

# THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES: AN OVERVIEW\*

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The European Charter for Regional or Minority Languages entered into force in 1998<sup>1</sup> and so far has been ratified by 21 States<sup>2</sup> and signed by 12 States.<sup>3</sup> It is a unique instrument, the only international convention devoted specifically to the protection and promotion of less widely spoken languages. Its purpose is to protect and promote the various minority languages spoken in the different countries of Europe, thereby preserving the cultural wealth of this continent. It does not aim to protect national minorities as such, which is the purpose of another Council of Europe treaty, the Framework Convention for the Protection of National Minorities.<sup>4</sup> Unlike the Framework Convention, the Charter focuses not on minority groups but on the protection of minority languages themselves.<sup>5</sup> This was a deliberate choice. By unambiguously placing the main emphasis on the cultural aspect of the languages, it became possible to include all traditionally spoken less widely used languages without worrying about the *status* of those who speak them, and to avoid such delicate matters as the political rights of ethnic minorities.

However, in our view, these two conventions are in fact complementary, the Framework Convention being broader in scope while the Charter deals with the question of minority languages in greater depth and in more concrete terms.<sup>6</sup>

This overview will be divided in three parts relating respectively on the definition of languages, the conception of protection and finally the monitoring mechanism.

## I . THE CHARTER RECOGNISES SEVERAL CATEGORIES OF LANGUAGES

First there are the regional or minority languages, which are the primary beneficiaries of the Charter's measures of protection. According to the definition contained in Article 1 of the Charter,

they are languages which are traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population. Article 1 explicitly excludes the languages of migrants and the dialects of the official language(s) of the State. Admittedly, the distinction between a language and a dialect may not always be easy to make, although this is primarily the task of the State concerned. And more importantly, since this may call for an autonomous appreciation by the Charter monitoring mechanism, there are no clear criteria as to when the language of a migrant population that has remained attached to its use in the host country becomes 'traditional' within the meaning of Article 1 of the Charter. But however that may be, it remains true that the demographic, cultural and social situation of the languages covered by the Charter varies enormously.

Secondly, there are the official languages, of which a country may have one or several, extending over a part or the whole of its territory. It is worth recalling that the Preamble of the Charter stresses that "the protection and the encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them". In other words, the Charter does not support an inward-looking or isolationist approach to minority language protection, which would in fact not be in the interests of the speakers of these languages. On the contrary, some provisions of the Charter, such as Article 7 para. 3, aim specifically at promoting mutual understanding between the various linguistic groups, particularly between majorities and minorities.

Thirdly, in accordance with article 3.2, the protection measures of the Charter may be extended to the so-called "less widely used official languages". This tends to be known as the "Irish clause", although in fact some other cases also correspond to this category,<sup>7</sup> while Ireland itself has unfortunately not yet availed itself of it by ratifying the Charter.



numbers and degree of concentration vary greatly. Moreover, some can benefit from the fact that their language is the dominant one in a neighbouring State, whereas other regional languages are not anywhere the language of the majority. In such widely different situations, it would be quite inappropriate to prescribe identical treatment, for either the treatment would be quite unrealistically demanding when a State had to apply it to the weaker languages, or else we would end up with a lowest common denominator which would be of little or no benefit to the stronger linguistic groups.

Therefore the authors of the Charter opted for a solution allowing a high degree of flexibility to adapt the commitments of the Parties to the situation of each language. It does so in three ways. Firstly, Part III applies only to those languages that are specified by the State at the time of ratification. Therefore, unlike the provisions of Part II, none of the clauses of Part III can apply to languages not explicitly identified by the State to this effect. However, an instrument of ratification which excluded important regional or minority languages from Part III protection could be considered as contrary to the spirit of the Charter. Secondly, each contracting State may choose *which* provisions of Part III it undertakes to apply to each of its regional or minority languages, provided it accepts a minimum of 35 paragraphs. And thirdly, some of these paragraphs contain various options from which the Parties must choose with regard to each one of the languages concerned.

