



INTERNATIONAL LEGAL GUARANTEES FOR THE PROTECTION OF NATIONAL MINORITIES AND PROBLEMS IN THEIR IMPLEMENTATION

WITH SPECIAL FOCUS ON MINORITY EDUCATION

National Minorities and Minority Language Education

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

The European Charter for Regional or Minority Languages (the Charter) is a treaty of a substantially different nature from the Framework Convention for the Protection of National Minorities (FCNM). It is designed to protect and promote regional or minority languages and not specifically their speakers. It makes a distinction between two types of commitments: protection under Part II of the Charter (Article 7) that is to be given to all regional or minority languages spoken in the State party (Article 2. para. 1). Part III protection, on the other hand, is subject to the choices of languages and undertakings made by States parties. In both cases the protection is limited to territories where the number of speakers not only allows but also requests specific measures to be implemented.

Choices that States parties can make are adaptable to various situations, even within the same country. However, in no case should the Charter be interpreted as excluding the teaching of the official language of the State party.

Under Part II, States parties are obliged to "base their policies, legislation and practice on the following objectives and principles" with respect to education:

- f) the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages; ...
- h) the promotion of study and research on regional or minority languages at universities or equivalent institutions;...

In its monitoring, the Committee of Experts interpreted these obligations so that for every language, including the non-territorial languages (e.g. Roma or Jewish), there should be some effort providing for its teaching to at least those pupils who so wished. Also, the obligation under h) was seen by the Committee of Experts as an important contribution to the overall development and promotion of regional or minority languages. These two obligations may be especially important for the "small" languages that are sometimes not developed enough to cover all the domains of public life or whose speakers do not possess sufficient writing skills in that language. In these cases, it was noted by the Committee of Experts, the speakers are inclined to use the official language or, in some post-Soviet countries, the Russian language as the "language of inter-ethnic communication".

* Opinions expressed are those of the author and do not necessarily represent those of the Committee of Experts.

Part III of the Charter, as mentioned, is based on the choices made by the States-parties. However, the number of obligations under Article 8 that deals with education must include at least three paragraphs and/or sub-paragraphs.

The undertakings offered under Article 8 are designed to respond to different situations of regional or minority languages chosen by States-parties. Choices usually include also various levels of education (pre-school, primary and secondary school, technical and vocational education and university or other higher education). As a rule, the Charter offers three ways in which regional or minority languages education can be implemented, depending on the "situation of each of these languages":

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

Obligation under sub-para **i**) is seen by the Committee of Experts as the strongest option demanding the State party to provide education **through the medium** of the relevant regional or minority language. This, too, should not be interpreted as excluding the teaching of the official language or that the regional or minority language is the sole language of instruction. It is considered fulfilled if the amount of regional or minority language instruction exceeds 50% and that covers various types of bilingual education. Usually, the regional or minority language education is more satisfactory at the lower levels of education, while less so in secondary and even less in technical and vocational education. It is sometimes justified by the wish of both the authorities and the pupils or their parents to be better prepared for the labour market in the country. However, this undertaking is appropriate for bigger and well developed languages with a significant concentration of speakers on a specific territory, but even then it is recommended to have a smaller number of pupils as a threshold for starting a class.

Option under **ii**) entails regional or minority language education with less than 50% of the overall curriculum, but still a significant portion. It will be a rather common practice in States parties to choose this option since it seems to provide flexibility necessary to accommodate both teaching of the State language and the relevant regional or minority languages. The usual practice would include teaching of some "social" courses (such as history, literature) in regional or minority languages, while keeping the natural sciences as the official language domain.

Finally, option under **iii**) is the weakest option and it requires only the teaching **of** the relevant regional or minority language, however, as an integral part of the curriculum. That means that regional or minority languages are taught as subjects within the regular school hours and not as additional after-school duty, preferably as a compulsory subject and not an "add-on" one. The Committee of Experts held in some cases that even the weakest option must entail some significant teaching of the relevant language and not to treat it as just another foreign language teaching when the language in question is a weak language that has to compete with other and more attractive foreign languages.

Option under **iv**) should provide a flexible clause for cases where regional or minority languages have a very different position throughout the country and the authorities have to find the most appropriate form of regional or minority language education taking into account the needs and wishes of the speakers. Their assessment, however, should not be arbitrary and the Committee of Experts will ask how these wishes were established.

Some common problems have been identified in most of the States parties with respect to these undertakings: lack of appropriate teaching materials and the insufficient number of qualified teachers at all levels of education. The weaker languages, especially those without a proper codification or

standardisation are facing bigger problems, but the Committee of Experts has never allowed that to be used as an excuse by the authorities for not providing any regional or minority languages education.

As far as the monitoring of the regional or minority languages education is concerned, the Charter offers a very specific undertaking in its Article 8, para. 1, sub-para i). It provides for the setting up of a supervisory body specifically responsible for monitoring the measures taken and progress achieved in the regional or minority language education, but also for drawing up and publishing periodic reports of their findings. In the examination of State reports the Committee of Experts considered this undertaking fulfilled regardless of the nature of the body concerned (e.g. regular school inspectorate) providing it had a specific remit to monitor the regional or minority languages education **and** report periodically and publicly of their findings. If the reports were not made or they were not made public, the undertaking was considered not fulfilled.