

## CONSTITUTIONS, LANGUAGES, DEFINITIONS AND THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Eduardo J. Ruiz Vieytez\*

*El resum és al final de l'article.*

*Resumen al final del artículo.*

*Le résumé se trouve à la fin de l'article.*

The European Charter for Regional or Minority Languages has already been ratified by 23 European States. The Charter establishes within its first articles certain concepts and definitions, which have to be implemented in very different domestic legal systems. Therefore, constitutionally or legally adopted definitions within each member state and those provided by the Charter do not always correspond to the same realities. Moreover, some politically relevant questions arise when dealing with the situation of regional or minority languages in different European countries. Thus, it is necessary to promote reflection on the meaning of the legal definitions of the Charter and its applicability to some problematic situations. This paper tries to offer a typology of the problems of accommodating the Charter to internal situations, through a comparison analysis and the work developed by the Committee of Experts in the first 10 years of implementation.

Key words: official languages; minority languages; European Charter; Council of Europe; dialects.

---

\* Eduardo J. Ruiz Vieytez, Law Faculty / Human Rights Institute. University of Deusto (Bilbao).  
Article received: 13.10.2008; review: 10.12.2008; final version accepted: 19.01.2009.

## Summary

1. Introduction
2. Constitutions and Official Languages in Europe
3. European Languages and the Charter: Problems of Interpretation
  - 3.1. Problems related to the identification of languages
  - 3.2. Problems related to the legal status of languages
4. Conclusion
5. Bibliography

### 1. Introduction

The ratification of the European Charter for Regional or Minority Languages (henceforth ECHRML) by more than 20 European States has widened its scope of application to countries showing significant differences in terms of sociolinguistic reality and constitutional regulations. The definitions included in article 1 of the Charter do not provide sufficient basis to solve all the legal status and language situations of the different European countries. Hopefully, more European States will soon become parties of this singular document, extending the referred problems of interpretation. In this context we must question whether it is necessary or not to revise the legal concepts included in the Charter or its interpretation.

### 2. Constitutions and Official Languages in Europe

Since the 19th century language begins to stand out as the principal element of collective identities. For most people, language is also an essential component of their identity (Patten: 313), and linguistic conflicts are often behind social or political conflicts (Kontra: 281). Although Law is a moderately effective instrument at affecting linguistic processes (Hogan-Brun and Wolff: 5), legal arrangements have a very significant symbolic value and a real influence on social behaviours. In this respect, states make a choice of linguistic identity, adopting particular languages or varieties as the official or protected ones. This can be done at the constitutional level, within developing legislation or even implicitly. The formal recognition or protection can be extended to minority languages in some cases, according to the political history of each country.

During the last decades, linguistic or cultural diversity has been increasingly perceived as a positive value in the political discourse. A parallel trend has

been that of recognising and promoting linguistic diversity in Europe through political and legal documents. The European Union has included this idea in its institutional motto (“united in diversity”) and certain international legal or policy documents like the ECHRML, the European Convention for the Protection of National Minorities (henceforth FCNM), and some OSCE documents<sup>1</sup>, respond, at least partially, to this trend.

As a result of this, a legal pan-European framework is being constructed around the issue of linguistic rights of minorities. The entry into force of both ECHRML and FCNM has implied a considerable contribution to the setting up of this framework. After 10 years of implementation of this two instruments, nowadays we do have significant documentation produced by the corresponding monitoring bodies of experts, including some standards and common criteria. It can also be said that a minimum standard on protection of cultural (and linguistic) minorities has arisen among the common European principles (Arzoz: 378).

However, one of the problems of this kind of international multilateral instruments is the need to adapt technical concepts and definitions and apply them to a wide range of linguistic situations across European countries. In particular, the ECHRML incorporates both definitions and the scope of application within article 1. This clause includes explicit definitions of “regional or minority languages”, “territory in which regional or minority language is used”, and “non-territorial languages”. The Charter also refers to the very problematic concepts of “dialects”, “official languages”, “languages of migrants”, and “official languages which are less widely used (on the whole or part of its territory)”. The concepts and definitions included in the Charter do not always correspond with those concepts and/or definitions that national constitutions or laws contain. Therefore, we find some legal problems when adapting constitutional frameworks to international standards. This is why it is necessary to make an effort at unifying legal criteria to respond to the diverging linguistic situations.

From the constitutional point of view, almost all the constitutions include a general clause to avoid discrimination on linguistic grounds and many of them guarantee in general terms the rights of minorities, including some of

---

1. The Oslo Recommendations regarding the Linguistic Rights of National Minorities, adopted in February 1998 by a group of experts gathered by the OSCE High Commissioner for National Minorities. Also, The Hague Recommendations regarding the Education Rights of National Minorities, adopted in October 1996 within the same framework.

the basic linguistic rights. Many other countries have adopted developing legislation concerning the rights of minorities or the protection of cultural diversity within their territories or among their populations. In this sense, different models and structures can be found when studying the different European constitutional texts.

