

TWENTY YEARS AFTER THE ENTRY INTO FORCE OF THE COUNCIL OF EUROPE'S CHARTER FOR REGIONAL OR MINORITY LANGUAGES (1998-2018). NEED FOR REFORM OR *STATU QUO*?

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Abstract

This article provides a succinct analysis of twenty years since the entry into force of the European Charter for Regional or Minority Languages and highlights the achievements made as well as its future challenges. The text goes through the positive aspects of the Charter, namely the visibility given to minority language communities in Europe, the positioning of minority languages on the political agenda of an international organisation such as the Council of Europe as well as on the agenda of the national debates about the promotion and protection of minority languages. It also identifies the current challenges of the Charter and classifies them into six main blocks, namely the stagnation of the ratification process by Member States, the geopolitical tensions affecting the work of the Council of Europe as well as the Charter Secretariat, the new information and communication technologies, the lack of punitive actions in cases of non-compliance by Member States, immigration and the neoliberal dominant discourses on linguistic diversity and multilingualism.

Keywords: Council of Europe; European Charter for Regional or Minority Languages; minority languages; regional languages.

VINT ANYS DE L'ENTRADA EN VIGOR DE LA CARTA EUROPEA DE LES LLENGÜES REGIONALS O MINORITÀRIES DEL CONSELL D'EUROPA. NECESSITATS DE REFORMA O *STATU QUO*?

Resum

Aquest article fa una anàlisi succinta dels vint anys des de l'entrada en vigor de la Carta europea de les llengües regionals o minoritàries i exposa les fites assolides durant aquestes dues dècades i els reptes de futur. El text repassa els aspectes positius, com ara la visibilització de les minories lingüístiques d'Europa, el tractament de les llengües regionals a l'agenda política d'un organisme internacional com el Consell d'Europa o l'aparició de debats nacionals sobre la promoció i la protecció de les llengües. Igualment, identifica i agrupa en sis grans blocs els reptes als quals ha de fer front la Carta, com ara l'estancament de les ratificacions per part dels estats membres, les tensions geopolítiques que afecten el treball del Consell d'Europa i el Secretariat de la Carta, les noves tecnologies i formes de comunicació, la manca de mecanismes sancionadors de la Carta, la immigració o els discursos neoliberals dominants sobre la diversitat lingüística i el multilingüisme.

Paraules clau: Consell d'Europa; Carta europea de les llengües regionals o minoritàries; llengües minoritàries; llengües regionals.

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On 1 March 1998, the European Charter for Regional or Minority Languages of the Council of Europe came into force and became the first and only legally binding international instrument devoted exclusively to the promotion and protection of the so-called “regional or minority languages”. This year, on the 20th anniversary of its entry into force, the *Revista de Llengua i Dret* has decided to publish this monographic section to offer a retrospective look at the successes and challenges of the Charter and offer a critical analysis of the past two decades, as well as some proposals for the future.

This issue contains the reflections of a number of experts in the fields of political science, law and sociolinguistics, who have reviewed the progress made over the last twenty years and analysed the political, legal and social repercussions of the Charter with regard to languages. From the viewpoint of each of the above-mentioned disciplines and the different territorial spheres – regional, state and European – the authors have analysed the achievements over the past two decades and also identified the issues and challenges that have arisen from the only international convention designed primarily to protect and promote regional or minority languages.

