

Estonian Bureau of Lesser Used Languages
Lesser Used Languages in Estonia and in Europe
30th Of September – 1st Of October 2005, Roosta, Estonia

Tom Moring (University of Helsinki)
The Charter for Regional or Minority Languages

Abstract

The Charter for Regional or Minority Languages of the Council of Europe is the most developed international instrument for constructively arranging linguistic relations in society. It is based on the aim to safeguard and realise the ideals and principles which are the common heritage of Europe. The Charter 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 1992. It entered into force on in 1998. At present, the Charter has been ratified by nineteen states. Another thirteen states have signed it, some of which are expected to ratify soon.

This is a very timely moment to present the Charter. Ukraine ratified it last week. And only last Tuesday, the Romanian government presented its ratification instrument that will be discussed in parliament. This, indeed, is proof of that the Charter process is alive and kicking.

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It is an honour and for me personally also a delight to be invited to address this theme, and particularly to do so here in Estonia. There is a wide respect for Estonia's contribution to the rapid change in the European political scenery. Let me assure that I share this respect. And this only increases my appreciation of the fact that the theme of linguistic diversity is brought to the fore at this very moment. We know that Estonia is busy in so many other fields right now, not least in forming its policies and taking its place within the European Union of today.

I will, however, argue that the Charter has earned itself a role in the field of European policy formation. This role is not insignificant. Let me give you an example. We all know that endangered languages, also languages of Finno-Ugric origin, are badly treated in states that have not ratified the Charter. On the other hand, if more states ratify the Charter, this important instrument gets more prominence in the world. It will be much more difficult to continue atrocities such as the ones reported from for example the republic of Mari-El.

This matter has an EU-dimension as well. In the Intergroup of the European Parliament, there are frequent complaints that EU lacks a framework for coping with issues relating to regional or minority languages. But there is a tool: the Charter is there to be leaned on. There are frequent complaints claiming that there are no measures to assess how applicant states treat the question of languages. But an excellent tool for benchmarking exists: the Charter. This tool is well known also within the EU bodies, and it has been in use in the process of EU enlargement. Therefore, it is of the utmost importance that EU member states continue to ratify the Charter, to add weight to the Charter within the Union and to support the development in new applicant states.

It is therefore important that as many states as possible will decide to join the family, so to say. In this way, the Council of Europe and also indirectly the European Union will be able to give a stronger voice to demands of good conduct in the field of minority languages. The Baltic States have not only a domestic role to play here, in support for their own minorities. There is also an international dimension, to render the Charter still more weight internationally in support of good practice all over Europe and the world.

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Now some words about the Charter itself. The Charter for Regional or Minority Languages is a binding legal international instrument. The Council of Europe, true to its tradition of setting common European legal standards, has adopted the charter and it entered into force in 1998. The Committee of Experts – where I was a member for some years – is a body that the Council of Europe's Committee of Ministers appoints to follow up on how the Charter is implemented.

After having ratified the Charter, each state presents an initial report within the year following the entry into force of the Charter. After that, reports are presented with three-yearly intervals. This caters for the processual nature of the Charter. Under the Charter, the policies in any state can develop in dialogue and through repeated benchmarking against best practice.

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The "soul" of the Charter is clearly presented in its preamble, which says that *the Charter is based on the aim to safeguard and realise the ideals and principles which are the common heritage of Europe.*

The protection of the historical regional or minority languages of Europe contributes to the maintenance and development of Europe's cultural wealth and traditions. The right to use a regional or minority language in private and public life is also understood as an inalienable right conforming to the principles supported by several other international legal standards. The unique standing of the Charter is, however, in its focus on the languages themselves.

What does the Charter mean by "regional or minority languages"?

The basic definition is languages, different from the official language(s) of that State, that 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.

The definition also includes "non-territorial languages", in order to include also minority languages that cannot be identified with a particular area of the state. Also official languages that are less widely used – typically Swedish in Finland, could be also Irish in the Republic of Ireland – are covered by Charter.

What does the Charter not cover?

It does not include dialects of the official language(s) or the languages of migrants.

This distinction is, of course, often rather delicate. When a state ratifies the Charter, it will at the same time decide to what languages the Charter shall apply, and in which way. The state has the task to assess in which territories there are speakers of languages with traditional presence in sufficient numbers for the purpose of the undertakings of the charter. This assessment will then be a question of factual verification under the monitoring mechanism.

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What commitments do states that sign and ratify the Charter enter into?

First, it is important to point out the unique design of the Charter. It sets out to protect languages that have a traditional presence in a state, but for some reason or other have been placed in unfavourable contexts. To some extent, the Charter resembles what Scandinavians would call a Smörgåsbord. It is a buffet of undertakings that states may select. The founding fathers of the Charter earn to be congratulated to this ingenious design of the Charter. This design is, of course, due to the fact that the languages covered by the Charter exist in a very wide range of social, political and economic contexts. Accordingly, it would be very difficult to set a "once and for all" standard regarding how languages should be protected and promoted.

