

The European Charter for Regional or Minority Languages: *Ceart domhsa ceart duitse?*

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Introduction

This article will attempt to give an overview of the European Charter for Regional or Minority Languages: its general politico-linguistic context together with some mention of its historico-legal antecedents; its genesis, process, contents. Reference will also be made to some pertinent issues it raises, as well as to its application to the Irish language in the Republic of Ireland and in Northern Ireland.

The intricacies of the register used for legislative purposes can be the most boring or the most fascinating of subjects, depending on one's personal proclivities. However, there are two factors which cannot be denied: the current interest in legislation for the field of *rights* and *language*; the apparently inevitable time lag between acceptance and application, between ratification and implementation.

There exist several reasons why members of IRAAL could find interest in the particular piece of legislation under discussion here:

- The Charter is an international document dealing specifically with legislation towards policy for specific types of languages (regional or minority), across a range of domains. This could be considered an aspect of *applied linguistics*.

- In the Irish context, several possible *comparisons* could usefully be made: between the specificity of the range of policy options offered by the Charter and the aspirational wording of Article 8 of the 1937 Constitution; or indeed between this specificity together with the particular range of possibilities offered and the wording of the proposed Official Languages Equality Act in the Republic of Ireland; or between Article 8 of the Irish constitution and the existing linguistic legislation currently in place for regional or minority languages. In more general terms, for applied linguists, it could prove a useful

double exercise, *both textual and policy-oriented*, to compare this existing legislation for such languages with the options offered by the Charter or to compare the Charter with any policy statements on regional or minority languages offered by the European Union, or other international bodies.

– The *semantics* of the *terminology* used, together with the explanations offered, in the Introduction to the Charter has its own fascination, particularly when compared with other documents of supranational or regional bodies.

– The process by which this Charter was finalized is a case study *in politics, policy, and legislation*, a reality that linguists ignore at their cost. Coulmas (1998) reminds us of this fact:

So far, more linguists than lawyers have contributed to the debate. This, I believe is unfortunate. ... Declaring rights for this and that is pointless unless these rights can be linked to existing legal provisions. Even if all the linguists in the world agree, no law will be enacted. If all the linguists agree and convince a few lawyers, a law may materialize, perhaps imperfect but better than nothing.

The Irish language as a part of that political process is also worthy of study.

Some initial distinctions

To place the Charter in its proper context, some possibly tiresome initial distinctions need to be made. These will necessarily be abbreviated.

Distinguishing institutions

The European Charter for Regional or Minority Languages is a product of the Council of Europe, not of the European Council of the European Union. Nevertheless, the two institutions, the Council of Europe and the European Union, do share an interest in languages, for some coinciding (e.g. language teaching and learning) and for some differing reasons (strong legislation for

minority language protection and development). This interest is manifested in differing ways by both: largely through some educational initiatives and parliamentary resolutions by the Union and through both influential educational policies and the legal document which is the Charter by the Council of Europe. In both cases, a distinction must be made between the official position taken on major languages and that on regional or minority languages in the member states of the two institutions. Finally, the role played by institutions representing political units below nation-state level have been crucial to both language and the Charter. Regional and Local Authorities would appear to have a stronger voice in the Council of Europe through their longstanding representative Congress than through the more recently established Committee of the Regions in the European Union.

Distinguishing types of legislation

For language as for other matters, there is need to be clear about the relative power of differing forms of legislation to actually effect change. The first consideration is whether the legislation is *domestic* or *international*, or whether legislation of international provenance has been incorporated into domestic legislation. The second is whether the legislation is *hard* or *soft*, terms which are self-explanatory with regard to relative importance or possibility of effect. The degree of *bindingness* on the political entities that have power of implementation is crucial: whether it is *solely moral* or *real and actual*; one of *intent only* or *action*. This is well illustrated in the nomenclature used, from *soft* to *hard*; with increasing degrees of bindingness, as this list indicates: Recommendation; Resolution; Declaration; Covenant; Convention. The European Charter has the power of a Convention.

The Charter: politico-linguistic context

Distinguishing rights and minorities: rights

With regard to the issue of *rights*, distinctions are being made between the older more traditional legal approach to *language rights* and the newer multidisciplinary concept of *linguistic human rights* (e.g. Phillipson 1992, Skutnabb-Kangas 1998, Nic Shuibhne 1999),

the latter being more basic to humanity and therefore considered more deserving of attention and protection, by law if required. A further refinement is made between the right of *expression* and the right of *communication*.

Distinctions are also made between *individual rights* and *collective rights* (e.g. Dansereau 1995, Ó Riagáin and Nic Shuibhne 1997), the former being seen as less threatening to nation-states on the basis of social and political cohesion in contrast to the more controversial acceptance of diversity within unity or unity in diversity, the 'pluralist dilemma' (Bullivant 1981). The concept of *difference* is more acceptable to some commentators (Giordan 1982) as being more dynamic and people(person)-oriented than the static reification of language and culture implicit in *diversity*. The concept of the *nation-state* and its *organization* is also the subject of current debate as being in distinctive contrast with the *suprastate* (e.g. May 2001). All this political and social movement seems to call for a new set of arrangements to accommodate and to reconcile the several different interests (Mial 1994).

Rights, of course, must be not only recognized but granted, *actively granted*, and implemented. While the implementation may sometimes be left to the minority itself, the actual granting of rights is in the bequest of the prevailing political authority. There is then a symbiotic relationship between political systems and human rights, presumably including linguistic human rights, a relationship in which the system of democracy appears to predominate. In the first lecture of the course on Human Rights given at Strasbourg University in 1963, and later issued as a pamphlet translated from the original French, the speaker, P. Modinos, describes this relationship as follows.

Human rights define the place of the individual in the society of which he is a member... Tell me which rights your laws protect and I shall tell you under which regime you live... Hence, one — and not the least — of the advantages of studying human rights will be to throw light on what democracy is, or rather, what democracy should be.

No state is neutral with regard to language as Coulmas (1998) reminds us:

The principal reason why language rights are an issue is because the modern state itself claims language rights by expressing itself in one or several languages. It thereby discriminates between some languages and others, and in general considers language an object of government responsibility ... the state has an interest in establishing a language regime and is widely believed to have the right to do so, if only by virtue of the fact that the state communicates with its citizens by means of languages of its choice.

In a recent article, May (2000) makes a pointed observation: 'the *exclusion* of minority languages from the public or civic realm is just as much a process of social engineering as its promotion'.

