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Application of the European Charter for Regional or Minority Languages

Biennial report by the Secretary General to the Parliamentary Assembly, December 2009

Communication
Secretary General

Introduction

Under the terms of Article 16 paragraph 5 of the European Charter for Regional or Minority Languages (hereinafter referred to as "the Charter"), the Secretary General is required to present a two-yearly report to the Parliamentary Assembly on the application of the Charter. The Charter entered into force in March 1998. The first report of the Secretary General of this nature was presented to the Parliamentary Assembly in 2000 (Doc. 8879 of 18 October 2000), the second report in 2002 (Doc. 9540 of 11 September 2002), the third in 2005 (Doc. 10659 of 3 September 2005) and the fourth in 2007 (Doc. 11442 of 24 October 2007). This fifth report covers the years 2008-2009 and addresses the main critical issues which arise from the functioning of the Charter system.

Monitoring

The monitoring mechanism set up by the Charter continues to function well. So far, the Committee of Experts of the Charter, despite the staff shortage in its Secretariat, has adopted fifty-three evaluation reports (compared to thirty-five reports two years ago). For five countries – Czech Republic, Luxembourg, Montenegro, Serbia and Ukraine – only the first evaluation report has been adopted so far. In six other cases, namely Armenia, Austria, Cyprus, Denmark, Slovakia and Spain, a further monitoring round has been completed, resulting in the adoption of a second evaluation report. A third monitoring round has been completed for a further eight states, Croatia, Finland, Germany, the Netherlands, Slovenia, Sweden, Switzerland and the United Kingdom, and a fourth round for Hungary and Norway. The reports which have already been considered by the Committee of Ministers have been made public and are available online[1] or in paper form from the Charter Secretariat. Besides their statutory function, the evaluation reports are increasingly used as a source for research on minority protection, and the number of information requests and publications worldwide confirm this trend.

With the sole exception of Liechtenstein and Luxembourg, in all the cases where the Committee of Ministers has taken note of an evaluation report it has subsequently addressed Recommendations to the government concerned. It is noteworthy that the Committee of Ministers has closely followed the proposals of the Committee of Experts and has thus considerably contributed to strengthening the monitoring mechanism.

1. www.coe.int/minlang.

In 2010, the Committee of Experts is expected to start the first monitoring cycle in respect of Romania and Poland, the second cycle concerning Luxembourg and Serbia, the third cycle concerning Denmark and Spain, and the fourth cycle concerning Croatia, Germany, Finland and Switzerland. A modification to the outline for periodical reports by the states parties, which was adopted by the Committee of Ministers in 2009, will streamline such reports and their examination by the Committee of Experts. This is also expected to reduce the delays in the submission of some periodical reports.

One decade of multilateral minority protection in Europe

The year 2008 marked not only the tenth anniversary of the entry into force of the European Charter for Regional or Minority Languages on 1 March 1998, but also of the Framework Convention for the Protection of National Minorities on 1 February of the same year. Both conventions represent particular achievements of the Council of Europe. No other international organisation has succeeded, despite several attempts, in developing comparable instruments. In 2008, Europe celebrated one decade of multilateral minority protection.

Three main events were organised to mark the anniversary. During the Slovak Presidency of the Committee of Ministers, on 11 March 2008, a conference devoted to both conventions took place. It addressed the impact of the Charter with specific examples of its importance for Frisian language education in the Netherlands and the promotion of the Sami language in Norway.

A second conference was organised in Luleå (Sweden) on 17 October 2008. It took stock of the role regional or minority languages play in regional and cultural development, how different local and regional authorities across Europe support such languages and what role associations of national minorities or language groups play in the implementation and monitoring of the Charter. Under the high patronage of the Secretary General, the Council of Europe also supported the Liet Lavlut Minority Language Song Contest which was held in Luleå on 18 October 2008.

