

Part VII

Conference Reports

25 Years of Protecting Languages

Report on the ‘25 years of protecting languages – The past and the future of the European Charter for Regional or Minority Languages’ International Conference Organized by Pázmány Péter Catholic University, 23–24 November 2023, Budapest

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Abstract:

Pázmány Péter Catholic University organized an international conference titled ‘25 years of protecting languages – The past and the future of the European Charter for Regional or Minority Languages’ in Budapest on 23–24 November 2023. The conference was opened by a keynote lecture delivered by Fernand de Varennnes, the former UN Special Rapporteur on Minority Issues. This was followed by thematic blocks on experiences and challenges related to the enforcement of certain provisions of the Charter, and an analysis of implementation in certain participating states. The speakers covered the international law context of the Charter and the protection of minorities and their languages, the protection and promotion of minority languages in education, media, judicial and administrative proceedings, and economic and social life, the implementation of the Charter in Hungary, Germany, Spain, as well as the work of the Committee of Experts over the past 25 years, including the evolution of its working methods and the ambivalences of state reporting practices. They also discussed the extension of the Charter obligations to Papiamentu, a minority language newly included under the Charter by the Netherlands.

Keywords: regional or minority languages, Council of Europe, European Charter for Regional or Minority Languages, Committee of Experts, protecting languages

The European Charter for Regional or Minority Languages (Charter), a convention dedicated to the protection and promotion of languages spoken by traditional minorities, is a crucial element of the Council of Europe’s commitment to safeguarding national minorities. Alongside the Framework Convention for the Protection of National Minorities, it highlights the Council’s dedication to fostering a Europe founded on democracy and cultural diversity. Initially proposed by the Standing Conference of Local and Regional Authorities of Europe, the Charter was adopted as a convention by the Committee of Ministers of the Council of Europe on 25 June 1992, and subsequently opened for signature in Strasbourg on 5 November 1992.

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The Charter officially came into force on 1 March 1998, marking 25 years since its implementation.

The Committee of Experts (COMEX) is responsible for the Charter's monitoring mechanism. Its duties include evaluating the status of regional or minority languages in each participating state, reporting its assessment of these states' compliance with their obligations to the Committee of Ministers, and, when necessary, encouraging participating states to achieve a higher level of commitment.

The objective of the conference was to provide a comprehensive review of the Charter's impact over the past 25 years, encompassing the drafting process and the linguistic and political contexts of its inception, as well as the experiences and achievements observed over the past three decades. Additionally, the conference examined the composition and operating methods of the Charter's Committee of Experts and assessed the future viability of the Charter's protective measures.

The conference commenced with a keynote lecture by Fernand de Varennes, former UN Special Rapporteur on Minority Issues. This was followed by thematic sessions: one addressing the experiences and challenges associated with implementing specific provisions of the Charter, another analyzing regulatory frameworks in selected States Parties, and the final session focusing on efforts to include Papiamentu within the Charter's framework.

In his opening remarks Marcel Szabó, professor at Pázmány Péter Catholic University and Justice of the Hungarian Constitutional Court, emphasized that there is still a long way to go in terms of protecting minority languages in Europe. While individual freedom is celebrated, there is a persistent lack of understanding for each other's cultures which should be addressed on a higher level in the future.

Fernand de Varennes,¹ former UN Special Rapporteur on Minority Issues, contended that in recent decades, there was a regression in the protection of the languages of national minorities. Thirty years ago, significant strides were made in safeguarding the rights of national minorities: the EU established the Copenhagen Criteria, which required EU candidate states to respect and protect minorities, while the UN General Assembly adopted the Declaration on the Rights of Persons Belonging to National

1 Title of the keynote lecture: The international law context surrounding the Charter and the protection of minorities and their languages.