Minorities and rights

Since the Charter is one for Regional or Minority Languages, one might legitimately ask who are the *minorities* involved, since regions are more easily understood. Coulmas (1998) makes the following point:

Countries which recognize linguistic minorities commonly distinguish between indigenous minorities and migrants, a distinction which is also widely encoded in international law... The decision to migrate and to migrate to a particular place is individual. Where individuals decide to move to a state where a language regime is in place, they cannot reasonably expect this regime to be modified on their behalf. On the other hand, autochthonous groups on which a language regime has been imposed against their will seem to have a more legitimate claim to call for recognition as a group. In recent years, this distinction has been challenged.

In Coulmas's opinion,

Groups are much more difficult to demarcate than states. As a consequence, group rights pose more intractable problems than the rights of both states and individuals, because the most dreaded dilemma for a legal system is

vagueness and lack of clear definition... In order to cope with the vagueness of the group concept, many states have taken to territorial solutions... The unwelcome side-effect of the territorial solution is that it almost inevitably creates new minorities, i.e. majority-language speakers living within the minority-language territory... There is no generally accepted definition of minority in international law.

May (2001:8) has the same difficulty in his discussion of the 'burgeoning literature': 'these sets of literature seldom engage directly with the problematic questions, much discussed in social and political theory, of what actually constitutes a "group" '. Nevertheless, apart from common sense observation, linguistic minorities must exist within states, since May (2001: 5) also states that 'in short, currently less than 1.5 per cent of the world's languages are recognised officially by nation-states'. The corollary is that the remaining 98.5 percent are spoken by groups, or minorities, within states. This squares the circle of rights, minorities, languages.

It is no surprise, then, that the *rights of minorities* in nation-states are bound up with questions of *power* and participation, as recognized by many writers (e.g. Chomsky 1979, Euromosaic 1996). Another researcher (Hamel 1997) reinforces the dangers of the 'vagueness' disliked by legislators, mentioned by Coulmas above: 'historical experiences have shown that implicit formulations and vague definitions usually serve as a loophole to avoid the implementation of minority rights'.

Legislation and Linguistic Behaviour

On a more pessimistic note, Hamel (1997: 2) notes that 'many analysts would agree with Mackey (1989) that language laws as such have had little impact on actual language behavior'. May (2000: 101-2) finds corroboration from the case of the Irish language to support this view:

The process of state legitimation is thus an important first step in raising the status — and by implication, the profile — of a minority language. However, it is not, in itself, enough to ensure a central (or even, a more prominent) role for that language within the nation-state, since it is possible to legitimate a language without this having much

influence on its actual use. One only need look at the largely unsuccessful attempt to promote Irish, alongside English, as one of the two official languages of the Irish Republic to see this... Thus, what is also needed is the institutionalisation of the minority language within civil society. Indeed, this may be the more important aspect.

The Charter: historico-legal antecedents

The European Charter for Regional or Minority Languages of 1992 did not grow out of a vacuum. It was preceded by, and drew from, many existing sources. In turn, legislation which followed has drawn upon the Charter in some instances. The following illustrative tables give some indication of the general concern with issues related to those of the Charter. Between them, they demonstrate two facts: (a) these documents issue predominantly from bodies — supranational, international, pan-European — set up in the wake of world wars with the intention either of preventing future conflicts between (or in) states, or of dealing with the aftermath of war, through the evolution of standards, some more binding than others, using moral authority to persuade states to sign up to them, to incorporate them into domestic law, to ratify, and implement them. They are, then, *peace-oriented*. (b) We live in an evolving world, in an evolving Europe, particularly with regard to political systems and new emerging states. Ireland is changing as part of that.

Table 1: Rights, minorities, democracy: the aftermath of two world wars

United Nations Covenant	(1918)
Atlantic Charter	(1941)
UN Declaration	(1942)
Moscow Declaration	(1943)
Yalta Agreement	(1945)

None of these five instruments mentions *human rights*. Nevertheless, the 1918 Covenant laid down procedures for the *protection of minorities* while the Atlantic Charter ended the '*right of conquest*'. Comments from an expert adviser (and a graduate of Trinity College Dublin), Thornberry (1991), to the United Nations neatly lead into the following tables:

International law, since the beginnings of any such system could be discerned, developed a practice of protecting particular groups by treaty...culminating in the general organisation of such protection by the League of Nations. ... Those who drafted the Universal Declaration (1948) ... made the quantum leap into the new age of human rights for all, instead of rights only for particular groups.

These selective lists which follow attempt to show the political and legal evolution of language rights as an integral part of human rights over more than fifty years. They give some of the relevant references as well as some personal, rather condensed comments on them. The list is intended as general context for the content of the Charter. Post-Charter instruments are clearly marked in the text.

Some comments on Tables 2-7

The European Convention for the Protection of Human Rights and Fundamental Freedoms (1950, with later amendments by protocols) is probably the most significant piece of legislation in the list given, because of the supervisory mechanism it contains. It is interesting then to note, that while the Irish state ratified the Convention from the beginning, it still awaits incorporation into domestic law, although this is now (late 2002) said to be imminent — largely as a result of the Good Friday Agreement and the establishment of Human Rights Commissions in the Republic and in Northern Ireland. The United Kingdom incorporated the Convention into its domestic law only quite recently, as a result of the same political imperative. This meant that, until such incorporation takes place, the Convention applies *to* the Irish Republic, but not *within* it.

One of the conditions laid down by the European Union for the entry of new states has to do with their reputation on human rights issues. Not only had two members not incorporated the Convention