Out of the current 50 European States<sup>2</sup>, 35 include some references to the status of languages within their respective constitutions, whereas the remaining 15 do not. The most frequent clause is that defining the official status of a particular language. 32 of the constitutions refer to the official language or state language in order to point out the language the state officially identifies with. There are also 5 constitutions including the concept of national language: 4 out of these 5 constitutions also refer to the idea of official languages, and the remaining constitution (that of Finland) clearly includes the idea of national languages with the meaning of official languages of the state. Besides this, the French constitution refers in article 3 to the “language of the Republic”, another way of expressing the official language. Finally, the Belgian constitution, although in a more indirect manner, also defines the official languages of the state when it states the division of the country into three linguistic regions. These 35 constitutions can be classified as follows:

- Constitutions defining one language as official for the whole state: France (article 2), Portugal (11), Andorra (2), Poland (27), Estonia (6), Latvia (4), Lithuania (14), Azerbaijan (21), Armenia (12), Turkey (3), Bulgaria (3), Romania (13), Slovakia (6), Austria (8), Liechtenstein (6), Monaco (8), Albania (14), Slovenia (11).
- Constitutions defining one language as official for the whole state, and giving option for other languages to be declared official at a regional or local level: Croatia (12), Macedonia (7), Spain (3), Georgia (8), Moldova (13), Russia (68), Ukraine (10), Serbia (10), Montenegro (13).
- Constitutions defining two official languages for the whole state: Finland (17), Malta (5), Belarus (17), Ireland (8), Kosovo (5), Cyprus (3).
- Constitutions defining more than two official languages: Belgium (4) and Switzerland (4 and 70). It must be pointed out, however, that in these cases the official status does not operate for the whole territory of the state.

---

2. We include in this number all members of the Council of Europe (47 independent states), plus Belarus, Kosovo and the Vatican.

This, of course does not imply that the remaining 15 countries have no official language at all. Some of the countries include an official declaration in its legislation, although not at the constitutional level. On the other hand, in many of these countries the official status de facto of some particular languages cannot be challenged. After an analysis of these situations we can come up with the following conclusions:

- a) Countries with non-constitutional legal references to the status of languages:
  - a. On the status of the state language:
    - i. Luxembourg: the 1984 law on the status of languages declares Letzburger as the national language. French and German are also recognised having official uses.
    - ii. Bosnia-Herzegovina: official languages are defined at the level of the entities' constitutions: Serbian at the Republica Serbska; Croatian and Bosnian at the Federation.
    - iii. Italy: Italian is declared official language in the law on the protection of linguistic minorities<sup>3</sup>.
  - b. On the status of minority languages:
    - i. United Kingdom: specific legislation recognises the official status of Welsh and Scottish Gaelic at the same level of English, which is de facto official language
    - ii. Denmark: autonomy acts recognise the official condition of Faroese and Greenlandic languages. Danish is obviously the de facto official language
- b) Other countries with de facto official languages: Czech republic, Netherlands, Norway, San Marino, The Vatican, Iceland, Sweden, Hungary, Greece and Germany.

Therefore, the complete list of official languages of the European States<sup>4</sup>, taking account explicit and implicit declarations, would include 41 languages, as follows: Albanian, Azerbaijani, Armenian, Belarusian, Bosnian, Bulgarian,

---

3. Law 482/1999.

4. Meaning official status for the whole territory of at least one independent state, with no territorial restrictions.

Catalan, Croatian, Czech, Dutch/Flemish, Danish, English, Estonian, Finnish, French, Georgian, German, Greek, Hungarian, Icelandic, Irish, Italian, Letzburger, Latvian, Lithuanian, Macedonian, Maltese, Moldavian, Montenegrin, Norwegian, Polish, Portuguese, Romanian, Russian, Serbian, Slovakian, Slovenian, Spanish, Swedish, Turkish and Ukrainian.

If we consider also that some other languages may enjoy official status only for some parts of the state territory, up to five different models can be observed within the European legal systems:

- a) Model 1: The state has more than one official language for the whole territory of the country: Luxembourg, Finland, Ireland, Cyprus, Belarus, Kosovo and Malta.
- b) Model 2: There is more than one official language, but these are official only in some areas of the territory of the state (apart from some bilingual/multilingual concrete regions or institutions): Belgium, Switzerland and Bosnia-Herzegovina.
- c) Model 3: The state has one official language for the whole territory of the country, but at the same time, in some politically autonomous areas there is a second official language. In this model, a substantial part of the country has a unique official language, while in others, some minority languages are given official status within a political entity: Denmark, Italy, Spain, Russia, Moldova, Georgia, United Kingdom and Ukraine.
- d) Model 4: Countries having a unique official language for the whole state, but protecting some minority languages with special measures available at the local level. These minority languages are explicitly protected in these cases by the Constitution, by international treaties or by developing legislation and they are given some official usage, although we cannot consider them as official languages of a political subnational entity: The Netherlands, Germany, Austria, Portugal, Croatia, Hungary, Serbia, Slovenia, Macedonia, Norway, Sweden, Slovakia, Montenegro and Bulgaria.
- e) Model 5: In the rest of the European countries there is a unique official language and no minority language is explicitly protected, at least at the constitutional level. Some of these countries, however, may have ratified either the ECRML or the FCNM.

In any of the five territorial models, ratification of the ECHRML requires a process of interpretation to adapt the concepts of the Charter to the constitu-

tional situation within a given country. A big part of this adaptation is made through the instrument of ratification of the Charter by the different states, but linguistic situations within Europe happen to be significantly different. Therefore, a good number of conceptual problems or doubts can arise when putting into direct relation domestic and international documents in this field, as we can see in the following chapter.

### 3. European Languages and the Charter: Problems of Interpretation

Since it was adopted by the Council of Europe in 1992, 23 States have ratified so far the ECHRML. According to the Charter, States must specify, within their instrument of ratification, the provisions that will be applied from Part III of the Charter. These provisions could be applied at the same time to all regional or minority languages of the respective State; only to some of them; or even different obligations can be undertaken for different languages. Even more, different paragraphs and subparagraphs in different territories according to its social situation can protect the same language. Those regional or minority languages not mentioned in the instrument of ratification must be protected, at least, through the minimum standards and principles established in article 7 of the ECHRML. Therefore, the state is not free to determine the minority languages existing within its respective territory, but only for those to which part III of the Charter will be applied. Even more, the option of protecting languages only by part II must be based on objective criteria and it cannot be regarded as a discretionary decision of the state concerned.