As a general analysis, the articles of Peter A. Kraus, *Between Minority Protection and Linguistic Sovereignty*, and Eduardo Ruiz Vieyetz, *La Carta Europea de las Lenguas Regionales o Minoritarias en su veinte aniversario: balance y retos de futuro*, offer a critical vision of the Charter, based on political science and law, respectively, and conclude – particularly Ruiz Vieyetz – that despite the positive results observed in the twenty years following the ratification of the Charter, important challenges remain to be tackled before it can become a truly effective and valid instrument. These same challenges are outlined in the articles referring to the different co-official languages of Spain: the article by Alba Nogueira about the Galician language, “*Ni una mala palabra, ni una buena acción*”: *indiferencia estatal y autonómica hacia los compromisos internacionales de protección del gallego contraídos en la Carta Europea de las Lenguas Regionales o Minoritarias*; the article by Santiago Castellà *La protecció de la llengua catalana per la Carta Europea de Llengües Regionals o Minoritàries: una mirada als disset anys de l’entrada en vigor a l’Estat espanyol* (also available in English: *The protection of Catalan by the European Charter for Regional or Minority Languages: an overview of seventeen years in force in Spain*); or the text by Patxi Baztarrিকা *Eskualdeetako edo eremu urriko Hizkuntzen Europako Gutunari begirada bat euskaratik eta Euskal Herritik* (also available in English: *A look at the European Charter for Regional or Minority Languages from the point of view of the Basque language and the Basque country*). Fernando Ramallo, meanwhile, as a member of the Charter’s Committee of Experts, appointed by the Spanish Government, analyses the specific repercussions of the legislative framework enshrined in Article 7 of the Charter in his article *Relevancia e impacto do artigo 7 da Carta Europea para as Linguas Rexionais ou Minoritarias e a súa repercusión nas linguas do Estado español* (also available in English: *Relevance and impact of Article 7 of the European Charter for Regional or Minority Languages and its implications for the languages of Spain*).

All of these experts agree that, over the past twenty years, the Charter has contributed to achieving legal recognition for certain minority languages, the presence of many other languages in spheres such as radio, television and the press and the possibility of using a native language as a vehicular language in education. However, the Charter – drafted in the 1990s – left aside many issues which, although non-existent at the time of drafting, are now extremely important: globalisation, growing mobility within the population, the privatisation and outsourcing of public services, the advent of new forms of communication through social media and the ever-increasing presence of English in the public education system. These are all new social and political realities that have a strong impact on all those non-hegemonic languages – regional, minority, minoritised or endangered – and force us to consider whether we should be adopting an evolutionary interpretation of the Charter or whether the text of the treaty should be reworded to accommodate these new realities.

The European Charter for Regional or Minority Languages. From an absence of any international legislation to a benchmark document for the promotion of regional or minority languages

Consensus exists between experts on the Charter, as well as between the authors of this section, on one of the most remarkable and positive aspects of the treaty, which is that it placed regional and minority languages on the European political and legal agenda for the first time, as pointed out by Ruiz Vieyetz, quoting Manent

(2012, 10), in his article. Before the treaty, there was no international legal instrument in place that dealt with these languages. It should therefore be acknowledged that, despite its limitations in terms of social, political and media repercussions, the Charter has managed to become part of the agenda of the Council of Europe and, by extension, of its 47 Member States. In many States, the signing and ratification of the Charter has led to and continues to lead to debate on the need for international protection of languages. In Baztarrika's article on the Basque language, he gives a clear example of how recurring debates on the ratification of the Charter in France have put the issue firmly on the country's political agenda, a country which, despite the electoral promises of various political leaders, has failed to make a firm commitment to ratifying the treaty, to the detriment of France's regional languages.¹

As Ruiz Vieyetz also points out, partly thanks to the very existence of the Charter, a body of doctrine and research has sprung up, which promotes research in this area within various disciplines such as political science, law and sociolinguistics. One clear example of this is this special section dedicated to the issue in the *Revista de Llengua i Dret*. Likewise, the existence of an international treaty which encompasses languages that are often invisible or barely recognised or known at state level has served to reinforce the self-esteem, social prestige, vibrancy and possibly even the vitality of the linguistic communities themselves as they see that minority issues are also taken seriously by an international body such as the Council of Europe. The act of recognising a language internationally has symbolic significance and takes on a pedagogical dimension, which generate a positive perception of and sentiment towards the language. As Ruiz Vieyetz emphasises, "this has been especially relevant in medium-sized and small communities with little chance of being listened to in other institutional spheres [...] and has also provided a supranational platform for facilitating transborder and inter-administrative cooperation, particularly for languages that are fragmented across different territories".