Table 2: Legal instruments 1945-2000 — United Nations

<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference to language rights as integral part of human rights</p> <p>3. Comments</p>	<p>1. Conference April, 1945 (draft Charter) <i>Charter</i> June, 1945, signed at San Francisco</p> <p>2. Maintenance of peace = 'a universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion'.</p> <p>3. First mention of human rights and 'without distinction', a phrase subsequently in frequent use and later extended BUT no mention of minorities in Charter (1945) or Declaration (1948)</p>
<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference</p> <p>3. Comments</p>	<p>1. <i>Universal Declaration of Human Rights</i> 1948</p> <p>2. Thirty articles on civic, political, economic, and social rights</p> <p>3. Not cultural right nor direct reference to anti-discrimination on grounds of language</p>
<p>1. <i>Legal Instrument</i></p> <p>2. Relevant reference to language rights as integral part of human rights</p> <p>3. Comments</p>	<p>1. <i>International Covenant on Civil and Political Rights</i> (1966, in force 1975)</p> <p>2. Article 14 = Article 6 of the European Convention 1950 (1953). Article 24: Child's right to protection without any discrimination as to, etc. Article 26: Equality before the law for all persons. Article 27: ...or linguistic minorities exist, persons belonging ...right to enjoy culture ... use their own language</p> <p>3. Significant international statement (although still not collective right)</p>
<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference</p> <p>3. Comment</p>	<p>1. <i>Convention on the Rights of the Child</i> (1989)</p> <p>2. Article 29: education of the child directed to ... his or her own cultural identity, language and values. Article 30: child belonging to minority ... enjoy culture, use language</p> <p>3. 'Linguistic' included in list</p>
<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference to language rights as integral part of human rights</p> <p>3. Comments</p>	<p>1. <i>Declaration on Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities</i> (1992)</p> <p>2. Article 1: States shall protect. Article 2: Use of language – participate in all aspects of life, including decisions (national/regional) concerning minority. Field of education, policies/programmes planned/implemented with due regard for legitimate interests of persons belonging to minorities; establish/maintain own associations. Article 4: States should, where appropriate [!]; field of education. Article 5: National policies/programmes planned/implemented with due regard for legitimate interests of persons belonging to minorities.</p> <p>3. Articles foreshadow Charter but no recognition for group as a whole</p>

into their own legislation until recently, but the following surprising position within the Union was outlined by former Justice Donal Barrington (and first chair of the Human Rights Commission in the Republic) at a Conference in Dublin in April 1994:

By and large there is nothing in the treaties about human rights. The German Constitutional Court in particular was not prepared to accept a system where a law which did not guarantee human rights could override provisions of the German Constitution. The European Court ultimately arrived at the conclusion that, even though there was no reference to human rights in the various treaties, the Court must assume that when a group of states, all of which were committed to the defence of human rights and most of which had written constitutions guaranteeing these rights, came together to confer collective powers on Community institutions, they must have expected that those powers which they delegated to the Community institutions would be exercised in a manner which respected human rights and not otherwise. By this rather elaborate line of reasoning, the European Court of Justice arrived at the conclusion that even though there is no charter of rights in the European Community, that all powers within the Community are to be exercised in a manner which recognises the various charters of rights which member States have signed and the various human rights which are traditionally accepted in the Member States of the Community.

Table 3: Legal instrument — United Nations International Labour Organisation (I.L.O.)

1. Legal instrument	1. <i>Convention 107: Protection/Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries</i>
2. Relevant reference	2. Article 23: Children – education, mother tongue, progressive transition to national or official language of country. Measures to preserve mother tongue/vernacular
3. Comments	3. Hardly bilingualism as aim. Not very active in intent

Table 4: Legal instruments 1960-1982 — United Nations Educational Scientific and Cultural Organisation (UNESCO)

1. <i>Legal instrument</i>	1. <i>Convention against Discrimination in Education</i> (1960)
2. Relevant reference	2. Article 5: Right of members of national minorities to carry on their own educational activities
3. Comments	3. Onus on minority
1. <i>Legal instrument</i>	1. <i>Recommendation on Participation by the People at Large in Cultural Life</i> (1976)
2. Relevant reference	2. Article II: (f) Equality of cultures, (o) mass media. Article III: Necessary technical, administrative, and financial resources available, therefore enhancing diversity and cultural quality of communications media.
1. <i>Legal Instrument</i>	1. <i>Mexico Declaration</i> (1982)
2. Relevant reference	2. 'Cultural identity and cultural diversity are inseparable'; democracy and culture

However, this position has been changed by the relatively recent European Union Charter of Fundamental Rights which goes beyond the 1950 Convention by the addition of further rights. Work is ongoing on the inclusion of this European Union Charter in the proposed new Constitutional Treaty for the European Union, the framework of which was released in October, 2002. This Charter of Fundamental Rights was prepared by a group representing the European Parliament and Commission as well as member state parliaments and governments — a group confusingly (in the context of this paper) called a Convention. While it does not yet have legally binding status, it has been proclaimed a 'political declaration' at the Nice European Council summit (December 2000); the European Parliament has requested its inclusion in the next Treaty; and its moral weight is being felt in the decisions of the European Ombudsman.

A Working Group was set up by the most recent Convention (on the Future of Europe) to consider the 'modalities and consequences of possible incorporation of the EU Charter of Fundamental Rights into the Treaties'. Its Report (Convention on the Future of Europe 2002) states that 'all members of the Group either support strongly an incorporation of the Charter *in a form which would make the Charter legally binding and give it constitutional status*' [emphasis in original]. The Group offers two modalities for possible inclusion: the insertion of the entire text of the Charter or a direct (or indirect) reference to it. In addition, the Group proposed for the

new Treaty a constitutional authorization which would allow the Union to accede to the 1950 Convention.

Table 5: Conference on Security and Co-operation in Europe (CSCE), formerly OSCE

1. <i>Legal instrument</i> 2. Relevant reference 3. Comments	1. <i>Helsinki</i> (1975) 2. 'National minorities' 3. Co-operation towards peace and stability in Europe
1. <i>Legal instrument</i> 2. Relevant reference	1. <i>Madrid</i> (1980) 2. 'Regional cultures'
1. <i>Legal Instrument</i> 2. Comment	1. <i>Vienna</i> (1986) 2. Therefore co-operation in the fields of culture and education
1. <i>Legal instrument</i> 2. Relevant reference	1. <i>Copenhagen</i> (1990) 2. 'Trans-frontier co-operation among persons sharing a common origin, cultural heritage and religious belief'
1. <i>Legal instrument</i>	1. <i>Paris</i> (1990): <i>Charter for a New Europe</i>
1. <i>Legal instrument</i>	1. <i>Geneva</i> (1991)
1. <i>Legal instrument</i>	1. <i>Helsinki Document</i> (1992): <i>Challenges of Change</i>
1. <i>Legal instrument</i> 2. Relevant reference 3. Comments	1. <i>Helsinki Declaration</i> (1993) 2. Requested report on situation of minorities in participating states (including census language speakers/use across domains, legal protection) for High Commissioner of National Minorities 3. Published as 'Linguistic rights of persons belonging to national minorities in OSCE area' (1999). Domains listed also in Charter, though Charter avoids questions on definition of minorities. Aim: conflict avoidance.
1. <i>Legal instrument</i> 2. Relevant reference 3. Comments	1. <i>Oslo Recommendation Regarding the Linguistic Rights of National Minorities</i> (1998) 2. Not new standards. Covers all domains and areas of activity: names; religion, community life and NGOs (including education), media, economic life, administrative authorities and public services, independent national institutions, judicial authorities, deprivation of liberty. (Each linked to existing Human Rights standards in explanatory note.) Intended as part of progressive development in avoidance of inter-ethnic conflict. 3. N.B.: post-Charter. Minorities and rights and language together. Derived from existing binding legal instruments. Takes Charter forward. Attempts to 'balance' private/state (public) concerns. Identity and integration. From general to specific. Guide to governments. Arose out of necessity (former Yugoslavia etc.).