or Ethnic, Religious and Linguistic Minorities. However, de Varennes emphasized that these measures were merely promises, lacking binding and enforceable mechanisms, and merely indicated what states should strive to achieve. Despite these foundational documents, a clear regression is evident in numerous countries today concerning the protection of minority languages. The EU's reluctance to address this issue is exemplified by the European Commission's decision to reject the *Minority SafePack Initiative*. De Varennes also referenced the recent judgment by the ECtHR on 14 September 2023, rendered in the case of *Valiullina and others v Latvia*,² where the minority language in public schools was banned on the basis of political reasons, and the ECtHR underlined that there was no European consensus with respect to minorities' rights in the field of education. The ECtHR in this decision ignored the relevant non-binding international documents and emphasized the broad discretion afforded to states instead. Regarding the Language Charter, de Varennes acknowledged its positive impact but observed that progress has stalled, with many governments increasingly restricting minority rights. These regressive trends prompted de Varennes to publish the Proposal for a Draft Global Convention on the Rights of Minorities in 2023,³ highlighting the urgent need for a legally binding document to protect national minority rights.

Professor de Varennes presented a comprehensive analysis of the negative trends in the protection of national minorities, including minority languages and cultures, that have emerged in recent years. Despite significant advancements in the 1990s, largely spurred by the Balkan wars, the resulting legislative measures have proved ineffective and were indeed mere promises. Currently, Europe faces another conflict, this time in Ukraine, where Russia has falsely claimed the protection of national minorities to justify its aggression. This spurious justification has negatively impacted the political discourse on the protection of national and ethnic minorities, emboldening political forces in Europe that oppose improvements in EU-level policy or the adoption of binding international measures to protect minority languages, identities, and cultures. This regression is not solely attributable to Russia's actions; it also stems from the inherently sensitive political nature of national and ethnic minority rights within European states, which undermines the broader political efforts to enhance minority

2 *Valiullina and others v Latvia*, Nos. 56928/19, 7306/20, and 11937/20, 14 September 2023.

3 See at www.ohchr.org/sites/default/files/2023-02/Annex1.-A-HRC-52-27_0.docx.

rights protection. Professor de Varennes argues that the failure to address the unresolved situation of national minorities over the past thirty years necessitates a new strategy. Instead of relying on non-binding provisions, a truly effective approach would involve the adoption of legally binding international documents, rooted in the universality of human rights and recognizing minority rights as an integral component thereof. Legally binding international provisions are seen as a potential solution to prevent the manipulation of national or ethnic minority issues for unjustified aggression, both in Europe and globally. However, achieving such progress remains uncertain, particularly in the current political climate, which is partly influenced by the repercussions of Russia's aggression against Ukraine.

Following the keynote lecture, speakers delved into the implementation of specific articles of the Charter. Jan de Groof,⁴ professor at the College of Europe, highlighted that education in minority languages is particularly significant as it lies at the core of cultural identity. He emphasized that linguistic diversity remains a valuable enrichment, integral to the essence of European democratic culture. Thus, focusing education, respect for minorities should be recognized as a shared European value. He backed up his arguments with good practices, such as the establishment of universities in Romania and Macedonia in the 1990s, which are still standing today. He also highlights the role of former OSCE High Commissioner on National Minorities Max van der Stoep in the development of education law in the Balkan region. However, Professor de Groof acknowledged that a substantial portion of the population perceives linguistic diversity as a hindrance to the welfare of nation-states, viewing it as a barrier. He also noted that language rights can sometimes be abused, citing Ukraine as an example where minority rights were exploited as a pretext for Russian occupation. Furthermore, he stressed the importance of early warning mechanisms in this context.

In his lecture, Gábor Kardos,⁵ professor at Eötvös Loránd University in Budapest, discussed the implementation of the Charter's provisions on the use of regional or minority languages before judicial authorities (Article 9). He emphasized that the erosion of social domains where minority languages are used, particularly in judicial settings, contributes to

4 Title of the presentation: The protection and promotion of minority language education in the context of the Charter.

5 Title of the presentation: Charter requirements regarding the use of regional or minority languages before judicial authorities.

the ‘folklorization’ of these languages. Kardos identified structural issues in implementation, noting that although the Charter’s implementation is supposed to be objective and not contingent on the needs and wishes of the beneficiaries, state bodies often operate on a contrary logic: they see no reason to act if there is no apparent demand. Kardos also highlighted the necessity of ensuring that judicial staff are capable of, and practically able to, use minority languages, which would encourage willingness among language users to employ their languages in judicial settings. Additionally, he pointed out that facilitating the use of minority languages and promoting multilingual legal staff can support the advancement of underrepresented groups within the judiciary, thereby making the judiciary more inclusive.