In spite of the wide scope for choice, the States are not left to choose arbitrarily the protection granted to each language. As most of the articles of Part III specify, they must select the provisions "according to the situation of each language". This is a crucial phrase in the Charter. Basically it means that the larger the number of speakers of a regional or minority language, and the more homogeneous the local population, the stronger the option that should be adopted. A weaker alternative should be preferred only when the stronger option cannot reasonably be applied owing to the situation of the language in question. For obvious reasons, this reasoning can not apply in case of endangered languages: in that particular case, States should take immediate measures that are particularly strong to safeguard those languages.<sup>11</sup>

The careful adaptation of the choice of the undertakings to the specific situation of each language is therefore one of the crucial elements which explain why the ratification process is so important.

### III. WHAT MEASURES ARE TAKEN TO ENSURE THAT THE PARTIES FULFIL THEIR UNDERTA-KINGS?

Logically, given that the Charter does not secure any enforceable rights for language groups or their individual members, it makes no provision for any judicial authority to supervise implementation, as is the case in particular with the European Convention on Human Rights. In order to ensure nonetheless that implementation of the Charter in individual States is effectively supervised, Part IV of the Charter provides for the creation of a Committee of Experts with one independent expert for each State Party and made up of individuals known for their integrity and their competence in this area.<sup>12</sup> This Committee's brief is both to examine the reports to be submitted to the Secretary General at three-yearly intervals by the Parties and to take account of information brought to its attention by relevant bodies and associations. On the basis of these reports and this information it must draw up its own report and make proposals for recommendations to the Committee of Ministers. So far, the Committee of Experts has adopted 23 evaluation reports and completed the second monitoring cycle concerning eight States Parties.<sup>13</sup> In addition to these country-by-country evaluation reports, the Secretary General is asked to make a two yearly detailed report to the Parliamentary Assembly on the application of the Charter.<sup>14</sup>

This monitoring mechanism, with the Committee of Experts as its central element, has so far been giving very encouraging results. After a first examination of the State report, the Committee of Experts usually visits the State concerned in order to gain a clearer impression of the situation on the ground. To this purpose, the Committee of Experts meets representatives of the speakers of the various regional or minority languages, NGOs, media representatives, local, and regional authorities, and may also decide to visit schools or courts. It also of course consults with the government authorities on the information received. Such on-the-spot visits are very useful, not only because they provide the Committee of Experts with first-hand information but also because they give the monitoring mechanism a direct visibility with all those concerned.

Furthermore, it should be pointed out that the concrete functioning of the monitoring mechanism has fostered the establishment of contacts and direct dialogue between the domestic

actors involved, i.e. minorities' groups, the speakers' organisations, other relevant non-governmental organisations and all the competent authorities. These contacts did not necessarily exist before the entry into force of the Charter, and this, of course, is in itself a very positive result.

The role of the State authorities is obviously the primary one. This role begins with ratification, making sure that the provisions accepted are adapted to the situation of each language. Since the situation of each language is different, the provisions chosen must be adapted to that different situation. But the formal act of ratification is only the beginning of the story. It really is necessary to give guidelines both to the State administrations and to the local authorities as to what their responsibilities are with regard to the implementation of the Charter. Otherwise, there is a risk that many of the individual officials, who are the people that need to implement the Charter in daily relations with the citizens, will either not be aware at all of their responsibilities or will not necessarily be convinced of the need to take those responsibilities very seriously. In fact, in order to become effective, the Charter needs clear implementing legislation and administrative regulations. Furthermore, after ratification there is a continuing obligation to improve the implementation of the Charter in the national reality. This is a permanent task which the three-yearly monitoring process is meant to promote.

## CONCLUDING REMARKS

Finally, the experience with the functioning of the mechanism set up by the Charter is highlighting the importance which must be given to educating the majority population and to raising its awareness about the existence of minorities or regional identities within the same country. Only by fostering a greater acceptance and respect by the majority vis-à-vis the specificities of minorities and regional identities as an integral part of the national heritage can a more harmonious co-existence be achieved. This is a very difficult challenge but also one that is crucial to ultimate success.