In this sense, the Charter provides a realistic basis to be applied in all European countries. The flexibility of the Charter when offering the states different undertakings for different linguistic situations makes this instrument particular suitable, while the possibility of adapting its contents to the evolving linguistic reality always exists. In fact, the flexibility of the Charter seems to be a useful feature, as the divergent situations of the various regional or minority languages may justify different treatment. However, it must be noted that it is not an unlimited flexibility as to the identification of the languages protected by the Charter.

The different instruments of ratification drafted so far include 53 languages (some of them implicitly, like in the case of Spain). Some other languages have also been considered by the Committee of Experts, when monitoring the

implementation of the Charter. After analysing both instruments of ratification and the reports of the Committee of Experts, we can find that, in total, 68 languages are currently protected; 47 languages by part III and 34 languages by Part II. 13 languages are protected by both parts within different countries<sup>5</sup>.

From the point of view of the Charter, all these languages must be considered either regional or minority languages (including non-territorial languages) or less widely used official languages. They must be different from the official languages of the states. They cannot be dialects or languages of immigrants. All these categories, however, provoke some interpretation problems when dealing with specific situations. Our next step will be, in consequence, to systemise the different kinds of problems that the Committee of Experts has found in relation to the linguistic scope of application of the Charter. Such a classification becomes a difficult task, since the variety of situations and questions that arise in the different member states makes it very complicate to systematise them in clear boxes or categories. Nevertheless, we can identify two big sets of problems. On the one hand, there are questions and challenges related to the very identity of the languages, their existence, individuality and so forth. On the other hand, we can find some concerns about the legal consideration of different linguistic situations under the Charter. We will present both kinds of problems in separate sections.

### 3.1. Problems related to the identification of languages

Under this general title, very different situations can be found. In all of them the issue in question has to do with the separateness of the language, its relation with other possible varieties or languages or its name. These questions are very attached to the identity issues of groups and peoples and, therefore, very sensitive in many particular contexts. We will try to present all cases separating different categories of problems, but recognising that some of the questions interact with each other. The four sections showed below are just an attempt to organise the cases in smaller units, rather than a radically clear cut up classification.

- a) Cases related to the identity or name of different or unique languages in relation to political units

---

5. See the full list of languages covered at <http://languagecharter.eokik.hu/byLanguage.htm>.



A first group of problems has to do with the identification of the languages covered by the Charter. In particular, we can list a number of cases where the existence of one or two separate languages can be put into question, whereas in other cases, some people challenge the different denomination of what could be considered as a common language. The point is that these differences of interpretation are linked, to some extent, to political units such as independent states or subnational autonomous territories. Very often, political boundaries create different linguistic identities or different denominations where most of the linguists find a common system.

This is the case for several linguistic situations in Europe. Among others, we can refer here to the division between Moldavian and Romanian languages, Serbian, Croatian and Bosnian languages, or Catalan and Valencian languages. According to the implementation of the Charter, it seems that the Committee of Experts has accepted the division between Serbian, Croatian and Bosnian, on the one hand, and Catalan and Valencian on the other hand. However, it must be clarified that in the first case, the closeness of the languages has also been recognised<sup>6</sup>. In fact, from a linguistic point of view, this separation can be seriously challenged. In the Catalan-Valencian case, the unity of the language has already been recognised, and the Committee of Experts, although maintaining the formal different denomination, reminds of the recognition of language identity between Valencian and Catalan by the Valencian Academy of the language<sup>7</sup>. As for the Moldavian-Romania case, no report has been published in reference to this language so far and therefore there is no clear conclusion in this respect. However, taking account of the aforementioned cases, the Committee may call the language with different names, without showing any clear opinion on the unity of these languages.

Another possible case of identification between languages is that of Czech and Slovak, although in general they are considered as separate languages. The division of the former Czechoslovakia into two different independent states has probably closed the question, although the closeness between the two idioms is also recognised as a factor to explain certain "special status"<sup>8</sup>. Finally, in the

6. Document ECRML (2007) 4, *Application of the Charter in Slovenia. Second monitoring cycle*, of 20 June 2007, p. 10-11; Document ECRML (2004) 3, *Application of the Charter in Slovenia*, of 9 June 2004, p. 28-31.

7. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 36.

8. Document ECRML (2005) 4, *Application of the Charter in Slovakia. Initial monitoring cycle*, of 23 November 2005, finding O.

case of Galician and Portuguese, a common linguistic background can be found and it is admitted from a linguistic approach. However, the separate political development of independent Portugal helped in standardising a different language. Although in the Autonomous Community of Galicia there are social or political sectors willing to underline the identification of Galician with Portuguese, the separateness between the two seems to be widely admitted nowadays. However, at the same time, the closeness between Galician and Portuguese is also officially mentioned<sup>9</sup>.

b) Cases related to the lack of unity of a set of variants/languages/language system

In a second group of cases we will include those situations where the unity or separation of languages or varieties is not expressly linked to political boundaries or units. There is a number of cases in which several dialects, varieties or idioms are to some extent related through a common language system. In some cases they share a common name, whereas in others, specific circumstances have driven to the adoption of different names. Some debates about unity or diversity of languages or dialects do also exist in different European corners. Finally, in other cases, the question has to do again with the name given to the language in different contexts, but in this case with no clear relation to the name of any political entity.

