” and the other is the “soft region”. I would link this approach to the territoriality of the charter and that of languages. “Hard regions” means people being aware of administrative units, judicial personalities, political entities with democratically elected decision-making bodies (council or legislative parliament), maps and administrative borders. These regions are more or less closed, closed in the administrative sense, but they are open in economic and other ways. But they still remain rigid structures on the European map. It is a requirement that they are fixed by law or by constitutions.

“Soft regions” are not tangible. They exist in people’s minds. It is a matter of cultural identity. There is a regional solidarity, some economic co-operation links that are traditional or presently evolving. These regions have no borders, no administrative limits. They are open structures, very dynamic and changing with time. My contention is that if we want to have a successful implementation of the European Charter for Regional or Minority Languages, it is not enough to concentrate only on the political debates and to pursue the national parliaments to ratify the charter. We should create “soft regions” in those places where minorities live and use these languages. What is a “soft region” in this case? The “soft region” is a co-operation between citizens and local authorities in the territory in order to obtain enough economic expertise and legislative and political support in order to implement the charter.

Table 3: Approach to the territoriality of the charter and that of the languages

<i>“Hard regions”</i>	<i>“Soft regions”</i>
Administrative unit	Culture, solidarity
Political body (council, parliament)	Economic co-operation
Map, borders	No borders
Closed	Open
Fixed by the law (constitution)	Dynamic, changing

I will now try to expand the first answer to my original question: The charter gives a lot of opportunities to local governments, if they are competent, if they have the capacity in that field and if they are supported by the local communities.

Opportunities provided by the charter

- Definition – culled from the political debate of collective *versus* individual rights
- Focus on language
- Contingency approach
- Flexibility
- Enabling
- Operational level – institutions
- Territoriality – local governance

It is very important that the operational measures of the charter enable local government to solve such language problems in schools, education, legal and public life, which link local government much more closely to a minority community. We are now in the situation where one can have a public administration, a local government, in an area which is inhabited by a minority population, without having any possibility of finding a solution to the specific language problems of that minority. This is because the schools are not in the hands of local government but in the hands of central government, and because either the money is insufficient or local government does not have the capacity to decide on the allocation of funds for training civil servants within such an administrative unit. I have already mentioned the fact that some minorities are not significant enough for the charter to apply to that minority.

Perhaps this approach will raise a lot of questions, so I will conclude my presentation here, with the reminder that the main idea, very clearly stated, is that the charter is not a regionalisation tool – and it is very important to say this – because there is no will for regionalisation in many of the eastern European countries. This is a very sensitive issue. However, one must say that we need the “soft” cultural regions, which are not administrative ones, in order to implement the charter in eastern Europe and in order to make the on-going changes sustainable in this process.

Thank you for your attention.

Vesna Crnic-Grotic
Member of the Committee of Experts for the European Charter for Regional or
Minority Languages
Croatia

The Committee of Experts for the European Charter for Regional or Minority
Languages

The authors of the charter and the member states of the Council of Europe provided for a control mechanism consisting of examination of states' reports by an independent body of experts. Part IV (Articles 15-17) of the charter deals with the main aspects of this mechanism. According to these provisions, the committee of experts was established as soon as the charter came into force. For the moment, it has seven members from seven state parties to the charter, while we are expecting a German member to join us in 1999.

Committee of experts

Article 17 of the charter determines that the committee shall be composed of one member per state party of the charter. Every party is entitled to nominate a list of individuals "of the highest integrity and recognised competence" in the matters dealt with in the charter. The Committee of Ministers then appoints one person from the list for a period of six years. They are eligible for re-appointment. The emphasis is on the independence of such experts. Even though they are nominated by their respective states, they do not represent those states, but rather they represent themselves, their knowledge and professional training.¹

The committee had its first constitutive meeting from 29 to 30 June 1998. So far, it has been the only meeting. The committee adopted its own rules of procedure. It elected its chairman and two vice-chairmen and they make up the officers of the committee. They are assisted by the secretariat.

The committee meetings are held in private. However, non-committee members who are considered to be in a position to assist in the performance of the committee's functions, may be heard. The decisions are taken by a two-thirds' majority, except the procedural decisions; these will be decided by a simple majority.

State reports

Every signatory to the charter is obligated to furnish periodical reports on its policy pursued in accordance with Part II of this charter (objectives and principles) and on the measures taken in application of those provisions of Part III which they have accepted (measures in public life). The committee of experts proposed and the Committee of Ministers adopted a scheme of periodical reports to be submitted by contracting parties to the Secretary General of the Council of Europe and examined by the committee of experts.