Table 6: Legal instruments, European Parliament

<i>Resolution on a Community charter of regional languages and cultures and on a charter of rights of ethnic minorities (1981)</i>	
<i>Resolution on measures in favour of minority languages and cultures (1983)</i>	
<i>Resolution on the languages and cultures of regional and ethnic minorities in the European Community (1987)</i>	
<i>Resolution on Community regional policy and the role of the regions (1988)</i>	
<i>Resolution on the European film and television industry (1989)</i>	
<i>Resolution on the Commission communication entitled 'new prospects for Community cultural action' (1993)</i>	
<i>Resolution on cultural plurality and the problems of school education for children of immigrants in the European Community (1993)</i>	
<i>Resolution on the promotion of books and reading in Europe (1993)</i>	
<i>Resolution on linguistic and cultural minorities in the European Community (1994)</i>	
1. Legal instrument	1. Maastricht Treaty (1992)
2. Relevant reference	2. Articles 126, 127, 128 on education, vocational education, and culture.
3. Comments	3. Role of civil society, e.g. NGOs. Principles of citizenship and subsidiarity. Petitions Committee (Catalan, Basque – status).
1. Legal instrument	1. Amsterdam Treaty
2. Relevant reference	2. As above (new numbering).
3. Comments	3. Possibility to address institutions and receive reply in own ('official') language. Ombudsman; material in Irish.
1. Legal instrument	1. Recommendation, EU Charter Fundamental Rights
2. Relevant reference	2. Articles 21, 22: 'respect linguistic diversity', own policies in this regard (not yet positive measures)
3. Comments	3. Diversity; cultural wealth; lesser used or lesser taught languages – achieved through lobbying! Diversity in or between states. In new Constitution for EU (IGC 2004). Articles are there and may be given substance.
1. Instrument	1. EYL 2000 European Year of Languages
2. Relevant reference	2. Blurbs interesting
3. Comments	3. Joined Council of Europe to promote aims of linguistic diversity (all languages)
Committee of the Regions (Established March, 1994)	
1. Instrument	1. Opinion on the promotion and safeguard of regional and minority languages (June, 2001)
2. Relevant reference	2. Inter alia calls on all states, except Ireland and Luxembourg, where languages are the first languages, to sign and ratify Charter of Council of Europe
3. Comments	3. Tony McKenna and Jose Muñoa Ganuza – Rapporteurs (Irish and Basque)

Table 7: *Legal instruments, Council of Europe*

<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference to language rights as integral part of human rights</p> <p>3. Comments</p>	<p>1. <i>European Convention: Protection Human Rights and Fundamental Freedoms</i> (signed 04.11.1950; in force 03.09.1953)</p> <p>2. Article 14: Principle of non-discrimination 'on any ground such as sex, race, colour, language, religion, political/other opinion, national/social origin, association with a national minority, property, birth or status'. Article 6: Judicial authorities minimum rights of accused, (a) to be informed promptly in a language which he understands of nature/cause of accusation, (b) free assistance of interpreter if cannot understand/speak language used in court.</p> <p>3. Article 14 important, BUT not a system of positive protection for minority languages and communities using them (note order); see Resolution 136 (1957) of Consultative Assembly of the Council of Europe. On Article 6, see Article 9 of Charter.</p>
<p>1. <i>Legal instrument</i></p> <p>2. Relevant reference</p> <p>3. Comments</p>	<p>1. <i>Parliamentary Assembly, Recommendation 285</i> (1961)</p> <p>2. Need for protection measure to supplement the European Convention on rights of minorities enjoy own culture, use own language, establish own schools</p> <p>3. Any resultant action = shared responsibility of state and language community, mostly language community.</p>
<p>1. <i>Legal Instrument</i></p> <p>2. Relevant reference to language rights as integral part of human rights</p> <p>3. Comments</p>	<p>1. <i>Parliamentary Assembly Recommendation</i> (1981)</p> <p>2. Educational and cultural problems of minority languages and dialects in Europe: (1) respect for/ balanced [!] development of, all [!] the European cultures and of linguistic [!] identities in particular, very important to development of Europe and the European idea, (2) principles – right of children to their own language, (3) right of communities to develop their own language and culture</p> <p>3. Very much the precursor of Charter of 1992. Stated that charter needed; recommended to Committee of Ministers 'whether possible [!] implement measures in whatever manner is most appropriate' [!]; correct toponymical forms based on original language of territory, however small; gradual [!] adoption of mother tongue in education (dialect in preschool); support for local use standardized minority languages and in higher education and local media in so far as this approach is favoured by communities; possibility of use in local authority area as official or joint official language.</p>
<p>1. <i>Legal instrument</i></p>	<p>1. <i>Vienna Declaration, Appendix II – National Minorities</i> (1989)</p>

2. Relevant reference to language rights as integral part of human rights	2. States should create the conditions necessary for persons belonging to national minorities [!] to develop their culture, while preserving their religion, traditions, and customs. These persons must be able to use their language, both in private and in public and should be able to use it, under certain conditions [!], in their relations with the public authorities. To 'draft with minimum delay a framework convention (for the) protection of national minorities', 'begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field'.
3. Comment	3. 'National Minorities ... should be protected and respected so that they can contribute to stability and peace'. Note: 'persons' (not communities) – 'must', 'should', 'under certain conditions'. Drafting of documents accomplished 1994-1998.
1. <i>Instrument</i>	1. <i>Democracy, Human Rights and Minorities: Educational and Cultural Aspects Project</i> (1993-1997)
2. Comment	2. Focused primarily on Eastern Europe ('emerging democracies').
1. <i>Instrument</i>	<i>Year of Tolerance</i> (1995)
1. <i>Legal instrument</i>	<i>Framework Convention for the Protection of National Minorities</i> (1994, in force 1998).
1. <i>Instrument</i>	1. <i>EYL 2000 European Year of Languages</i>
2. Relevant reference	2. Proposed 1997; Initiative of Council of Europe 'Celebration of linguistic diversity'
3. Comments	3. Aims: respect and awareness for ALL indigenous languages (of member states in particular). Important implications for regional or minority languages. Diversity.