The most complex set of languages or linguistic varieties in Europe is clearly that of the Roma languages. In fact, within the framework of the Charter, several names and denominations are officially used by different countries to refer to the main bulk of this Indo-arian branch of idioms: Roma, Romani, Romany and Romanese. Sweden refers to Romani Chib. Netherlands include also the reference to Sinti along with Roma when referring to the language of this group<sup>10</sup>. Norway makes a difference between Romanese, as the language of the Roma and Romani, as the language of travellers<sup>11</sup>. In other occasions, such as the report concerning the United Kingdom, the reference is made to Romani languages, in plural<sup>12</sup>. In the aforementioned case of Sweden, a vari-

---

9. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 41.

10. Document ECRML (2001) 1, *Application of the Charter in The Netherlands*, of 20 September 2001, p. 10.

11. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, pp. 12-13.

12. Document ECRML (2004) 1, *Application of the Charter in the United Kingdom*, of 24 March 2004, p. 12.

ety of romani languages is referred<sup>13</sup>. It is far from clear that all references included to Roma languages in the different members states are pointing out to the same language. In some cases, it is also recognised that some Roma speak a different kind of language, like the Beas in Hungary, which should be considered as related to the Latin branch of the Indo-European languages, and not to the Iranian branch. The unfavourable conditions of the Roma communities across Europe make it more difficult to identify or standardise the idioms they use. Only three countries include Roma languages among the ones protected under part III of the Charter, whereas up to 9 other countries protect them only through part II. Without doubt, this group would be the most complex case when analysing the unity or diversity of the languages covered by the Charter.

A relatively similar situation is that of the Sami languages. However, in this case, the existence of a common *filum* among different Sami variants is widely accepted. Thus, three member states protect Sami languages through the Charter and they refer to them as Sami (Norway and Sweden), or Saami language (Finland). In the case of Norway, the first report of the Committee of Experts acknowledges three variants of the Sami language: North, Lule and South, which are referred in the instrument of ratification as one same language<sup>14</sup>. Within the second report, a fourth variant, Eastern Sami, is also included<sup>15</sup>, renamed in the third report as Skolt Sami<sup>16</sup>. Also in the case of Sweden, Sami languages are mentioned in plural<sup>17</sup>. Similarly, in Finland the Sami language consists of three different variants: Skolt, North and Inari<sup>18</sup>. In any case, it is clear that Sami or Saami is considered as one common language in respect of the Charter in each of the countries concerned.

Another set of related languages is that of the Finnic family in respect of Finnish, Meankieli (also called Tornedal Finnish) and Kven (or Kven Finnish). The first two appear protected by the Charter in Sweden, and Kven

13. Document ECRML (2003) 1, *Application of the Charter in Sweden*, of 19 June 2003, p. 15.

14. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, p. 9.

15. Document ECRML (2003) 2, *Application of the Charter in Norway, Second monitoring cycle*, of 3 September 2003, p. 11.

16. Document ECRML (2007) 3, *Application of the Charter in Norway, Third monitoring cycle*, of 16 May 2007, p. 10.

17. Document ECRML (2003) 1, *Application of the Charter in Sweden*, of 19 June 2003, p. 12.

18. Document ECRML (2001) 3, *Application of the Charter in Finland*, of 20 September 2001, p. 11.

is mentioned in the case of Norway. The closeness of the three variants is not challenged, but both Kven and Meankieli tend to be considered as different languages today, and not only as variants or dialects of Finnish language. It is recognised that Kven Finnish is an old variant of Finnish language<sup>19</sup>. The debate on the separateness of this language from Finnish lasted for the two first reports on Norway<sup>20</sup>. However, after the third report on this country, Kven has been recognised as a separate language<sup>21</sup>. In the case of Meankieli, it is also admitted that it derives from the same roots as Finnish. Meankieli has been recognised by Swedish authorities as a separate language only very recently<sup>22</sup>. From the available reports it is not possible to get the perception that the Finnish speakers of Finland or Sweden have about the specificity of these two languages.

Norway offers another example of dichotomy between dialects and languages. Both Bokmal and Nynorsk are recognised as two standard written variants of Norwegian languages, and they share a common official status<sup>23</sup>. Although it seems that they are referred as variants and not languages, on the other hand, Nynorsk can be regarded according to the Charter as a less widely used official language. This would push us to consider Nynorsk as a separate language rather than a dialect, at least in respect to implementation of the Charter.

The Frisian linguistic group has evolved in three subgroups: North Frisian, Sater Frisian and (west) Frisian itself<sup>24</sup>. All three have been separated from one another since centuries and developed differently. The result is that they have evolved in different manners to the point that today they are linguistically speaking quite distinct. Therefore, although there is a clear link among the Frisian languages, they must be considered as different languages when implementing the Charter.

Something similar can be said in the case of Sorbian. Again, a geographic distance or isolation of speakers provoked a different evolution of the language.

---

19. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, p. 11.

20. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, pp. 19-20; Document ECRML (2003) 2, *Application of the Charter in Norway, Second monitoring cycle*, of 3 September 2003, p. 23.

21. Document ECRML (2007) 3, *Application of the Charter in Norway, Third monitoring cycle*, of 16 May 2007, p. 13.

22. Document ECRML (2003) 1, *Application of the Charter in Sweden*, of 19 June 2003, p. 14.

23. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, p. 14.