1. It is interesting to see that in the present composition of the committee, they are predominantly lawyers.

The first report must be presented within one year of the date when the charter enters into force for the state concerned.² This report is intended to describe the situation of the regional and minority languages at that moment. It was considered especially important to acquire information on the number of speakers and the territory where the speakers reside. The subsequent reports must be presented at three-yearly intervals after the first report. According to the charter, the reports have to be made public by the parties.

The report is divided into three parts. Part I gives general information on the existing legislation concerning the languages, both territorial and non-territorial in that country, and the number of speakers of those languages. States are also asked to list bodies or organisations that promote the languages, and whether they have been consulted in preparing the report. Part II refers to languages defined under Article 7 of the charter, while Part III requires parties to give detailed answers for each regional or minority language specified in the ratification instrument, in a separate way. This part of the report will give a detailed listing of the measures that exist for the protection and development of each language.

Examination of the reports

The committee is not a judicial body; it is not authorised to bring judgments on state parties. It is authorised, however, to monitor the implementation of the charter and receive information to that end. Naturally, it is entitled to form an opinion on the performance by particular party.

It will examine the reports presented by the parties to the Secretary General of the Council of Europe under Article 15 of the charter. The examination of the reports will basically consist of assessing that the measures taken on behalf of each party correspond to their actual engagement and that the report corresponds to the real situation of regional or minority languages in the respective state party. Furthermore, where necessary, the committee will encourage the parties to gradually reach a higher level of commitment in accordance with the charter.

In reviewing the reports, the committee can be approached by bodies or associations legally established in the respective state party wishing to supply additional information or to give their views on specific situations relating to the application of the charter. The charter itself does not pose any limitations as to the nature of these associations, other than the requirement that they have to be established in the concerned state in accordance with national legislation. Accordingly, they can be variously cultural, political, or any other association which has an interest in the promotion of regional or minority languages in their country. Their comments and input could be received by the secretariat before and after the publication of the periodical reports.

2. For the first six states the charter entered into force March 1, 1998 (Croatia, Finland, Hungary, Liechtenstein, Netherlands and Norway), for Switzerland April 1, 1998, while for Germany it will enter into force in 1999.

The committee of experts may verify any information submitted by the states concerned and must call on them for further explanations, where necessary, in order to establish the true situation. According to its rules of procedure the committee may decide to send one or more of its members to a country in order to carry out on-the-spot assessment of any situation which might be relevant to the implementation of the charter.

Methods of examination

As to the exact method of examining the periodical reports, the committee has postponed any discussion on that subject until the reports start coming in. Based on the experiences of some other similar bodies, the examination will probably use canons of interpretation usual in international law and codified by Article 31 of the Vienna Convention on the Law of Treaties, but also within the framework of the European Court of Human Rights and its approach to interpretation of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Moreno Bucci
Former Rapporteur of the CLRAE on the European Charter for Regional or
Minority Languages
Italy

The view of the authors of the charter

Events in the 1990s have shown the tragic results of an undemocratic approach to the problems of minorities. The principles of the European Charter for Regional or Minority Languages, had they been applied in specific situations, could have helped to produce much less painful solutions.

It is easier today to recognise the difficult situations that exist in many countries, both those with a long history of democracy and newly democratic states. There are minorities and minority languages virtually everywhere. It would seem useful for democratic states to recognise them and afford them appropriate safeguards, even at a minimum level.

On the other hand, we know that granting such recognition is still difficult: nationalism (whether long established or resurgent) is a barrier to solving these problems, and well-intentioned people can be wrong-footed by a new arrogance on the part of ethnic and linguistic majorities.

With regard to ratification of the charter, which has the status of a convention and was adopted and opened for signature in 1992, there are still certain major signatory countries that have yet to ratify it. In fact, it can happen that national parliaments debate bills on the recognition of regional or minority languages without seeking to take the preliminary step of debating and ratifying the Council of Europe's charter.

Evidently, it is not easy to be consistent and to show political courage. It is true too, that politics is the art of the possible, but if we never gird ourselves to go forward, then the "possible" will remain fragile and problematic. Surely the existence of national minorities and the fact of their languages can be denied only for so long? They are denied, it is true, but events – conflict and death – prove that such a course is unsustainable. By safeguarding people's identities, recognising their languages and respecting their dignity we really can begin to unlock some of our present problems.