The proposed new Constitutional Treaty for Europe means another referendum in Ireland. A recent headline in the *Irish Times* (November 7, 2002) shows the political reaction in Ireland: 'Government cautious on EU rights charter'. The article also gives the reaction of Ireland's ambassador to the EU, Anne Anderson, to the possible inclusion of the EU Charter as a sensitive issue, since 'our citizens look to the Irish Constitution as the source and guarantor of their rights'. It is possible that the EU Charter might never have included an article on linguistic and cultural diversity without the existence of the Charter of the Council of Europe on Regional or Minority Languages, and the moral impetus this gave to the lobbying of NGOs such as the European Bureau for Lesser Used Languages.

Following on the European Year of Languages initiative, a discussion paper on linguistic diversity and language learning was put forward in November, 2002 by the Commission of the European

Community. This paper includes regional or minority languages and refers specifically to the Charter of the Council of Europe.

This then was the general background and contexts from which the Charter for Regional or Minority Languages emerged and, in turn, influenced later developments. It is of note that the late 1980s and the 1990s saw much international preoccupation with questions of minorities and language, mainly due to the political events and violent inter-ethnic conflict of the period. In what is considered a civilized world, there is some irony in the fact that so many legal instruments have been thought necessary to try to ensure that states behave well towards their own (and other) peoples. Legislation can only 'try to ensure'. As noted, actual implementation is often another battle.

The data of Tables 2-7 give the most influential of the international bodies. It is to be remembered that the same states are members of most of these bodies. Coulmas (1998: 66) reminds us of the differences between them:

All members of the United Nations are not in all respects entities of the same kind. A significant difference is that between consolidated nation states and post-colonial states still engaged in the business of nation-building ... Many states ... purport to regard 'minority' as a foreign concept ... Also, it can hardly be taken for granted that developing countries will easily accept international authority which curbs their jurisdictional monopoly over their own territories.

Two further factors may be added: the cultural differences between Eastern and Western legislative philosophy and systems (the lists above would be considered predominantly western; *universality* is not a given) and the eagerness, on the other hand, of what have been described as 'the emerging democracies' of Eastern Europe to adopt what will make them acceptable to the new political entities they wish to join.

One could easily assume, then, that in any group of states pondering over the minutiae of a new legal instrument, particularly in an area as emotive as language, each one's motivation will be very different: some will be there to actually get something done, others to prevent it being done. It is easier for those with no problems at home to lay down the law for others! The Charter, then, will exhibit

some of the same kinds of formulations as seen in Tables 2-7, so carefully crafted in order not to upset political sensibilities. The Charter could even be considered as no more than more of the same, were it not for the very significant difference that it is solely dedicated to languages, and to languages designated regional or minority.

The context of the Charter within the Council of Europe

It is no surprise that a legal instrument dedicated to such languages should emanate from the very specific context of the Council of Europe. This international body was founded in 1949 in the wake of World War II, arising out of the Congress of Europe, representing sixteen states, held at The Hague in 1948 by the International Committee of Movements for European Unity. The founding states were ten: Belgium, Denmark, France, Italy, Luxembourg, Netherlands, Norway, Sweden, as well as Ireland and the United Kingdom. In the forty years to 1989 the Council of Europe grew to 23 states. Between 1989 and 2002 that number almost doubled to 44, with the influx of what has been described by the Council as the 'new wave' of states. Its influence then is considerable.

A very important pillar of the Council of Europe is the Standing Conference of Local and Regional Authorities of Europe. The statutory principles of the Council are respect for human rights and the rule of law together with the nurturing of pluralist democracy. Respect for human rights and the rule of law is not only a principle but a condition of membership of the Council of Europe. The guiding principle of all activity undertaken by the Council is described in its literature as 'the daily enhancement of human rights'. In the same way, the guiding spirit of the Charter may be seen in some of the expressions used in Part II (obligatory for contracting parties), some of which are stronger than in other such documents, all of which exhibit an understanding of reality which does not prevent recommendations being made, e.g.

need for resolute action to promote regional or minority languages in order to safeguard them; ... eliminate exclusion; ... special measures aimed at promoting equality; not an act of discrimination against users of more-widely used languages; ... mutual understanding; states encouraged to establish bodies to advise them.

This guiding spirit of the Charter was being echoed in other fora by other actors around the same time as the following two excerpts show. In Britain, the National Council for Language Education described *language awareness* thus in 1985: 'Language awareness is a person's sensitivity to and conscious awareness of the nature of language and its role in human life'. In the early 1990s, Francois Bayrou, then Minister for Education in the French Republic, and speaker of Béarnais, a variety of Occitan, commissioned a report on the regional languages of France. He also hosted a meeting of the Scientific Committee of the Euromosaic team then investigating the minority languages of the European Union in his regional capital, Pau. Both acts were unusual in that centralized state. He also publicly declared his own stance:

Je suis sur d'une chose, c'est que le temps qui vient a besoin de tout. Et plus que tout, il a besoin d'identité ... les hommes ont besoin de se souvenir de ce qu'ils sont et d'abord, sachant où ils veulent aller, savoir d'où ils viennent. Je ne suis pas moins français, amoureux que je suis de la langue française, en essayant de parler à nouveau la langue des pères et des mères qui ont fait ce que je suis... Cette serrure a besoin d'une clé et la clé ce sont les maîtres.

The genesis of the Charter within the Council of Europe

The salient dates in the evolution of the Charter could be described as follows.

1981

In this year, both the Council of Europe and the European Parliament showed their interest in minority languages and cultures. The European Parliament passed the *Arfé Resolution* on a Community charter of regional languages and cultures and on a charter of rights of ethnic minorities, the first of a series of statements that did not get beyond the status of Resolution.

The Parliamentary Assembly of the Council of Europe passed a *Recommendation* on the educational and cultural problems of minority languages and dialects in Europe in which the necessity for a charter was clearly stated. Action was immediately taken through entrusting the task of preparing such a charter to the Conference of

Local and Regional Authorities of Europe (CLRAE) within the Council of Europe.

1984

By the end of 1984, the Conference had completed a survey and had held an Oral Hearing, attended by 250 delegates representing some 40 languages, leading to a first draft of the Charter. Contact was maintained with both the Parliamentary Assembly and the European Parliament.

1988

The Conference proposed *Resolution* 192, a draft charter to have the firm status of a *Convention*.

1989

This was taken seriously by the Committee of Ministers of the Council of Europe with the result that an *ad hoc* Committee was established, composed of experts and intergovernmental nominees to progress matters. The Committee included a governmental representative from the Republic of Ireland. The fairly recently established NGO, the European Bureau for Lesser Used Languages, was given observer status.