24. Document ECRML (2002) 1, *Application of the Charter in Germany*, of 4 December 2002, p. 23.

Thus, from the various dialects of colloquial Sorbian two standard languages developed: Upper and Lower Sorbian<sup>25</sup>. In this case, the closeness of both variants may be higher, but in legal terms they should also be considered as separate languages.

There are other cases of geographic distance can also be included within this category. In the case of Cyprus, Cypriot Maronite Arabic can be easily related to the Arabic language. In fact, according to the Committee of Experts there is no written standard form of Cypriot Maronite Arabic. However, the long geographical and cultural isolation from the Arab-speaking mainland has led to a unique development and independent linguistic evolution of Cypriot Maronite, as to the point that it can be regarded as a distinct language<sup>26</sup>. Another case of similarity in the distance seems to be that of Croatian and Burgenland Croatian. As the Committee says, "distinction between Croatian and Burgenland Croatian is very recent. Instrument of ratification is the first official reference to this distinction"<sup>27</sup>. In fact, the Committee of experts uses the two terms interchangeably in the report. The relation between Crimean Tatar (Ukraine) and Tatar (Finland) cannot be determined through the application of the Charter. The linguistic relation between the two is clear, since the Committee recognises that Tatar is one of the Turkic languages<sup>28</sup>, as it is Crimean Tatar. However, there is no document referring to the close or vague relation of both Tatar languages. The same can be said in the case of Gagauzian (Ukraine) and Turkish (Romania). Taken from granted that Gagauzian is a language corresponding to the western Turkic languages, in principle it seems that they must be regarded as totally different languages under the European Charter.

Finally, another two cases can be mentioned with some slightly different contexts. Here no factor of geographic distance can be observed. However, a debate on the unity or diversity of a language is present and, to some extent, it is related to the name of the languages concerned. Thus, the Committee of Experts recognises that Yezidi and Kurdish were treated in the same group till independence and that both communities speak the same variety of Kurmanji<sup>29</sup>. The problem in this case seems to be on the very name of the lan-

25. Document ECRML (2002) 1, *Application of the Charter in Germany*, of 4 December 2002, p. 16.

26. Document ECRML (2006) 3, *Application of the Charter in Cyprus*, of 27 September 2006, p. 30.

27. Document ECRML (2005) 1, *Application of the Charter in Austria*, of 19 January 2005, p. 15.

28. Document ECRML (2001) 3, *Application of the Charter in Finland*, of 20 September 2001, p. 13.

29. Document ECRML (2006) 2, *Application of the Charter in Armenia*, of 14 June 2006, pp. 1-7.

guage and, consequently, it may look that the unity of the language is recognised, although they use different scripts (latin-cyrilic)<sup>30</sup>.

The second polemic case in this respect is that of the Ruthenian and Ukrainian languages. Traditionally, Ruthenians were considered as part of the Ukrainian linguistic group<sup>31</sup>, and for a long time the differentiating factor of this minority, if any, was its religious identity. In some cases, the Committee of Experts has recognised that the Ruthenian language suffers from an insufficient recognition of its specificity *vis-a-vis* the Ukrainian language<sup>32</sup>. However, the Ruthenian language was codified in 1995<sup>33</sup> and nowadays up to five member states (Hungary, Croatia, Serbia, Slovakia and Romania) have included Ruthenian and Ukrainian as different languages when ratifying the Charter. This seems to be a founded ground to justify the specificity of the Ruthenian language, although in Ukraine this separation seems to be not easily accepted.

c) Cases related to the consideration of the idiom as a dialect or separate language

The third set of questions related to the identity of languages covered by the Charter refers again to the issue of the specificity of some idioms as separate languages or, on the contrary, as dialects of bigger languages. The most common situation is that of a linguistic variant with a low degree of standardisation and political support. In many of the cases, these languages have suffered from the consideration by authorities or societies as *patois* languages or uncultivated forms of official languages. Some of those included in this category are formally considered as dialects, whereas in other cases they have been included under the protection of the Charter as separate languages.

The number of languages covered by the Charter that can be allocated within this group is considerable. Thus, in Switzerland, according to the experts' first report, the Yenish speak a non-codified language that belongs to the Germanic family, a hybrid language resulting from a combination of Romani, Yiddish and German<sup>34</sup>. Another language related to the same family in Switzerland is Walser, recognised as a variant of German language and there-

---

30. Document ECRML (2006) 2, *Application of the Charter in Armenia*, of 14 June 2006, pp. 14.

31. Document ECRML (2007) 1, *Application of the Charter in Slovakia*, of 21 February 2007, p. 20.

32. Document ECRML (2007) 1, *Application of the Charter in Slovakia*, of 21 February 2007, finding M.

33. Document ECRML (2007) 1, *Application of the Charter in Slovakia*, of 21 February 2007, p. 22.

34. Document ECRML (2001) 7, *Application of the Charter in Switzerland*, of 23 November 2001, p. 19.

fore, not as a separate language<sup>35</sup>. Following with the same branch of Germanic languages, Limburger is included in relation to the Netherlands. However, as the Committee points out, there seems to be uncertainty as regards the position of this language. Limburger is recognised as a language under the Charter by the Dutch authorities, but is not so far recognised by the Dutch language Union<sup>36</sup>. This factor, however, does not avoid its consideration as a language protected by the Charter.