The European Charter for Regional or Minority Languages is available as a useful and worthwhile tool: it is up to politicians to show the courage and insight necessary to make it an instrument of government and of peace.

Monitoring the implementation of the charter is a political problem, in the broad sense of the term, and one that has proved hard to solve. The charter's passage through its draft stage was interrupted by the question of arrangements for monitoring its application. The rapporteur to the CLRAE had taken up the concept of a system of real control, which had emerged from discussions with representatives of minority languages in Europe.

The control was to be exercised through reports and a group of experts. A select group of “independent” experts (chosen by the Committee of Ministers of the Council of Europe) had been proposed to the plenary session of the CLRAE in 1987. When that proposal was rejected, the charter had to be referred back to committee. This was the signal for a change of tack. The control system strongly geared to the defence of languages was dropped in favour of a system under which the experts were chosen by each contracting party. The previous notion of independence was subsumed in the requirement that they be “individuals of the highest integrity”, that is, that their personal qualities ensured they did not take instructions from their respective governments in the performance of their tasks.

In his report to the 1988 CLRAE session, Herbert Kohn, the rapporteur, described the new arrangements as a mechanism for examining the implementation of the charter, rather than a monitoring procedure or any sort of quasi-judicial complaints system. This was an acknowledgement that the system had changed, shifting closer to the governments who were anxious to limit the extent of safeguards afforded to regional or minority languages. The change was necessary to have the charter adopted by the CLRAE plenary session.

The final version of the explanatory report confirmed the new approach: “It should be emphasised that this is not a quasi-judicial complaints procedure. The committee of experts is merely instructed to monitor the implementation of the charter and receive information to that end.” However, as we all know, legislation evolves and the interpretation of laws and conventions can open up new possibilities. Today, in fact, we are talking about a genuine “control mechanism” for the charter – and that gives me great satisfaction.

It is true that this mechanism, which Vesna Crnic-Grotic has described to us, was less strongly influenced by the expectations of regional and minority language representatives, but it does appear to be evolving and, in any case, it is a useful tool for determining the real situation of these languages and the extent of progress in the application of the convention.

IV. CONCLUSIONS

Gabor Kolomban

**Chairman of the Harghita Provincial Council, Member of the CLRAE Chamber of Regions, Chairman of the Working Group on Federalism, Regionalism, Local Autonomy and Minorities
Romania**

This has been a very good and a very efficient conference. As the British like to say: “the proof of the pudding is in the eating”, and I believe that we are in the same situation with the charter.

The charter has been adopted and entered into force. During these past two days we have learned that the current situation is that some countries are in the stage of ratification, some countries are trying to implement it and some countries are not yet thinking of signing and ratifying, which shows us the great diversity of approaches.

I would like to start my concluding remarks by recalling the aims of the conference. It is clear that it aimed to give an overview of the situation of ratification and the implementation of the charter in the short time that has passed since it came into force on 1 March 1998. We have also discussed some of the problematic issues related to those states that will ratify the charter in the future. I would like to mention that some of those states which have at this time ratified the charter were in some respects in a more favourable position regarding minority rights protection and also regarding minority languages at the time of ratification. We have seen these examples from the Netherlands, Norway and Finland. What is also important is that we have seen the problems and the progress made towards ratification of the charter in France and in the United Kingdom. These two countries are very important from the pragmatic point of view of the charter because their system explains in many ways the existing problems in Europe. What we have also seen, and this is extremely positive, are the signs that a number of eastern European countries will ratify the charter very soon: I hope that Romania and Slovakia, which have signed the charter will ratify soon and possibly Italy, Austria and Spain from western Europe.

Some of the problems raised during the discussions were very technical and related to the structure and the operational aspects of the charter. I would like to mention the problem of non-territorial languages, the Romany and Yiddish languages, and also some possible solutions that were mentioned here. Much discussion arose also concerning the anti-discriminatory nature of the charter and the possibilities of having the languages protected and promoted, whatever the position of each language is inside the country.

The flexibility of the charter was stressed, as well as the political responsibility of different governments in implementing the charter. I would like to refer to the questions raised by several NGOs who presented their points of view and indicated their willingness to take part in the ratification process. It is very important that they have an opportunity to get involved and to have an advisory role in the ratification process, the implementation and the monitoring of the charter. National governments have the political responsibility for implementing the charter and to prepare the national periodical report on the implementation. Therefore consultation between governments and NGOs should be made possible before ratification, as stated in paragraph 4 of Article 7, as well as giving NGOs the opportunity to comment on the national reports for the attention of the monitoring committee of the charter. Even though this is not a direct influence on the ratification process and the implementation of the charter, their role should not be underestimated.