With all these elements, and twenty years after its ratification, the European Charter for Regional or Minority Languages has become the benchmark document in the protection and promotion of these languages to the extent that it is cited by the main international bodies working to promote linguistic diversity. Accordingly, and merely as an example, the European Union's definition of actions to be taken in the matter of language policy clearly states that the "EU works with Member States to protect minorities, on the basis of the Council of Europe's European Charter for Regional or Minority Languages".² Likewise, the Charter is referenced in all the European Parliament's specific resolutions on linguistic diversity. One such resolution, drafted by F. Alfonsi (2013), on linguistic diversity and endangered languages,³ calls on the Member States of the European Union to ratify the Charter as an effective way of protecting minorities in Europe; another resolution, drafted by B. Joan (2006),⁴ incorporates into European debates the need to promote and protect regional and minority languages and not only the major hegemonic languages; finally, the report by Ebner (2003), in its resolution on regional and lesser-used languages, refers to the Charter as the legal frame of reference for the protection of minorities in Europe.⁵

From theory to practice. What are the challenges facing the Charter twenty years after its ratification?

Academics and members of the linguistic communities themselves agree in their assessment of the Charter twenty years after its ratification and twenty-five years after it was drafted, the most salient points of which can be summarised in six main areas:

1 For more information, see the response of the French Government to the request made by the Network to Promote Linguistic Diversity (NPLD) in which it committed to ratifying the Charter. <http://www.npld.eu/news/latest-news/124/positive-reply-to-npld-from-french-government-to-ratification-of-european-charter-on-languages/> [accessed on 25/05/2018]

2 Language Policy. European Parliament. Available at http://www.europarl.europa.eu/ftu/pdf/en/FTU_3.6.6.pdf

3 A7-0239/2013. Resolution on endangered European languages and linguistic diversity in the European Union (2013)

4 A6-0372/2006. Report on a new framework strategy for multilingualism (2006/2083(INI)). Committee on Culture and Education.

5 A5-0271/2003. Report with recommendations to the Commission on European regional and lesser-used languages – the languages of minorities in the EU – in the context of enlargement and cultural diversity (2003/2057 (INI)). Committee on Culture, Youth Education, the Media and Sport.

1 Stagnation in the ratification process of the Charter by the Member States.

To date, only 25 of the 47 members of the Council of Europe have ratified the Charter. The current Chair of the Committee of Experts of the Charter, the Croatian Vesna Crnić-Grotić, drew attention to the lack of political willingness on the part of some Member States by stating that “the number of states [that have ratified the Charter] has stagnated (...) there are even Member States of the Council of Europe where regional and minority languages are spoken which have not yet ratified it” (Crnić-Grotić, 2008).

In the same vein, Ruiz Vieyetz points out in his article that “it is worrying that the ratification process of the Charter has been so irregular and seems to have severely stagnated in recent years. Of the 25 countries which have ratified the Charter to date, 22 did so during the first ten years and only Romania, Poland and Bosnia-Herzegovina ratified it later, with Bosnia being the last State to ratify it in 2010. That means that there have been no new incorporations in the last eight years, which generates a feeling of a lack of progress being made in terms of the expansion of the Charter”.

2 Political tensions with economic consequences. Political tensions between different blocs of countries and Russia regarding territorial and geostrategic matters have resulted in Russia announcing its withdrawal of the funds that it contributes to the Council of Europe as one of its 47 members. As already signalled by the Council of Europe itself, the impact of this political decision has serious economic consequences, which translate into a lack of support for the different programmes implemented by the Council, including the promotion of the European Charter for Regional or Minority Languages between the Member States which have yet to ratify it.

3 A treaty without obligations. So what purpose does it serve? Despite the different monitoring mechanisms, the in situ visits by the Committee of Experts and its periodic reports, the Charter does not contemplate any sanctions on States which fail to comply with the recommendations contained in the Charter. The Committee of Ministers of the Council of Europe merely *urges, encourages, recommends, suggests* or any other restrained verb you care to use that invites States to embrace change but without obliging them. As Nogueira states in his article, referring to the stance of the Spanish Government towards the Galician language, “the indifference with regard to the warnings issued by the Committee of Experts and the recommendations handed down by the Committee of Ministers is indicative of the consideration given to international commitments undertaken by the Galician and Spanish authorities”. Similar sentiments are expressed by Baztarrika and Castellà regarding the Basque and Catalan languages, respectively, while Kraus identifies this fact as one of the weakest points of the Charter. Despite the complexity of the monitoring and compliance system, despite the lengthy recommendations and reports and despite the mechanisms in place, we should ask ourselves if the Charter is still really an efficient instrument or if it has reached an impasse where it now needs to be revised.