Within the same linguistic family, Lower Saxon has been referred in plural, as recognising implicitly some internal diversity<sup>37</sup>. However, the second report reduces its reference to singular<sup>38</sup>, being these differences a possible consequence of the historical lack of standardisation of this language. A similar and related case is that of Low German, considered as the ancestral language of the German north<sup>39</sup>. The experts found that Low German was in practice still treated as a variant of German and not as a language in its own rights<sup>40</sup>, what is a clear option in favour of the separateness of the language, considered as regional language within the German instrument of ratification.

Another possible separate language within the Germanic family is Scanian. However, Swedish authorities defined it as a dialect of Swedish and the committee does not seem to challenge this conclusion<sup>41</sup>. Finally, in the case of the United Kingdom, the specificity of Scots and Ulster Scots is often challenged. According to the Charter and its implementations, it seems clear that both languages must be considered as such, although their proximity to English has made it difficult for these languages to receive official recognition as separate languages<sup>42</sup>.

---

35. Document ECRML (2001) 7, *Application of the Charter in Switzerland*, of 23 November 2001, p. 15; Document ECRML (2004) 6, *Application of the Charter in Switzerland. Second monitoring cycle*, of 22 September 2004, p. 13.

36. Document ECRML (2001) 1, *Application of the Charter in The Netherlands*, of 20 September 2001, finding E.

37. Document ECRML (2001) 1, *Application of the Charter in The Netherlands*, of 20 September 2001, p. 10; finding D.

38. Document ECRML (2004) 8, *Application of the Charter in The Netherlands. Second monitoring cycle*, of 16 December 2004, p. 16.

39. Document ECRML (2002) 1, *Application of the Charter in Germany*, of 4 December 2002, p. 31.

40. Document ECRML (2002) 1, *Application of the Charter in Germany*, of 4 December 2002, finding G.

41. Document ECRML (2003) 1, *Application of the Charter in Sweden*, of 19 June 2003, p. 17.

42. Document ECRML (2004) 1, *Application of the Charter in the United Kingdom*, of 24 March 2004, pp. 26-27.

Moving from Germanic languages to the Roman family, Spain offers a number of cases that are often regarded as dialects and not separate languages. This would be the case of Asturian or Aragonese, although in both cases there is the clear recognition under the Charter of constituting languages<sup>43</sup>. On the contrary, the Committee denounces that Asturian Galician is not clearly recognised as a variant of Galician as it should be<sup>44</sup>. Far different, in the case of Aranese, this is closely related to Gascon, and in any case it is considered as a variant of Occitan language<sup>45</sup>. Following with the Roman family, as we already mentioned, in Hungary, Beas is the name of the idiom spoken by some 10% of the Roma community, and it is considered as an archaic version of the Romanian language<sup>46</sup>.

Finally, Karelian, a language of the Finnic group close to Finnish, has been recently recognised by Finnish authorities as a separate language to be covered by the Charter<sup>47</sup>.

d) Cases related to the existence of the language due to non-significant presence (already or nearly extinguished languages)

The fourth set of questions that emerge when determining the languages covered by the Charter has to do with the very existence of the language concerned. There are a number of cases where the extreme weakness of a particular language is used to challenge the possibility of considering it as an existing or different language today. These are normally cases where the number of speakers is very small, including languages whose native speakers ceased to exist in the past.

We can include up to 10 possible languages within this section. Among these, only Prussian/Pruthenian has been clearly excluded from the application of the Charter<sup>48</sup>. Similarly, Yiddish is not considered as a language covered by the Charter in the case of Norway due to the lack of speakers<sup>49</sup> (it is

---

43. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 46-49.

44. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, finding Q.

45. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 53.

46. Document ECRML (2001) 4, *Application of the Charter in Hungary*, of 4 October 2001, p. 13.

47. Document ECRML (2007) 7, *Application of the Charter in Finland, Third monitoring cycle*, of 21 November 2007, p. 17, finding M.

48. Document ECRML (2006) 1, *Application of the Charter in Germany, Second monitoring cycle*, of 1 March 2006, p. 11.

49. Document ECRML (2003) 2, *Application of the Charter in Norway, Second monitoring cycle*, of 3 September 2003, p. 17.



covered, however, in Finland, Netherlands, Romania, Sweden and Switzerland). In the remaining cases, although recognising the low figures of speakers, the Committee of Experts opens the door for monitoring protection through the Charter. For example, the Cornish language ceased been used in the 17<sup>th</sup> century. However, after a revival occurred during the last decades, today there may be 100 fluent speakers of this language<sup>50</sup>. A similar situation is that of Manx. Its last first language speaker died in 1974, but in 2001 1689 people with knowledge of Manx language were found<sup>51</sup>. Another process of recent revival or a nearly extinct language is that of Aragonese in Spain<sup>52</sup>.

Finally, in other cases the committee underlines the low number of speakers, which makes difficult an effective protection by the Charter. Thus, in Armenia, Assyrian, Kurdish and Greek are spoken by very few people and there is no reliable data on the number of mother tongue speakers of these languages<sup>53</sup>. In the case of Croatia, according to the committee there is evidence of a traditionally present small community of speakers of a language called Istro-Romanian in Istria<sup>54</sup>. And in Spain, the government has recognised that 4000 people speak Calo, a different idiom from Romany<sup>55</sup>.

### 3.2. Problems related to the legal status of languages

The second big group of problems related to the interpretation of the first article of the ECHRML has to do with the legal status of the languages concerned. The issue is now the relationship between the languages spoken in a given country and the legal categories foreseen in the Charter. In this respect, legal categories included at the constitutional level of the different countries are also relevant.