We mentioned several times during the conference the role of local and regional authorities, and the possibility of applying the principle of subsidiarity to the protection and promotion of regional or minority languages. Although there is a problem of linking the regional languages and communities to the territory, there was some debate on the relationship between regionally located populations and the organisation of the local administration in the area where that population is living. The concept of the “soft region” was introduced as a framework for co-operation between local governments and civil society. Such co-operation can create support from the grass-roots level that is necessary for the implementation of the charter.

I would like to comment on the presence of the Ukrainian delegation. There was a very strong message coming from eastern Europe that there are doubts and fears regarding the capacity of the charter to solve some of the real political problems in eastern Europe. The conference, I think, concluded that the charter did not aim to offer concrete solutions to these kinds of political problems but it can provide many relevant solutions if there is the political will to protect and promote regional or minority languages.

It is very important to underline the relationship between the charter and other international instruments, especially the Framework Convention for the Protection of National Minorities. The charter is not an isolated document. It works together with other international instruments. Additionally I would like to mention the very innovative character of the charter that introduces new approaches to solving the linguistic protection of minority communities. This applies especially to the excellent way in which the charter avoids the debate concerning collective and individual rights, a very important feature of the charter, especially for eastern Europe.

To conclude these remarks, I would like to congratulate the organisers on the very sound, and I would like to say, clever way of organising this conference, for it was a working conference. It was not just a one-way communication. There was enough time for debates, which is very important. Usually a conference is only about giving lectures leaving no room for the people who are present to take the floor. So the secretariat did a very good job which resulted in a smooth-running conference. We never felt that there were any difficulties. It is also very important to mention the City of Innsbruck. Our hosts made all the arrangements and now the sunshine is coming, we can leave Innsbruck remembering your warm hospitality and the beautiful landscape of the snow-covered mountains before Christmas.

Helmut Mader
President of the Parliament of the Land of Tyrol
Austria

Closing remarks

As President of the legislature of our province, may I say once again how pleased I am that you have chosen our province as a venue for discussing issues and seeking solutions to problems that are of great relevance to the way in which we will live together in future. By holding this conference in Innsbruck, you have chosen a city with a long European tradition, whose former mayor, Dr Lugger, not only instigated a number of European initiatives but also secured a leading role for the city in the Council of European Municipalities. This important tradition is now being splendidly continued by our current mayor, Dr Herwig van Staa, and I therefore see this conference as a recognition of the city's European credentials. No doubt you are also aware that, in the course of its history, and also in recent decades, Tyrol has been at the origin of a number of major initiatives to discuss problems of supra-regional importance and find appropriate solutions to them. However, it is probably less well known that in our age-old parliamentary tradition, we have always fostered multilingualism and that our predecessors in the Tyrol *Landstände* (the medieval provincial political body) communicated with one another in Italian and in Ladin dialect, as well as in German. In this respect, too, you are very much at home here as regards the theme of your conference and the issues addressed.

Today, Tyrol is fully aware of the fact that an ethnic minority can continue to exist only if it preserves its traditional mother tongue. I would like to illustrate this with two sentences from Wilhelm von Humboldt: "Your language is your spirit and your spirit is your language. It cannot be stressed enough that the two are identical." This observation of his is probably true for all times.

Since we have already passed the scheduled closing time for this conference and many of you are no doubt already looking at your watches with a view to your return journey, I shall end things here and not go on, as I would very much have liked to. But there is one thing left for me to do, and that is to thank you – those who have taken part in the discussions right up to the end today, and all the other participants in this conference – for all your work here in Innsbruck, where in examining the European Charter for Regional or Minority Languages, in spite of all the difficulties and political obstacles you face, you have identified further ways of reinforcing a much-needed new European awareness in the hearts of those who belong to minorities, an awareness underpinned by mutual respect and cultural and ethnic pluralism, in other words values based on the protection of human rights, and on freedom and democracy. You may now leave Innsbruck in the knowledge that you have made a further step forward and that your message has been heard. May you treasure happy memories of this city and our province and leave with a desire to return one day, knowing that you can be certain of a warm welcome. I wish you a safe journey home.