1992

After some three years of fairly intense negotiation, the final version of the Charter was adopted by the Parliamentary Assembly of the Council of Europe with the legal status of Convention and by an almost unanimous vote in favour. Later that year, it was opened for signature by member (and non-member) states.

The process of the Charter within the Council of Europe

Four stages may be distinguished in the process undergone by the product that is the Charter.

The drafting process

Between 1989 and 1992 the work of the Expert Committee was intensely complicated and political. Every nuance of every draft of every section and subsection was carefully examined for its legal

and political implications, under the guidance of Dr. Ferdinando Albanese, legal expert of the Council of Europe. It is known that some countries provided a continuous obstacle course to progress, as the voting patterns later revealed. The resulting Charter may appear to be a compromise between member state politics and legal semantics, as an examination of the section on terminology will show. Three points will illustrate the compromises reached.

(a) There is no doubt that a not inconsiderable dilution occurred of the obligations to be placed on states. The menu system of possible actions under the various domain headings, from 'hard' to 'soft' is an indication of this.

(b) The title given to the Charter — 'regional or minority languages' — is another indication of attitudes, as well as of trying to cover many possibilities while at the same time distinguishing between two categories through the insertion of 'or'. Regions, autonomous regions, represented in the CLRAE, would not have their languages described as 'minority'.

(c) The case of Irish provided a particular challenge. For a first constitutional language to come within the title given to the Charter was not acceptable. To change the title was politically impossible. The title then remained, but a specific clause was inserted to cover the case made by the Irish representative.

In summary, one could quote the exasperated comment from the Director of Front Line, a new human rights organization in Ireland, made at its first conference, as reported in the *Irish Times* (January 18, 2002): 'The Director accused governments of hijacking the language of human rights. "They say the right words but are always driven by their own strategic or political interests" '.

The voting process

In June, 1992, every state had three possibilities when voting on the Charter and on its status as a Convention: for, against, abstention (which is not as final as being against). There were four abstentions: United Kingdom, France, Cyprus, Turkey. Only one state voted against, Greece. However, this was later changed to abstention.

Bulgaria was absent on the day of the vote but later signed the Charter, indicating agreement.

Subsequent politico-legal process

Voting is not sufficient to ensure the legal status of the Convention. Two further steps are necessary: first the signature and then the full ratification process of a sufficient number of member states. The Convention was opened for signature on November 5, 1992, five months after the vote in the Parliamentary Assembly. By the 12th of November, 11 states had signed, including Cyprus, one of the states which had abstained on voting day. Since then, two other abstainees have given their agreement, the United Kingdom and France. Neither Turkey nor Greece have changed their position. In all four cases, internal political pressures were and are at work.

Signing indicates: the wish to ensure that the Convention be a legally binding document; the intent to ratify it at a later stage; and the wish to show at least 'goodwill' to the spirit of the Charter

Ratification is a much more serious step which commits the state to certain actions. It signals full acceptance of both the spirit and the content of the Charter including all ensuing responsibilities. Five ratifications were necessary to allow the Charter to come into force as a legal Convention. This was not accomplished until November 1997, tardily enough, coming into force on March 1, 1998.

Even at this stage of ratification, it is still possible for contracting states (a) to designate only some languages within the state and (b) to accept the weakest obligations or (c) to renounce the entire later. This was necessary to ensure that the draft charter was acceptable to the largest number possible of the member states. Ratification need not necessarily be followed by the immediate coming into force of the commitments undertaken by the ratifying state. Ratification may be later extended to further actions or to further languages not included in the initial commitment to ratification of a state. The degree of latitude permitted is then fairly wide.

Current stage of the process (November 2002)

While the Convention is open to both member and non-member states of the Council of Europe, no non-member has signed to date. Overall, of the current 44 member states of the Council, the situation is as follows, for different languages, at different levels within

the 'menu' of actions offered in the Charter: *Signed* – 29, *Ratified* – 17, *In force* – 17. Table 8 represents the situation for the current 15 European Union members of the Council of Europe

Table 8: Charter in EU members of the Council of Europe (2002)

<i>State</i>	<i>Signature</i>	<i>Ratification</i>	<i>In force</i>
Austria	1992	06.01	10.01
Belgium	—	—	—
Denmark	1992	09.00	01.01
Finland	1992	11.94	03.98
France	1999	—	—
Germany	1992	09.98	01.99
Greece	—	—	—
Ireland	—	—	—
Italy	2000	—	—
Luxembourg	1992	—	—
Netherlands	1992	05.96	03.98
Portugal	—	—	—
Spain	1992	04.01	08.01
Sweden	2000	02.00	06.02
UK	2000	03.00	07.01

Comments

While a state with apparently no regional or minority languages may sign the Convention in a spirit of acceptance and support of its contents, Portugal has not done so. Greece made its position clear from the beginning. France and the United Kingdom recognized internal political imperatives, growing right wing politics in the case of France and the situation of Northern Ireland in the case of the United Kingdom. A strong continuous well-organized lobby, particularly through the member state committees of the European Bureau for Lesser Used Languages helped the case, as happened also in the case of Italy. Multilingual Luxembourg is apparently content with its granting of national constitutional status to Letzebuergesch in 1983. Trilingual Belgium may wish to leave its delicate linguistic balance alone. The anomalous case of Ireland will be discussed in a further section.

The content of the Charter

The Charter is divided in two main parts: an Explanatory (and historical) Report where, reading between the lines, the process of political compromise in the drafting of the Charter becomes clear, followed by the actual Text of the Charter.

The text is set out in five parts. Part I gives the Preamble and General Provisions. This section includes the definitions accepted by, and presumably acceptable to, the Expert Committee of drafters. In Part II the matter becomes more active: this Part contains the Objectives and Principles which must be accepted by signees. An example which might appeal to members of IRAAL is the following: '(h) the promotion of study and research on regional or minority languages at universities or equivalent institutions'.

Part III outlines the list of actual concrete measures to promote the use of minority or regional languages, to be chosen by contracting states across seven domains: Education, Judicial Authorities, Administrative Authorities and Public Services, Media, Cultural Activities and Facilities, Economic and Social Life, and Transfrontier Exchanges. The latter two domains acknowledge areas of life only rarely found in discussion of minority and regional languages. Taken together, the seven domains provide a very comprehensive attempt to encompass all the areas of state involvement that impinge on the development of such languages and their speakers.

The monitoring arrangements are set out in Part IV – Application. These include not only periodic reports to the Secretary-General of the Council of Europe, but the establishment of a Committee of Experts to oversee implementation and to receive reports of results or complaints from speakers of languages designated in the contracting state's statement of ratification.