Balázs Vizi,⁶ research professor at the Institute for Minority Studies of the Hungarian Research Network and professor at Ludovika University of Public Service, focused his presentation on the use of regional and minority languages by administrative authorities and public services (Article 10). He outlined various practices that enable minority language speakers, who may not be proficient in the state language, to participate in public services. This can involve using a language that, while not the state language or the citizen’s native language, is mutually understood. Vizi emphasized that beyond pragmatic considerations, the use of minority languages in public administration serves to recognize the language and its speakers. He also noted that the administrative structure of the state can significantly hinder the use of minority languages. In addition, minority language speakers often refrain from using their languages in public administration, since state authorities typically fail to put into place the necessary administrative processes in minority languages. Many minority language speakers have had the experience that it is more effective to use the official language in administrative matters if they want their case handled by the public administration. Vizi therefore suggested that decentralized administration might better support minority language users, as it can provide more localized and accessible opportunities for minority language use.

Robert Dunbar,⁷ professor at the University of Edinburgh, addressed the representation of minority languages in the media. He argued that the Charter, drafted in the early 1990s, appears outdated in today’s digi-

6 Title of the presentation: Protection and promotion of the use of regional and minority languages by administrative authorities and public services.

7 Title of the presentation: The protection and promotion of minority language media in the context of the Charter.

tal world. Since its inception, there have been significant technological advancements that the Charter does not account for. Dunbar highlighted the emerging impact of artificial intelligence and emphasized the necessity of integrating new technologies in delivering education and other public services. He pointed out that technological change will persist, with unpredictable implications for media and minority languages. Consequently, COMEX will need to continue adapting by creatively applying the Charter's provisions to remain relevant in the face of ongoing technological developments.

Viola Heutger,⁸ former rector at University of Aruba, discussed trans-frontier exchanges in Europe aimed at promoting regional or minority languages. She highlighted several best practices across the continent, focusing particularly on the Danish-German border region, where significant cooperation has occurred in recent years, resulting in the establishment of numerous exchange networks. Many of these programs target the younger generation, encouraging them to learn each other's languages. Heutger also mentioned the intensified efforts to promote the Frisian language and culture, as well as notable initiatives from Austria. Additionally, she cited the global promotion of the Yiddish language by Polish institutes as another exemplary practice in fostering minority language and cultural exchange.

Petra Lea Lánkos,⁹ professor at Pázmány Péter Catholic University and member of the COMEX in respect of Hungary, discussed the significance of social and economic life for minority languages. She elaborated on how economic and social contexts can benefit minorities or pose a threat to their languages. Emphasizing the importance of everyday communication, she argued that the vitality of a minority language is measured by its use in economic and social settings. When a minority language is excluded from these contexts, its vitality diminishes. Consequently, the more a minority language is utilized, the higher its prestige and social and economic value becomes.

On the second day of the conference, presenters shared their experiences with the implementation of the Charter from various States Parties. Elisabeth Sándor-Szalay,¹⁰ professor at University of Pécs, minority ombudsperson in Hungary and member of the Advisory Committee of the Framework

8 Title of the presentation: Artikel 14 – Transfrontier exchanges – Best Practices.

9 Title of the presentation: The protection and promotion of regional and minority languages in economic and social life.

10 Title of the presentation: The implementation of the Charter in Hungary: Lessons learnt.

Convention for the Protection of National Minorities, expressed the view that international monitoring encourages competent authorities to apply the law more systematically and rigorously. However, she noted that while organizing minority language use and education at the legislative level is essential, it can only be effective if there is a realistic chance of implementation, including adequate funding and staffing. She also observed that COMEX recommendations are not always aligned with the actual linguistic habits, expectations, and needs of the minority community concerned. At times, these recommendations may seem overly ambitious, suggesting that it might be beneficial to consider the principle that ‘less is sometimes more’ in certain contexts.

Robert Böttner,¹¹ research fellow at University of Erfurt, shared insights from Germany, where the Charter protects four minority languages (Danish, Frisian, Sorbian, and Romani) and one regional language (Low German). He explained that most Charter obligations in Germany pertain to regional or local competences, including media, culture, education, and administration. Specific legislation has been enacted to protect the Sorbian language, granting rights such as national identity, free use of Sorbian symbols, visual bilingualism, and the establishment of a consultative council within the respective *Landesparlament*.