V. PROGRAMME OF THE CONFERENCE

Monday, 14 December 1998

- 9.30 a.m. Opening of the Conference by Mr Herwig VAN STAA, Mayor of the City of Innsbruck and President of the CLRAE Chamber of Local Authorities
- 9.40 a.m. Address by Mrs Christa ACHLEITNER, Head of the Department for Minorities at the Austrian Federal Chancellory
- 9.50 a.m. Address by Mr Rudolf JOÓ, Deputy State Secretary of the Hungarian Ministry of Foreign Affairs, on behalf of the Hungarian Chairmanship of the Committee of Ministers of the Council of Europe
- 10.00 a.m. Break – Press briefing

1st session THE INTERNATIONAL DIMENSION OF THE PROTECTION OF REGIONAL OR MINORITY LANGUAGES

Chairman: Mr Lluís-Maria de PUIG, Rapporteur of the Committee on Culture and Education, Parliamentary Assembly of the Council of Europe

- 10.30 a.m. The political importance of the European Charter for Regional or Minority Languages in the European Union
- Mr Dónall O'RIAGAIN, Secretary General, European Bureau for Lesser Used Languages
- 11.00 a.m. A presentation of the Framework Convention for the Protection of National Minorities and its contribution to the protection of minority languages
- Mr Rainer HOFMANN, Chairman of the Advisory Committee of the Framework Convention for the Protection of National Minorities
- 11.15 a.m. The position of the European Charter for Regional or Minority Languages in the general context of the protection of minorities
- Mr Ferdinando ALBANESE, former Director of Environment and Local Authorities, Council of Europe
- 11.45 a.m. Discussion
- 12.30 p.m. Lunch

2nd Session THE EXPERIENCE OF MEMBER STATES AS REGARDS RATIFICATION OF THE CHARTER

Chairman: Mr Rinaldo LOCATELLI, Head of Secretariat, Congress of Local and Regional Authorities of Europe

- 2.00 p.m. The experience of the Netherlands in implementing the charter
- Mr Auke van der GOOT, Mercator-Education / Fryske Akademy
- 2.20 p.m. The experience of Finland in implementing the charter
- Mrs Laura YLI-VAKKURI, Special Adviser, Legal Affairs, Finnish Ministry of the Interior
- 2.40 p.m. Discussion
- 3.30 p.m. Break
- 4.00 p.m. Prospects for ratification of the charter by France
- Mr Bernard POIGNANT, Mayor of Quimper
- 4.20 p.m. Prospects for ratification of the charter by the United Kingdom
- Mr John Walter JONES, Chief Executive, Welsh Language Board
- 4.40 p.m. Discussion
- 6.00 p.m. End of the session
- 8.00 p.m. Official dinner

Tuesday, 15 December 1998**3rd Session THE IMPACT OF THE CHARTER WITHIN THE NATIONAL CONTEXT**

Chairman : Mr Gianfranco MARTINI (Italy), Member of the CLRAE Chamber of Local Authorities and Member of the Working Group “Federalism, Regionalism, Local Autonomy and Minorities”

9.30 a.m. The adaptability of the charter to national situations

- Mr Sigve GRAMSTAD, Chairman of the Committee of Experts for the European Charter for Regional or Minority Languages

10.00 a.m. Discussion

10.45 a.m. Break

11.00 a.m. What opportunities will the charter provide for local and regional authorities in regard to regional or minority languages?

- Mr Gabor KOLUMBAN (Romania), Chairman of the Harghita Provincial Council, Member of the CLRAE Chamber of Regions, Chairman of the Working Group on Federalism, Regionalism, Local Autonomy and Minorities

11.30 a.m. Discussion

12.30 p.m. Lunch

4th Session THE CONTROL MECHANISM OF THE CHARTER

Chairman : Mr Rudolf BINDIG, Rapporteur of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe

2.00 p.m. The committee of experts of the charter

- Professor Vesna CRNIC-GROTIC, Member of the committee of experts for the European Charter for Regional or Minority Languages

2.20 p.m. The view of the authors of the charter

- Mr Moreno BUCCI (Italy), former Rapporteur of the CLRAE on the European Charter for Regional or Minority Languages

2.30 p.m. Discussion

3.30 p.m. Conclusions

- Mr Gabor KOLUMBAN (Romania), Chairman of the CLRAE Working Group “Federalism, Regionalism, Local Autonomy and Minorities”

4.00 p.m. Official closing

- Mr Helmut MADER, President of the Parliament, Land of Tyrol

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