4 Changing realities for a Charter drafted in the early 1990s. Twenty years after its entry into force and twenty-five years after it was first drafted, the Charter is showing signs of fatigue on several fronts, as a result of a constantly shifting reality. As Ruiz Vieyetz states, citing Morín and Dunbar (2008) and Dunbar (2010), “in 1992 it was impossible to predict how communications would evolve and the Charter was devised for a society centred on the written press, radio and television”. New forms of communication, such as social media networks and new forms of media, are not contemplated in the provisions of the Charter, and, consequently, a whole ever-increasing area in which languages are used is excluded. Likewise, as Nogueira points out in his article on the Galician language, due to the proliferation of electronic platforms used to carry out government formalities, the information concerning these formalities is not made available in Galician [the minority language]. Moreover, this is a trend which is growing as a result of the privatisation of public services, since private entities do not usually have language clauses to guarantee the presence and use of the minority language in their services.

5 What place is there for immigrant languages? Despite the complex nature of the debates, several authors (Dunbar, 2010; McDermott, 2016; and even Ruiz Vieyetz himself in the article) suggest opening up a debate on introducing immigrant languages into the treaty, since these languages are currently explicitly excluded from the Charter, which only refers to “languages traditionally spoken in Europe”. McDermott (2016) argues that in the face of a changing reality, that is the linguistic diversity brought about by new migratory flows,

immigrant languages have been excluded from international legal frameworks. In the light of these new debates, it is very important to point out that the main objective of the European Charter for Regional or Minority Languages is not to celebrate linguistic diversity but rather to promote, and especially protect, the territorial languages of the state parties, languages born and developed in regions which, for political reasons, have been minoritised within their own territories. Although the issue of immigrant languages must be tackled since it is a reality in Europe, the frameworks, narrative and conceptual and legislative focuses of the debates must be different precisely because the nature of their situation is different.

6 Dominance of neo-liberal discourse in relation to multilingualism versus the negativity surrounding regional or minority languages. In recent years, moreover, there has been an increasingly explicit emergence of a conceptual duality in language-related discourse: on the one hand, neo-liberal discourse, which associates hegemonic languages with positive values such as employability, progress and mobility, and on the other hand, discourse that associates regional or minority languages with a strong sense of sentimentality and identity (Climent-Ferrando, 2016). We often observe how debates are used as ideological instruments to pit certain languages against others and to give English particular priority in the public arena, especially in the area of education, to the detriment of a region's own languages. In short, linguistic prejudices problematise and stigmatise certain languages – regional or minority languages – and reinforce others.

Conclusions

The approval of an international treaty that helps to give greater visibility to the most vulnerable languages in Europe, and protect and promote them, certainly has its merits: it has placed Europe's minority language communities on the political – although not general – agenda, it has led to a series of academic and political reflections on the subject throughout the continent and has forced the State parties to, at least, periodically debate how their own language minorities are protected within the State.

Apart from the six main areas mentioned above, which identify the biggest challenges facing the Charter, one of the key aspects for achieving acceptance of its content is the need to promote and disseminate the treaty, not only in the world of research, but also in more general areas, such as the world of education. Strategies are also needed to combat stereotypes and linguistic prejudices associated with a type of language and spread the message of coexistence between languages, just as it appears in the Charter. In summary, what is needed is a kind of social pedagogy that embraces multilingualism, does not hierarchise languages, and adopts an equitable approach to diversity.

In conclusion, on this twentieth anniversary, the European Charter for Regional or Minority Languages has come of age as a solid and useful international instrument but some reflection must be made on how it should continue to develop. Only by initiating a highly inclusive debate – which involves civil society, regional governments, State governments and the Secretariat of the Charter – can the pertinent reflections be made to devise a text which is necessary and complex in equal measure, within a context of constant social and political change.

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