Xabier Arzo,¹² professor at National Distance Education University, discussed the implementation of the Charter in Spain. He clarified that Spain does not have national minorities but rather autonomies, with the country divided into 17 Autonomous Communities, six of which are officially bilingual or trilingual. Generally, the Charter is implemented at a high level in Spain; however, there are notable shortcomings, such as the use of regional or minority languages in courts and state administration, and the availability of comprehensive education in these languages. Additionally, non-official languages are largely neglected and, in some cases, are not even legally recognized.

Bastiaan David van der Velden,¹³ professor at Open University of the Netherlands, discussed the recognition status of Papiamentu as a minority language to be newly included under the Charter. He noted that Papiamentu has a traditional presence in the Netherlands, having been spoken on its

11 Title of the presentation: The implementation of the Charter in Germany.

12 Title of the presentation: The implementation of the Charter in Spain.

13 Title of the presentation: Papiamentu, a minority language on the threshold of recognition.

territory since the 18th century. In its 2019 report, the COMEX encouraged the Dutch authorities to clarify the traditional presence of Papiamentu in the European part of the Netherlands in the next monitoring round. A few months after the conference, the Netherlands extended certain Part III provisions of the Charter to Papiamentu.

Subsequently, two further members of the COMEX, Vesna Grotic,¹⁴ professor at the University of Rijeka and member of the COMEX in respect of Croatia, and Mahulena Hoffman,¹⁵ SES chair at the University of Luxembourg and member of the COMEX in respect of Czechia, addressed horizontal aspects of the implementation of the Charter from a historic perspective. Vesna Grotic examined the past 25 years of the Charter, looked through on signatories and ratifications of the Charter also pointing out where the process stopped or was not even started. She also addressed the reasons of delays in implementing the recommendations of the Committee of Ministers in the different states which were primarily linked to the three-year reporting period. She further highlighted the proactive role of the COMEX in pointing to the languages that the government perhaps omitted to include under the Charter. Mahulena Hoffman delved into the evolution of the Committee of Experts' operating methods. She described how the Council of Ministers creatively adjusted reporting cycles and introduced interim measures to potentially enhance efficiency in the reporting process. Hoffman emphasized that the interpretation of the Charter continues to evolve, highlighting ongoing collaboration with the Advisory Committee of the FCNM.

Finally, Balázs Szabolcs Gerencsér,¹⁶ associate professor at Pázmány Péter Catholic University, addressed the ambivalence in state reporting practices and the future trajectory of the Charter. He scrutinized the issues surrounding delays in reporting and monitoring mechanisms, including the challenge of overlapping cycles. Gerencsér identified several reasons for these delays, such as state inactivity, internal procedural deadlines not being met, and a lack of political will to amend the Charter. By contrast, Gerencsér highlighted the potential for reforming the work of COMEX without altering the Charter itself, seeing this as an opportunity to enhance efficiency. Through a SWOT analysis he suggested that streamlining

14 Title of the presentation: 25 years of the Charter – a view from within the Committee of Experts.

15 Title of the presentation: Evolution of the Committee of Experts' working methods.

16 Title of the presentation: The ambivalence of State reporting practices and the future of the Charter.

COMEX procedures could improve the effectiveness of monitoring and reporting practices, thereby addressing some of the challenges currently faced in implementing the Charter.

The conference enriched the knowledge of the audience with exciting discussions underscoring both the achievements and ongoing challenges in implementing the Charter. Presenters highlighted significant progress achieved over the past decades, including the recognition and protection of diverse minority languages across Europe. However, persistent issues such as delays in state reporting, gaps in implementation, and varying levels of political commitment continue to hinder comprehensive adherence to the Charter's provisions. The proactive role of COMEX was emphasized as crucial in identifying overlooked languages and proposing measures to enhance monitoring efficiency, suggesting potential avenues for reform within existing frameworks to ensure greater effectiveness in safeguarding linguistic diversity and minority rights in Europe.

The authors are planning to publish their studies, prepared based on their conference presentations, in an edited volume.