As we mentioned in a previous chapter, the Charter includes up to five categories of languages within its first articles: Official language, Regional or Mi-

50. Document ECRML (2004) 1, *Application of the Charter in the United Kingdom*, of 24 March 2004, p. 31.

51. Document ECRML (2007) 2, *Application of the Charter in the United Kingdom, Second monitoring cycle*, of 14 March 2007, p. 14.

52. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 52.

53. Document ECRML (2006) 2, *Application of the Charter in Armenia*, of 14 June 2006, pp. 8-9.

54. Document ECRML (2008) 1, *Application of the Charter in Croatia, Third monitoring cycle*, of 12 March 2008, p. 48.

55. Document ECRML (2005) 4, *Application of the Charter in Spain*, of 21 September 2005, p. 58.

nority language, Non-territorial language, Less widely used official language and Languages of immigrants. On the other hand, European constitutional comparative law offers us a wider set of legal categories. The legal categories included in the different countries are the following: Official language, State language, National language, Language of the republic, Linguistic regions, Equal (equalised/*parificata*) status (with the official language)<sup>56</sup>, Language for inter-cultural(ethnic) communication<sup>57</sup>, and Autochthonous language/principal language (*lengua propia*)<sup>58</sup>.

As the legal categories present in domestic law are not always totally correspondent to those of the Charter, in some cases it is necessary to open space for interpretation. This need of adaptation has also to consider some of the questions and problems of identifying languages that we have already mentioned in the previous section. The final list of questions can be organised into four different topics:

a) Cases related to the condition of official languages under the Charter

In principle, the Charter excludes official languages, since regional or minority languages are defined as being different from official languages of the state. This has so far been interpreted as referring exclusively to those official languages of the whole state, and not to official languages of certain territories (normally autonomous). Thus, languages such as Catalan, Welsh or Gagauzian can (and must) be included under the protection of the Charter regardless of their territorial official status. This point, however, provokes some space for discussion from different perspectives.

According to this reading, any existing traditional language that is not the official language of the whole territory of the State must be covered by the Charter. However, in the case of Denmark, the Committee of Experts has encouraged Danish authorities to include Faroese and Greenlandic within the field of application of the Charter<sup>59</sup> because they are not mentioned in the national reports. For the Committee it is surprising not to include these languages within the field of application of the Charter, since this is the kind of

---

56. Belarus, Aosta Valley, South Tyrol and Wales.

57. Article 3 of the Law on Languages of the Republic of Moldova of 1-9-1989. The same category was also present in the former version of the Constitution of Belarus.

58. Latvia, Faroe, Greenland, Galicia, Catalonia, Basque Country-Navarra, Valencia, Balearic Islands.

59. Document ECRML (2004) 2, *Application of the Charter in Denmark*, of 26 May 2004, p. 26.

languages the Charter was created for<sup>60</sup>. The fact that Faroese and Greenlandic autonomous authorities show little interest in extending the protection of the Charter to their languages should not be relevant, once Denmark has become a member state.

A different case is that of Cyprus, having constitutionally speaking two official languages for the whole country. According to the (Greek) Cyprus authorities, Turkish does not have to be included in the application of the Charter because it is a state official language. The Committee has however reminded that it must be guaranteed in practice that Turkish is not treated in a less favourable manner than an ordinary regional or minority language in Cyprus<sup>61</sup>. In fact, the condition of official language would not exclude the possible consideration of Turkish as a less widely used official language, but in this case the option of including it must be adopted by the state, since it is not based on objective criteria as it happens with regional or minority languages.

The status of less widely used official language is applied to Swedish in the case of Finland, and to Nynorsk in the case of Norway<sup>62</sup>. This is also the case of Romansh and Italian in Switzerland<sup>63</sup>, although it is admitted that in certain cantons, French and German can also be seen as less widely used languages<sup>64</sup>. The issue of including official majority languages as less widely used languages to be protected by the Charter in some specific regions must be carefully dealt with. In this respect, the difference between constitutional models a), b) and c), explained in section 2 of this paper, should be taken into consideration. The concept of less widely official language seems to be appropriate for situations involved in models a) and b), but it can be more problematic in countries following model c).

#### b) Cases related to territorial aspects of traditional minority languages

Following with issues related to territorial aspects, a different case can be increasingly observed in the implementation of the Charter. In fact it is taken for granted that some languages are non territorial languages according to the

60. Document ECRML (2004) 2, *Application of the Charter in Denmark*, of 26 May 2004, finding C.

61. Document ECRML (2006) 3, *Application of the Charter in Cyprus*, of 27 September 2006, p. 41.

62. Document ECRML (2001) 6, *Application of the Charter in Norway*, of 22 November 2001, p. 14.

63. Document ECRML (2001) 7, *Application of the Charter in Switzerland*, of 23 November 2001, p. 11.

64. Document ECRML (2001) 7, *Application of the Charter in Switzerland*, of 23 November 2001, p. 12.

Charter, being the Roma family languages the mostly often candidates to this consideration. However, the settlement of many Roma communities across Europe is notorious and more permanent in temporary terms than it was considered in a first stage. The progressive settlement of Roma communities, Jewish groups or even travellers and their languages in given territories puts in question the consideration of these languages as non-territorial in respect to the development of the Charter in the future.