The system of undertakings adopted for the Charter makes it possible to adapt the scope of the protection of languages to suit the particular context of each language, and also to take account of the costs of application. It also makes it possible for the state to approach language enhancement in a processual manner. Many states have started with quite a minimalist approach – at least for certain languages – and later on strengthened the protection of the languages by committing themselves to new undertakings or by upgrading a language within the basic structure of the Charter.

I shall return to some recent examples of this in a minute. Let me, however, first briefly present the structure of the Charter to highlight the nature of this process.

The Charter is divided into two main parts, a general one, Part II, containing the principles applicable to all regional or minority languages, and a specific part which lays down specific practical commitments which may vary according to the state and the language.

The general part sets out eight fundamental principles applicable to all languages
These eight fundamental principles – or objectives – concern the following fields:

- Languages as an expression of cultural wealth.
- Respect for the geographical area of each language.
- The need for resolute action to promote languages.
- To encourage the use of regional or minority languages in public and private life.
- The provision of teaching and study of such languages.
- The promotion of relevant transnational exchanges.
- The prohibition of all forms of unjustified discrimination against users of these languages.
- The promotion of mutual understanding between all the country's linguistic groups.

And here, the newly formed EstBLUL has a particular importance to link different Estonian language groups.

A state that signs and ratifies the Charter gives signals that it will hold these fundamental principles in high value. The first of the eight principles says it all in a nutshell: regional or minority languages are considered as an expression of cultural wealth.

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The more detailed part of the Charter, which is usually referred to as "Part III", requires the state to choose among a set of specific undertakings. The Charter offers a choice of all-in-all sixty-eight concrete undertakings in seven areas of public life. A minimum of 35 undertakings are to be chosen for those languages that the state decides to include under Part III of the Charter.

In other words, Part III serves to translate the general principles affirmed in Part II into more precise rules that the state commits itself to follow. In practice, the state starts by specifying the languages to

which it agrees to apply this part of the Charter: After this, the state selects at least thirty-five undertakings in respect of each such language. A large number of provisions consist of several options, of varying degrees of stringency, one of which has to be chosen according to the situation of each language.

And here, the processual aspect of the Charter comes into play. The parties are encouraged to add to their commitments, as their legal situation develops or as their financial circumstances allow. In practice, this means that a state can start at a rather modest level for certain languages – and then gradually up-grade its commitment. This approach has been applied by for example Germany, which in 2003 decided to apply a whole set of further undertakings for the North Frisian language area in Land Schleswig-Holstein, for the Sater Frisian language area in Land Lower Saxony, and for the non-territorial Romanes language.

Another way of enriching the original instrument of ratification is to add further languages or territories to the list originally covered by the instrument of ratification. Such developments have taken place in Netherlands, which included the Limburger language under the Charter in 1997, and more recently in the United Kingdom, where Cornish and Manx Gaelic were included in 2003.

The areas of public life, each corresponding to an article of Part III, from which these specific undertakings must be chosen, are the following:

- Education
- Judicial authorities
- Administrative authorities and public services
- Media
- Cultural activities and facilities
- Economic and social life
- Transfrontier exchanges

In very practical terms, we could speak of the rights to, in your own language, teach and learn, act and be addressed, speak and be heard, and act in all spheres of society. In addition, there should be no borders for languages.

In EU-parlance we could talk of subsidiarity AND common rules of best practice.

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The Charter was the outcome of far sighted political and legal work that began in the mid-eighties. As I already mentioned, it entered into force 7 years ago, in 1998. For an international instrument of this kind, 7 years is not a long time. Nevertheless, the system created by the Charter and the monitoring mechanism that it has set up are already giving good results, despite the relatively short time that has elapsed since then.

As I noted in the beginning of this presentation, the number of ratifications has been steadily increasing. As of today, the Charter has been signed by 32 States, 19 of which have ratified it. Among the ratifiers are a majority of the EU member states. Furthermore, several other States are in the process of ratifying or have begun seriously considering it. It is no exaggeration to say that the Charter is an instrument of this millennium.

We may, against this background, conclude that in the field of linguistic diversity a European standard exist, and has existed for more than half a decade. This European standards has been designed to take account precisely of the great diversity of Europe.

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To conclude: We who work in this field must never forget that in language policies, each case is specific. But, at the same time, we should also remember that speakers of regional or minority languages **have** learned a lot from each other. Also **states** have learned a lot from each other. It is also of great importance that EstBLUL has arranged this very successful conference at a high level. It shows in a most convincing manner how internationally oriented organisations that work in this field can

contribute to the work to promote linguistic diversity, first and foremost of course in order to enhance the future of the linguistic minorities in their own state; and, at the same time, contributing to a good development for languages and language communities in Europe and all over the world.