Finally, on 20 April 2009, the President of the Parliamentary Assembly opened, in the presence of the Secretary General, a conference on problems and challenges related to the ratification and the implementation of the Charter. It took place in Bilbao (Spain) under the auspices of the Spanish Chairmanship of the Committee of Ministers.

The synergies between the two pillars of multilateral minority protection in Europe, the Charter and the Framework Convention, are continuously being increased. In this context, it deserves emphasis that in 2009 the Committee of Experts of the Charter gained the status of participant at the intergovernmental Committee of Experts on issues relating to the protection of national minorities (DH-MIN). The Advisory Committee of the Framework Convention already enjoyed this status. Participation in DH-MIN meetings enables the Committee of Experts to initiate reflection on transversal issues relevant to states parties, including additional ratifications of the Charter. For example, further to an appeal made by the Chairman of the Committee of Experts to the Committee of Ministers, the DH-MIN exchanged experiences on policies and good practice for the promotion of the Yiddish language, which is threatened by extinction in several states parties to the Charter.

Other international organisations have continued to rely on the standards created by the Charter in the field of linguistic minority protection. In the context of the enhanced co-operation of the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE) in the field of national minorities, the OSCE High Commissioner on National Minorities and the Charter Secretariat regularly exchanged information, for example in relation to country-visits by the High Commissioner. The European Union made reference to the Charter in the context of the enlargement process and the Eastern Partnership. Furthermore, co-operation with UNESCO within the context of its work on endangered languages has been further strengthened.

Signatures and ratifications

At present, the Charter has been ratified by 24 member states of the Council of Europe and signed by a further nine member states. The list of signatures and ratifications is attached in Appendix I.

Two states have ratified the Charter during the reporting period: Romania (January 2008) and Poland (February 2009). While acknowledging the importance of these ratifications for the numerous regional or minority languages used in the states concerned, it remains disappointing that a considerable number of member states of the Council of Europe have not yet become parties to the Charter. This regret has been expressed in all previous Biennial Reports.

Having initiated the drafting of the Charter as early as 1981[2], the Parliamentary Assembly assumed right from the beginning a special responsibility with regard to the ratification of this convention. From the mid-1990s onwards, the Parliamentary Assembly systematically required new member states to commit themselves to acceding to the Charter. However, for the states concerned, the delay in ratification amounts to 13 years in the cases of "the former Yugoslav Republic of Macedonia" and Moldova, almost twelve years for the Russian Federation, nine years for Georgia, almost eight years for Azerbaijan and five years for Bosnia and Herzegovina.[3]

Certainly, some of the aforementioned states are more advanced than others. Bosnia and Herzegovina and "the former Yugoslav Republic of Macedonia" informed representatives of their national minorities in 2009 that they would ratify the Charter soon.

As far as the Russian Federation is concerned, the Council of Europe and the European Commission launched a Joint Programme on "Minorities in Russia: Developing Languages, Culture, Media and Civil Society" in 2009 in co-operation with the Ministry of Regional Development of the Russian Federation. The objective of the Joint Programme is to promote Russia's ethnic and national minorities and to enhance the legal framework for minorities in the light of the Council of Europe standards. Most notably, the Programme, which runs until 2012, is conceived to contribute to the ratification of the Charter and to build capacity for minority associations, in particular concerning language protection.

In Georgia, which so far has not yet signed the Charter, the attitude towards the Charter is becoming more open. Under Denmark's Caucasus Programme "Enhancing good governance, human rights and the rule of law in Georgia", a meeting for high level representatives of the Georgian government and parliament was organised by the Council of Europe and the European Centre for Minority Issues in 2009. Many misconceptions about the Charter were clarified.

In Moldova, a series of information seminars have been organised by the Council of Europe, the authorities and national minority associations in various regions of the country. Despite the Council of Europe's frequent assistance during the last decade, Moldova has repeatedly postponed the ratification of the Charter. At present, there does not seem to exist any timetable for ratification.