The Charter is certainly a complex instrument which requires a great degree of awareness by all the various actors concerned. The ratification is just the beginning of an on-going process – the implementation of the Charter – which requires a constant long-term commitment, by all those concerned.

Thanks to the work of the Committee of experts, the Charter has become a living instrument with practical application and concrete result. This

living instrument is an excellent tool for the preservation of the European linguistic diversity, and recently the European Parliament referred<sup>15</sup> to the Charter as the “*key Europe-wide legal frame of reference applying in this sphere*”.<sup>16</sup> However, this legal basis is not operational in all European States – particularly not in all member States of the European Union – and its standing in relation to the *acquis communautaire*, in the EU institutional context and with regard to candidate States, is ambiguous. We firmly believe that within the present constitutional setting of the European Union, and particularly so when hopefully the Treaty establishing the Constitution for Europe enters into force, the Charter itself should become the European Union's legal basis and tool for the protection of regional or minority languages. In other words, the Charter should become part of the legal *acquis* of the Union.

## APPENDIX 1: EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES, STRASBOURG, 5.XI.1992 *EUROPEAN TREATY SERIES - N. 148*

### PREAMBLE

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members, particularly for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that the protection of the historical regional or minority languages of Europe, some of which are in danger of eventual extinction, contributes to the maintenance and development of Europe's cultural wealth and traditions;

Considering that the right to use a regional or minority language in private and public life is an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights, and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the work carried out within the CSCE and in particular to the Helsinki Final Act of 1975 and the document of the Copenhagen Meeting of 1990;

Stressing the value of interculturalism and multilingualism and considering that the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them;

Realising that the protection and promotion of regional or minority languages in the different countries and regions of Europe represent an important contribution to the building of a Europe based on the principles of democracy and cultural diversity within the framework of national sovereignty and territorial integrity;

Taking into consideration the specific conditions and historical traditions in the different regions of the European States,

Have agreed as follows:

## **PART I GENERAL PROVISIONS**

### **ARTICLE 1 – DEFINITIONS**

For the purposes of this Charter:

- a) “regional or minority languages” means languages that are:
  - i. traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population; and
  - ii. different from the official language(s) of that State;  
it does not include either dialects of the official language(s) of the State or the languages of migrants;
- b) “territory in which the regional or minority language is used” means the geographical area in which the said language is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter;
- c) “non-territorial languages” means languages used by nationals of the State which differ from the language or languages used by the rest of the State’s population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.

### **ARTICLE 2 – UNDERTAKINGS**

1. Each Party undertakes to apply the provisions of Part II to all the regional or minority

languages spoken within its territory and which comply with the definition in Article 1.

2. In respect of each language specified at the time of ratification, acceptance or approval, in accordance with Article 3, each Party undertakes to apply a minimum of thirty-five paragraphs or sub-paragraphs chosen from among the provisions of Part III of the Charter, 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.

### **ARTICLE 3 – PRACTICAL ARRANGEMENTS**

1. Each Contracting State shall specify in its instrument of ratification, acceptance or approval, each regional or minority language, or official language which is less widely used on the whole or part of its territory, to which the paragraphs chosen in accordance with Article 2, paragraph 2, shall apply.
2. Any Party may, at any subsequent time, notify the Secretary General that it accepts the obligations arising out of the provisions of any other paragraph of the Charter not already specified in its instrument of ratification, acceptance or approval, or that it will apply paragraph 1 of the present article to other regional or minority languages, or to other official languages which are less widely used on the whole or part of its territory.
3. The undertakings referred to in the foregoing paragraph shall be deemed to form an integral part of the ratification, acceptance or approval and will have the same effect as from their date of notification.

### **ARTICLE 4 – EXISTING REGIMES OF PROTECTION**

1. Nothing in this Charter shall be construed as limiting or derogating from any of the rights guaranteed by the European Convention on Human Rights.
2. The provisions of this Charter shall not affect any more favourable provisions concerning the *status* of regional or minority languages, or the legal regime of persons belonging to minorities which may exist in a Party or are provided for by relevant bilateral or multilateral international agreements.

## ARTICLE 5 – EXISTING OBLIGATIONS

Nothing in this Charter may be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes of the Charter of the United Nations or other obligations under international law, including the principle of the sovereignty and territorial integrity of States.