The practical arrangements are in Part V – Final Provisions: e.g., the date of coming into force in a particular state; the possibility to add languages or to withdraw from commitments totally at a later date.

The Content of Some Domains: Education as an Example (Article 8 of the Charter)

The excerpt below gives paragraph 1. (a) (.i. to .iv.) on possible measures in the field of pre-school 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.

The list of measures continues in the same vein for primary, secondary, technical and vocational, higher, and adult education as well as teacher training. The layout is more or less the same under the other domain headings. The salient points are: (a) the breadth of choice offered to states by the inclusion of 'or', and (b) the gradual progression from strong to weaker measures – from 'to make available' to 'favour and/or encourage'; from state provision for all minority pupils to those 'whose families so request and whose number is considered sufficient'.

Economic and Social Life (Article 13 of the Charter)

The measures under the domains of Economic and Social Life as well as those under Transfrontier Exchanges are relatively new in this field. Paragraph 1. .a. requires elimination from domestic legislation (within the whole country) of any provision prohibiting or limiting, without justifiable reasons, the use of the designated languages in documents relating to economic or social life. Other paragraphs deal with the use of the language(s) in financial and banking matters, in social care facilities, in public information.

Transfrontier Exchanges (Article 14 of the Charter)

Many minorities straddle state borders. This article seeks the application of existing bilateral or multilateral agreements, or the conclusion of new ones, as well as the fostering of co-operation in the fields of culture, education, and information.

What the Charter is — strengths

The strong points of the Charter may be listed as follows.

- It is an international agreement, a *Convention*, which is *legally binding* on all contracting parties.
- It strengthens existing provisions mentioned as part of other such legal instruments.
- *Domestic* legislation may be introduced *after ratification* to give effect to the particular measures for action chosen by state.
- It is the *first* such international legal instrument totally and solely dedicated to these linguistic and cultural aspects. The commentary on the Preamble (in the Explanatory Report) states clearly:

Linguistic diversity is one of the most precious elements of the European cultural heritage. The cultural identity of Europe cannot be constructed on the basis of linguistic standardisation. On the contrary, the protection and strengthening of its traditional regional and minority languages represents a contribution to the building of Europe, which, according to the ideals of the members of the Council of Europe, can be founded only on pluralist principles.

The Preamble to the Charter itself considers the reality that, unless protected 'some (of these languages) are in danger of eventual extinction'.

- The Charter is of particular importance to stateless nations having no linguistic legislation now, e.g. Sinti-Roma.

- An *external* control system is built into the application of the Charter by states. The Committee of Experts may be approached with complaint (although not the European Court).
- However, as this latter point relating to the European Court indicates, the Convention or Charter is also the result, within the drafting committee, of *compromises with individual state politics*.

What the Charter is not – weaknesses

This convention is, of course, more part of a continuing process of recognition of minority and regional languages than the final word on their future. There are undoubted weaknesses in the Charter, from the point of view of speakers of these languages. It is by no means a universal panacea.

As the menu given as an example above in the domain of Education makes clear, the list of possible measures to be taken within each domain ranges from strong to weak. Contracting states have leeway to accept only the *weakest* in each case, and to accept only the *minimum* of 35 required from the long menu of total possibilities given.

There is some protection, however, in the provisos that: (a) three measures must be chosen from each of the basic domains of Education and Culture, together with one each from the other four domains, with the understandable exception of Transfrontier Exchanges, which may not apply or be feasible in all cases, and (b) any and all measures accepted cannot 'affect any more favourable provisions already in force in the state'.

The Charter is not as inclusive as it might have been. The definitions and terminology chosen reflect the political process during drafting in order to reach the greatest consensus possible in this contentious area, as the next section illustrates.

Some general issues arising from the Charter

Individual and/or collective rights

Paragraphs 10 and 11 of the Explanatory Report state clearly the position on *individual* versus *collective rights*.

the charter's overriding purpose is cultural ... aim is to ensure use ... as far as reasonably possible ... The charter sets out to protect and promote regional or minority languages, not linguistic minorities ... the charter does not establish any individual or collective rights for the speakers of regional or minority languages. *Nevertheless, the obligations of the parties ... will have an obvious effect on the situation of the communities concerned and their individual members.* [Emphasis supplied].

Rights, the state, and the concept of balance

For the majority of nation-states, the dilemma that comes through in the wording of the explanatory section of the Charter is that of an acceptable balance between *national integration* and *cultural pluralism*, or how to cope with internal diversity, with issues of non-exclusion, of possible assimilation, of probable discrimination. Diversity between states is appropriate and acceptable, that within the state is merely problematic.

Phillipson (1998) sees the new emphasis on linguistic human rights as an alternative to the linguistic imperialism practised by states. De Varennes, (1999), however, considers that there are no absolute rights. For him, a balance must be struck between the interest of the minority and the interests of the state, between the public and private uses of language. Another group of authors on the subject (Ó Riagáin and Nic Shuibhne 1997) see the need for another type of balance, that between liberal freedom and the demands of a capitalist economy, between equity and efficiency. These are the balances that provided the drafters of the Charter with a linguistic minefield. Credit must be given to them for overcoming the challenges and producing as conclusive a document as they eventually did.

The state as a political entity and the social reality of nation(s)

Paragraph 14 of the Explanatory Report tries to deal with possible fragmentation of the state.

While ... not concerned with the problem of nationalities who aspire after independence or alteration to frontiers ... [the Charter] may be expected to help to assuage the

problem of minorities whose language is their distinguishing feature, by enabling them to feel at ease in the state in which history has placed them.

Migrant languages

Paragraph 15 excludes migrant languages from the Charter but acknowledges their problems: 'these problems deserved to be addressed separately, if appropriate in a specific legal instrument'.

Terminology

It is, however, in the area of definition and terminology that the real struggle for compromise in the drafting process of the Explanatory Report emerges.

Languages, minorities and rights

Paragraph 17 is wonderfully crafted:

[the Charter] focuses primarily on the cultural function of language ... not defined subjectively in such a way as to consecrate an individual right ... to speak 'one's own language', it being left to each individual to define that language. Nor is reliance placed on a politico-social or ethnic definition by describing language as the vehicle of a particular social or ethnic group. *Consequently, the charter is able to refrain from defining the concept of linguistic minorities, since its aim is not to stipulate rights ... but to protect and promote regional or minority languages as such.* [Emphasis supplied].

Territory

The phrase '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. The actual justificatory number is, usefully, omitted.