Azerbaijan has apparently not taken any steps during the reporting period to prepare for ratification of the Charter. There is also no dialogue going on between the authorities and the national minorities about when this process could be started. The authorities of Azerbaijan have not accepted the Council of Europe's recent offer of assistance in the form of an information seminar, and I consider that such assistance could contribute to moving the situation forward.

Albania is in a similar position as it has no timetable for ratification and has not yet signed the Charter.

While France does not belong to the group of states that committed themselves to ratification, the Assemblée Nationale may be commended for having recognised in the Constitution that regional languages belong to the heritage of France. This constitutional amendment of 2008 is in full conformity with the Charter which recognises and promotes regional or minority languages as an expression of cultural wealth without being to the detriment of the official language. It would be most desirable for France therefore to take the next step of ratifying the Charter.

The rhythm of signatures of the Charter has completely come to a standstill. Nevertheless, the Council of Europe has received encouraging signals from Estonia. In 2009, during a seminar organised by the Council of Europe, representatives of the Estonian authorities, the Parliament and the national minorities discussed about obstacles to signing and ratifying the Charter.

In the light of the overall situation described above, a special responsibility is placed on relevant national parliaments to urge their governments to sign and ratify the Charter without further delay. This must be a concern for all countries in Europe on whose territory regional or minority languages are used, not just those referred to above. Within the Parliamentary Assembly, the Committee on Legal Affairs and Human Rights is currently drafting a report on "The European Charter for Regional or Minority Languages" in which in particular the issue of further ratifications by all relevant countries is addressed. Furthermore, the Committee on Culture, Science and Education is preparing a report on "Strengthening measures to protect and revive highly endangered languages".

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2. Recommendation 928 (1981) on the educational and cultural problems of minority languages and dialects in Europe.
3. The deadlines were: 9/11/1996 ("the former Yugoslav Republic of Macedonia"), 13/07/1996 (Moldova), 28/2/1998 (Russia), 27/4/2000 (Georgia), 25/1/2002 (Azerbaijan) and 24/4/2004 (Bosnia and Herzegovina).

Structural problems

Certain structural problems hamper the Charter's effectiveness. For example, some states have chosen to apply provisions from the Charter which are below the level of protection that the regional or minority languages concerned already enjoyed under national law or bilateral agreements. However, the Charter itself stipulates that its provisions shall not affect any more favourable legal regime existing prior to ratification.

This problem underlines the need for the Charter Secretariat to provide assistance to states that prepare ratification of the Charter. The drawing up of a ratification instrument must involve representatives of the national minorities or language groups with a view to obtaining a complete understanding of the factual situation of each language and the long-term needs and wishes of these groups regarding the development of their languages.

Another structural problem is that only a limited number of recommendations of the Committee of Experts and the Committee of Ministers are implemented by the states parties. As can be observed in many countries, the publication of an evaluation report often does not automatically lead to a policy dialogue between the representatives of the national minorities or language groups and the authorities about the implementation of its recommendations. In order to ensure the effectiveness of the Charter, however, it is crucial that the authorities at least begin the implementation of the recommendations before they submit their next periodical report to the Council of Europe. As before ratification, the Charter Secretariat may act as a facilitator through the organisation of roundtable meetings after the publication of an evaluation report.

On the other hand, the responsibility for the implementation of the recommendations is not solely placed on the authorities. Associations representing the users of regional or minority languages can initiate consultations on this as well. However, the potential role that civil society could play in the Charter process is far from being fully exploited. With the exception of a few countries such as the United Kingdom or Spain, the relevant associations frequently lack the capacity to play an active role in the implementation and monitoring of the Charter. Often, such associations are not fully aware of the rights and duties created by the Charter and the way they could successfully shape both the recommendations made during monitoring and their subsequent implementation.