## ARTICLE 6 – INFORMATION

The Parties undertake to see to it that the authorities, organisations and persons concerned are informed of the rights and duties established by this Charter.

## PART II OBJECTIVES AND PRINCIPLES PURSUED IN ACCORDANCE WITH ARTICLE 2, PARAGRAPH 1

### ARTICLE 7 – OBJECTIVES AND PRINCIPLES

1. In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:
    - a) the recognition of the regional or minority languages as an expression of cultural wealth;
    - b) the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;
    - c) the need for resolute action to promote regional or minority languages in order to safeguard them;
    - d) the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;
    - e) the maintenance and development of links, in the fields covered by this Charter, between groups using a regional or minority language and other groups in the State employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups in the State using different languages;
  - f) the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages;
  - g) the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;
  - h) the promotion of study and research on regional or minority languages at universities or equivalent institutions;
  - i) the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States.
2. The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.
  3. The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.
  4. In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages.
  5. The Parties undertake to apply, *mutatis mutandis*, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the

traditions and characteristics, of the groups which use the languages concerned.

**PART III  
MEASURES TO PROMOTE THE  
USE OF REGIONAL OR  
MINORITY LANGUAGES IN  
PUBLIC LIFE IN ACCORDANCE  
WITH THE UNDERTAKINGS  
ENTERED INTO UNDER  
ARTICLE 2, PARAGRAPH 2**

**ARTICLE 8 – EDUCATION**

1. With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:
  - a)
    - i. to make available pre-school education in the relevant regional or minority languages; or
    - ii. to make available a substantial part of pre-school education in the relevant regional or minority languages; or
    - iii. to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
    - iv. if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;
  - b)
    - i. to make available primary 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 primary 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;
  - c)
    - i. to make available secondary education in the relevant regional or minority languages; or
    - ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or
    - iii. to provide, within secondary 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 who, or where appropriate whose families, so wish in a number considered sufficient;
  - d)
    - i. to make available technical and vocational education in the relevant regional or minority languages; or
    - ii. to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or
    - iii. to provide, within technical and vocational 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 who, or where appropriate whose families, so wish in a number considered sufficient;
  - e)
    - i. to make available university and other higher education in regional or minority languages; or
    - ii. to provide facilities for the study of these languages as university and higher education subjects; or
    - iii. if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;
  - f)
    - i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or
    - ii. to offer such languages as subjects of adult and continuing education; or
    - iii. if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

- g) to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;
  - h) to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;
  - i) to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.
2. With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

## ARTICLE 9 – JUDICIAL AUTHORITIES

- 1 The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:
- a) in criminal proceedings:
    - i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
    - ii. to guarantee the accused the right to use his/her regional or minority language; and/or
    - iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or
    - iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;
  - b) in civil proceedings:
    - i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
    - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
    - iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;
- c) in proceedings before courts concerning administrative matters:
- i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
  - ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or
  - iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;
- d) to take steps to ensure that the application of subparagraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.
2. The Parties undertake:
- a) not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or
  - b) not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or
  - c) not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.
3. The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.

## ARTICLE 10 – ADMINISTRATIVE AUTHORITIES AND PUBLIC SERVICES

1. Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:
    - a)
      - i. to ensure that the administrative authorities use the regional or minority languages; or
      - ii. to ensure that such of their officers as are in contact with the public use the regional or minority languages in their relations with persons applying to them in these languages; or
      - iii. to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages; or
      - iv. to ensure that users of regional or minority languages may submit oral or written applications in these languages; or
      - v. to ensure that users of regional or minority languages may validly submit a document in these languages;
    - b) to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;
    - c) to allow the administrative authorities to draft documents in a regional or minority language.
  2. In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:
    - a) the use of regional or minority languages within the framework of the regional or local authority;
    - b) the possibility for users of regional or minority languages to submit oral or written applications in these languages;
    - c) the publication by regional authorities of their official documents also in the relevant regional or minority languages;
    - d) the publication by local authorities of their official documents also in the relevant regional or minority languages;
  - e) the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;
  - f) the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;
  - g) the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.
3. With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:
    - a) to ensure that the regional or minority languages are used in the provision of the service; or
    - b) to allow users of regional or minority languages to submit a request and receive a reply in these languages; or
    - c) to allow users of regional or minority languages to submit a request in these languages.
  4. With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:
    - a) translation or interpretation as may be required;
    - b) recruitment and, where necessary, training of the officials and other public service employees required;
    - c) compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.
  5. The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