Regional or minority languages

Having refrained from defining 'linguistic minority', Paragraphs 18 to 21 give the definitional bases of the drafters for these two qualifiers, *regional* or *minority*, while also refraining from attempting to list such languages.

Both adjectives refer to factual criteria and not to legal notions ... relate to situation in a given state (minority in one may be majority in another) ... no attempt to define different categories of languages according to their objective situation ... does not specify which European languages correspond to concept 'regional or minority'. The charter puts forward appropriate solutions but does not prejudge specific situation in concrete cases.

The given definition, then, of *regional* or *minority language* in the context of the Charter is as follows: 'Languages (i) traditionally used within a given territory of the state by a group numerically smaller than state's population and (ii) different from the official language(s) of that State. ... Not dialects of official language(s) or languages of migrants'. The definition includes non-territorial languages as Yiddish and Romany, which, 'although traditionally used cannot be identified with a particular area'.

Language planning

Language planning is sometimes, rather ambiguously, described as a set of actions which aim to achieve a linguistic situation considered desirable. If taken literally, the result could be either positive or negative for speakers of regional or minority languages. It is clearly crucial to know which actions are desirable to whom. A more precise question applied linguists may well ask is whether the Charter, or its application within states, is an example of real language planning or not. One could, then, invoke the distinctions used by Corson (1990: 141). Is the application of measures advocated by the Charter a national language policy, or merely a language project as defined by Corson?

A language policy at national level tries to do many things. It identifies the nation's language needs across the range of communities and cultural groups that it contains; it surveys and examines the resources available; it identifies the role of language in general and of individual languages in particular in the life of the nation; it establishes strategies necessary for managing and developing language resources; and it relates all of these to the best interests of the nation through the operation of some suitable planning agency. A language policy at national level is as comprehensive and as coherent as possible. It marries up with other national goals and must be acceptable to the nation's people in general. By setting out guidelines within which action is possible and desirable, a national policy on languages enables decision makers to make choices about language issues in a rational and balanced way. ... Language projects are lesser arrangements and they have lesser targets. These are introduced at national level but they are designed to deal with language questions as they relate to only one problem or only one defined set of problems.

One could perhaps conclude that the application of the Charter within a state inclines more towards being a *language project*, but that it could well develop into becoming a fully fledged *national language policy*.

The issue of the Irish language

The Irish language played a not inconsiderable role in the production of the Charter.

Republic of Ireland

A very active role was played by Irish governmental representatives in the drafting process. Some, but not all, of their reservations were met. Given Article 8 of the Irish Constitution, the *title* of the Charter was, and is, totally unacceptable both to the official representatives and to the Irish language communities and voluntary sector, though not necessarily for the same reasons. The title, however, remained,

referring to regional or minority languages. But, despite this title, specific wording was included in Article 3 of the Charter to cover the legal constitutional position of the Irish language in the Republic. This wording actually seemed not only to belie the title, but to contradict the definition given of the languages that were the subject of the Charter:

Article 3 – Practical arrangements

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* [emphasis supplied], to which the paragraphs chosen in accordance with Article 2, paragraph 2, shall apply.

The Irish Member State Committee of the European Bureau for Lesser Used Languages, representing a broad spectrum of state, semi-state, and voluntary bodies, sought legal advice. On the one hand, concern was expressed that acceptance of the Charter might mean an end to more active national policy for the language on a country-wide scale. On the other hand, there were those who felt that the Charter might actually improve the situation of Irish, particularly in certain domains. There were also those who considered that the state could well sign the Charter as a gesture of solidarity with other lesser-used languages and simultaneously make a highly supportive statement of Irish in the process. In 1995, a public meeting was held in Dublin to discuss the issue, with the distinguished retired civil servant, Noel Dorr, in the chair. The Council of Europe 'father' of the Charter, Dr. Ferdinando Albanese, spoke passionately of the need for the Irish state to make common cause with the Council. By now, however, another related demand had clouded the issue, that of the lobby for the recognition of Irish as an official language of the European Community, a matter which both the Irish language lobby and some politicians hoped to raise at the then-forthcoming 1996 Intergovernmental Conference. The opinion expressed by an official representative at the public meeting and reported in the *Irish Times* (July 25, 1995) stated clearly 'that the Minister, Mr. Higgins, had said nothing should be done which might affect such a development [seeking official status] adversely'. These two parallel concerns still remain unfinished. In the same vein of finding an Irish solution to an Irish problem, an Irish-

language version of the Charter has been issued through the Council of Europe. It is, however, clearly marked in capitals on the cover,

IRISH VERSION

UNOFFICIAL TRANSLATION

Northern Ireland

With the advent of the Good Friday Agreement (as it is generally known), the Irish language in Northern Ireland received a new impetus. The subsequent arrangements and structures included Human Rights Commissions North and South, as well as the establishment of six all-island bodies, one specifically for language — an Foras Teanga, the larger section of which is Foras na Gaeilge (the other section is for the Scotch, or Scots, language in Northern Ireland). The UK government also signed and ratified the Charter in ways that included Irish, action for which is now officially interpreted under those provisions of the Charter signed by the UK. The latest publication on the Charter in Northern Ireland is a Submission to the Committee of Experts on the Charter prepared by the voluntary umbrella body, Pobal, on the implementation of the Charter in the jurisdiction between July, 2001 and July, 2002.

In its official Declaration on 27 March 2001, the UK applied 52 paragraphs of the Charter to Welsh, 39 to Scottish Gaelic, and 36 to Irish in Northern Ireland (30 which came under the responsibility of the devolved administration and 6 under the responsibility of the UK government in Northern Ireland). For Irish, the paragraphs are not the strongest. For Scots and Ulster Scots, Part III with its practical measures does not apply, only Part II, the more general objectives and principles. Only quite recently, 5 November 2002, has the UK confirmed that it intends to include the Cornish language also under Part II. Manx remains still apart, as it does politically from the EU. The Irish language, then, in Northern Ireland, has benefited from the Charter.

First International Day of Native Language

The ongoing need for instruments such as the Charter and subsequent legal documents was well signalled by Kofi Annan,

Secretary-General of the United Nations, on the historic occasion of the first international day for the types of languages the Charter seeks to protect and develop, 21 February 2000.

It is imperative to hold on to the diversity of local languages. ... There is a risk that numerous languages out of the 6,000 languages spoken today will disappear over the next 20 years. It is essential therefore that the international community double its efforts to protect this common human heritage.

The drafters of the Charter did their best in a difficult climate of opinion. Their work deserves further refinement and practical action if linguistic homogeneity is not to prevail.

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