During the reporting period, the Charter Secretariat has taken steps to increase the visibility of the Charter among the general public and users of regional or minority languages. These measures will be intensified in the coming years and also provide associations with tools and workshops helping them to play an active role in the implementation and monitoring of the Charter. It goes without saying that the challenge of awareness-raising is all the greater at the level of individual users of regional or minority languages.

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The application of the Charter is organised on the basis of a friendly and reasonable coexistence of official languages and regional or minority languages. Both are perceived as reinforcing one another in a context of multilingualism and cultural pluralism, and not as being in opposition or competition. This approach wants people to be sufficiently confident of their own identity to take a positive attitude towards other cultural identities.

The promotion of regional or minority languages therefore is a key goal of the Council of Europe.

Appendix – List of signatures and ratifications

European Charter for Regional or Minority Languages CETS No.: 148

Treaty open for signature by the member States and for accession by non-member States

Opening for signature

Place: Strasbourg

Date: 5/11/1992

Entry into force

Conditions: 5 Ratifications

Date: 1/3/1998

Status as of: 3/12/2009

Member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Albania										
Andorra										
Armenia	11/5/2001	25/1/2002	1/5/2002			X				
Austria	5/11/1992	28/6/2001	1/10/2001			X				
Azerbaijan	21/12/2001					X				
Belgium										
Bosnia and Herzegovina	7/9/2005									
Bulgaria										
Croatia	5/11/1997	5/11/1997	1/3/1998		X	X				
Cyprus	12/11/1992	26/8/2002	1/12/2002			X				
Czech Republic	9/11/2000	15/11/2006	1/3/2007			X				
Denmark	5/11/1992	8/9/2000	1/1/2001			X			X	
Estonia										
Finland	5/11/1992	9/11/1994	1/3/1998			X				
France	7/5/1999					X				
Georgia										
Germany	5/11/1992	16/9/1998	1/1/1999			X				
Greece										
Hungary	5/11/1992	26/4/1995	1/3/1998			X				
Iceland	7/5/1999									
Ireland										
Italy	27/6/2000									
Latvia										
Liechtenstein	5/11/1992	18/11/1997	1/3/1998			X				
Lithuania										
Luxembourg	5/11/1992	22/6/2005	1/10/2005							
Malta	5/11/1992									
Moldova	11/7/2002									
Monaco										

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.
Montenegro	22/3/2005	15/2/2006	6/6/2006	56						
Netherlands	5/11/1992	2/5/1996	1/3/1998			X		X		
Norway	5/11/1992	10/11/1993	1/3/1998			X				
Poland	12/5/2003	12/2/2009	1/6/2009			X				
Portugal										
Romania	17/7/1995	29/1/2008	1/5/2008			X				
Russia	10/5/2001									
San Marino										
Serbia	22/3/2005	15/2/2006	1/6/2006	56	X	X				
Slovakia	20/2/2001	5/9/2001	1/1/2002			X				
Slovenia	3/7/1997	4/10/2000	1/1/2001			X				
Spain	5/11/1992	9/4/2001	1/8/2001			X				
Sweden	9/2/2000	9/2/2000	1/6/2000			X				
Switzerland	8/10/1993	23/12/1997	1/4/1998			X				
the former Yugoslav Republic of Macedonia	25/7/1996									
Turkey										
Ukraine	2/5/1996	19/9/2005	1/1/2006			X				
United Kingdom	2/3/2000	27/3/2001	1/7/2001			X		X		

Non-member States of the Council of Europe

States	Signature	Ratification	Entry into force	Notes	R.	D.	A.	T.	C.	O.

Total number of signatures not followed by ratifications:	9
Total number of ratifications/accessions:	24

Notes:

(56) Dates of signature and ratification by the state union of Serbia and Montenegro.

a: Accession - s: Signature without reservation as to ratification - su: Succession - r: Signature "ad referendum".

R.: Reservations - D.: Declarations - A.: Authorities - T.: Territorial Application - C.: Communication - O.: Objection.

Source : Treaty Office on http://conventions.coe.int