## ARTICLE 11 – MEDIA

1. The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities,

directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

- a) to the extent that radio and television carry out a public service mission:
    - i. to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or
    - ii. to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or
    - iii. to make adequate provision so that broadcasters offer programmes in the regional or minority languages;
  - b)
    - i. to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or
    - ii. to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;
  - c)
    - i. to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages; or
    - ii. to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;
  - d) to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;
  - e)
    - i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or
    - ii. to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;
  - f)
    - i. to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
    - ii. to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;
  - g) to support the training of journalists and other staff for media using regional or minority languages.
2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical

or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.

## ARTICLE 12 – CULTURAL ACTIVITIES AND FACILITIES

1. With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including **inter alia** the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:
  - a) to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;
  - b) to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;
  - c) to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;

- d) to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;
  - e) to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;
  - f) to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;
  - g) to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;
  - h) if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.
2. In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.
  3. The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

### **ARTICLE 13 – ECONOMIC AND SOCIAL LIFE**

1. With regard to economic and social activities, the Parties undertake, within the whole country:
  - a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical

documents such as instructions for the use of products or installations;

- b) to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;
  - c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;
  - d) to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above subparagraphs.
2. With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:
    - a) to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;
    - b) in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;
    - c) to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;
    - d) to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;
    - e) to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages.

### **ARTICLE 14 – TRANSFRONTIER EXCHANGES**

The Parties undertake:

- a) to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;
- b) for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.

## **PART IV APPLICATION OF THE CHARTER**

### **ARTICLE 15 – PERIODICAL REPORTS**

1. The Parties shall present periodically to the Secretary General of the Council of Europe, in a form to be prescribed by the Committee of Ministers, a report on their policy pursued in accordance with Part II of this Charter and on the measures taken in application of those provisions of Part III which they have accepted. The first report shall be presented within the year following the entry into force of the Charter with respect to the Party concerned, the other reports at three-yearly intervals after the first report.
2. The Parties shall make their reports public.

### **ARTICLE 16 – EXAMINATION OF THE REPORTS**

1. The reports presented to the Secretary General of the Council of Europe under Article 15 shall be examined by a committee of experts constituted in accordance with Article 17.
2. Bodies or associations legally established in a Party may draw the attention of the committee of experts to matters relating to the undertakings entered into by that Party under Part III of this Charter. After consulting the Party concerned, the committee of experts may take account of this information in the preparation of the report specified in paragraph 3 below. These bodies or associations can furthermore submit statements concerning the policy pursued by a Party in accordance with Part II.
3. On the basis of the reports specified in paragraph 1 and the information mentioned in paragraph 2, the committee of experts shall prepare a report for the

Committee of Ministers. This report shall be accompanied by the comments which the Parties have been requested to make and may be made public by the Committee of Ministers.

4. The report specified in paragraph 3 shall contain in particular the proposals of the committee of experts to the Committee of Ministers for the preparation of such recommendations of the latter body to one or more of the Parties as may be required.
5. The Secretary General of the Council of Europe shall make a two-yearly detailed report to the Parliamentary Assembly on the application of the Charter.

### **ARTICLE 17 – COMMITTEE OF EXPERTS**

1. The committee of experts shall be composed of one member per Party, appointed by the Committee of Ministers from a list of individuals of the highest integrity and recognised competence in the matters dealt with in the Charter, who shall be nominated by the Party concerned.
2. Members of the committee shall be appointed for a period of six years and shall be eligible for reappointment. A member who is unable to complete a term of office shall be replaced in accordance with the procedure laid down in paragraph 1, and the replacing member shall complete his predecessor's term of office.
3. The committee of experts shall adopt rules of procedure. Its secretarial services shall be provided by the Secretary General of the Council of Europe.

## **PART V FINAL PROVISIONS**

### **ARTICLE 18**

This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

### **ARTICLE 19**

1. This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of Article 18.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### ARTICLE 20

1. After the entry into force of this Charter, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Charter.
2. In respect of any acceding State, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

### ARTICLE 21

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to paragraphs 2 to 5 of Article 7 of this Charter. No other reservation may be made.
2. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

### ARTICLE 22

1. Any Party may at any time denounce this Charter by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

### ARTICLE 23

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Charter of:

- a) any signature;
- b) the deposit of any instrument of ratification, acceptance, approval or accession;
- c) any date of entry into force of this Charter in accordance with Articles 19 and 20;
- d) any notification received in application of the provisions of Article 3, paragraph 2;
- e) any other act, notification or communication relating to this Charter.

In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.

Done at Strasbourg, the 5th day of November 1992, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Charter.

## NOTAS

1. The Charter was drawn up on the basis of a text put forward by the Standing Conference of Local and Regional Authorities in Europe (CLRAE) and approved by the Parliamentary Assembly of the Council of Europe (PACE) on 4 October 1988. It was adopted as a convention on 25 June 1992 by the Committee of Ministers of the Council of Europe and was opened for signature in Strasbourg on 5 November 1992.
  2. Armenia, Austria, Croatia, Cyprus, Denmark, Finland, Germany, Hungary, Liechtenstein, Luxembourg, Montenegro (as non-member State) Netherlands, Norway, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom.
  3. Azerbaijan, Bosnia and Herzegovina, Czech Republic, France, Iceland, Italy, Malta, Moldova, Poland, Romania, Russia, the Former Yugoslav Republic of Macedonia.
  4. See <http://www.coe.int/minorities>
  5. See <http://www.coe.int/minlang>
  6. A comprehensive and thorough study on the Charter has been carried out by Jean-Marie Woehrling, *The European Charter for Regional or Minority Languages: a critical commentary*, Council of Europe Publishing, November 2005, 301 p, see in particular the references listed in the bibliography pp. 275-281.
  7. Such as the Swedish language in Finland, or the Romansh and Italian languages in Switzerland.
  8. The Charter is not self-executing, implying the need for States to take very specific measures to adopt legislation, if it does not already exist. It is obviously not enough to have ratified the Charter and to expect State administrations, not to mention local and regional administrations, to take up the necessary provisions in their policy and practice. The State Party that has ratified the Charter is under the international obligation to apply the Charter at national level.
  9. See Article 7.
  10. See Article 8 to Article 14.
  11. For instance for the Sámi languages (Skolt, Inari and Lule Sámi), Gaelic in Scotland, or Sorbian in Germany.
  12. See Article 15 to 17.
  13. Croatia, Germany, Finland, Hungary, Liechtenstein, The Netherlands, Norway and Switzerland.
  14. Biennial report by the Secretary General of the Council of Europe to the Parliamentary Assembly on the Application of the European Charter for Regional or Minority Languages, Doc. 106593, September 2005, available on the website of the Parliamentary Assembly of the Council of Europe.
  15. European Parliament, Resolution "European Regional and lesser-used languages, the languages of minorities in the EU in the context of enlargement and cultural diversity", P5\_TA(2003)0372, available at <http://www.europarl.europa.eu/>
  16. The Parliament urged the member and applicant countries to sign and ratify the Charter, if they have not done so. It also urged the Commission to "apply the principles and objectives of the Charter as a benchmark in **assessing compliance of the applicant countries with the obligations regarding the protection of their minorities as outlined in the conclusions of the 1993 European Council in Copenhagen**".
- \* The opinions expressed in this contribution are the responsibility of the author and do not necessarily reflect the official policy of the Council of Europe nor the opinion of the Committee of Experts. This contribution is based on a communication presented at a seminar on the "The European Charter for Regional or Minority Languages: challenges for an effective implementation", held in Belgrade on 4th April 2006. The initial text has been revised and updated.