c) Cases related to the condition of non official de facto majority languages

One of the most complicated issues of the application of the Charter in particular domestic situations is that of the condition of non official languages which happen to be de facto majority languages. This situation was probably not foreseen by the drafters of the Charter in 1992, but it appears in several countries, notably former members of the extinct Soviet Union. In fact, Russian language is widely spoken in these countries, whereas it has the condition of official language only in the cases of Russia, Belarus and in the autonomous regions of Crimea, Transdnistria and Gagauzia. In many cases Russian is considered the language of inter-cultural communication between groups using different languages<sup>65</sup>. The issue becomes problematic in some specific situations. The two former Soviet countries that have ratified the Charter, Ukraine and Armenia, have included Russian as one of the minority languages to be protected by the Charter. In the case of Moldova, one of the big issues looking to ratification of the Charter is that of the status of Russian language. The Charter does not recognise more categories between official and regional or minority languages. In Moldova, Russian is de facto a majority language, apart from the language for inter-ethnic communication, but it is not official language of the state. On the other hand, the national official language is not known by a significant sector of the population, who is Russian speaker<sup>66</sup>. Whereas in Armenia the size of linguistic minorities is significantly lower, in Moldova the amount of citizens not able to use the official language can be as high as one third of the total. This creates a delicate situation, since the Charter obliges to protect all those languages which are not state official, like Russian in Moldova (or other republics). The protection by the Charter of an official minority language is possible through the concept of less widely used

---

65. Document ECRML (2006) 2, *Application of the Charter in Armenia*, of 14 June 2006, p. 13. Act on Languages of Moldova, quoted.

66. See, for instance, the chapter on Moldova at the website of the Université de Laval (Québec), at [www.tlfq.ulaval.ca/axl/europe/moldavie.htm](http://www.tlfq.ulaval.ca/axl/europe/moldavie.htm), p. 2.2.

official language for some territories. The problem is the condition of Russian language because on the one hand, its recognition as a minority language along with other minor languages can be regarded by some Russian or Ukrainian speakers as offensive and, on the other hand, it obliges to protect actively a language whose status is de facto better than that of the national language. Obviously, the Charter was created to protect and develop the traditional linguistic heritage of the European continent, and not as a tool of political confrontation between diverging national projects.

In any case, further clarification about the position of majority non official languages is required, as well as how to protect weak languages even in the case that they are legally recognised as official.

#### d) Cases related to the traditional or new condition of the languages

The last relevant issue in respect of the categorization of languages according to the Charter refers to its traditional character. As it is known, the Charter wishes to protect and promote regional or minority languages traditionally used in Europe and it explicitly excludes languages of immigrants from its scope of application.

The question about the “traditionality” of particular languages in concrete circumstances may arise in several countries. Thus, for example, the Committee of Experts has encouraged the Slovenian authorities to reconsider their position on Croatian language on this point and to clarify the issue of the traditional presence of Serbian and Bosnian<sup>67</sup>, and German<sup>68</sup>. Another case under debate is that of the Roma language in Denmark. According to the Committee, the question whether Roma is traditional or not in this country depends on the language spoken for a small Roma community present in Denmark at the end of the 1960s<sup>69</sup>.

The problem in this point is that no clear or objective criteria can be easily admitted. Many processes of immigration will contribute to reinforce the presence of a particular language in a given country and migration flows do not

67. Document ECRML (2004) 3, *Application of the Charter in Slovenia*, of 9 June 2004, pp. 35-40; Document ECRML (2007) 4, *Application of the Charter in Slovenia. Second monitoring cycle*, of 20 June 2007, p. 24-25.

68. Document ECRML (2004) 3, *Application of the Charter in Slovenia*, of 9 June 2004, finding B.

69. Document ECRML (2007) 6, *Application of the Charter in Denmark. Second monitoring cycle*, of 26 September 2007, p. 29.

occur in a particular moment. They cover normally a wide range of years and it is difficult to determine if a particular language was already present or not in a given territory and when. The exclusion of languages of immigrants from the Charter's scope of application has justified a kind of a fixed picture of the linguistic situation of each country, but this landscape is to evolve in the near future. In the case of Liechtenstein, it has been admitted that there is no regional or minority language in the sense of the Charter<sup>70</sup>, without consideration to the languages spoken by foreigners or non-citizens. However, in other cases, immigration and a traditional language are directly related, like in the case of Russian language in Finland, where the Committee has decided to consider this language without the distinction of whether its users are new or old<sup>71</sup>.

This means that in the case of newcomers adding new speakers to a minority traditional group, they can benefit from the protection of the Charter to that language. Even more, their presence will reinforce the position of that language to be protected under the Charter. Cases like this could occur with Italian speakers migrating to Switzerland, Russian speakers in Finland, Armenia or Ukraine, Serbian speakers in Slovenia or Arabic speaking immigrants in the Spanish enclaves of Ceuta and Melilla. Being this the case, it could seem unfair to exclude from the protection of the Charter the languages of other groups whose presence in the territory of the state is getting longer. It is clear that today's migratory processes are affecting the traditional linguistic dynamics of many societies, and the idea of European linguistic heritage must also be adapted to this evolution, mainly if these immigrants become citizens of their respective host states.

In any case, the continuous (and growing) presence of former immigrant languages, which have become in part languages of national citizens, will push us to read again the traditional exclusion of what the Charter calls languages of immigrants. The increasing linguistic diversity also makes necessary to reflect on new models of regulating the use of languages in the public domain, and to challenge some traditional concepts such as the ones included in the first article of the Charter.

---

70. Document ECRML (2005) 2, *Application of the Charter in Liechtenstein, Third monitoring cycle*, of 29 June 2005, p. 10.

71. Document ECRML (2001) 3, *Application of the Charter in Finland*, of 20 September 2001, p. 14.

#### 4. Conclusion

The implementation of international legal definitions as such those provided by the Charter to the diverging situations of the 23 member states generates a number of issues and questions to be considered. In the empirical analysis of all the public reports elaborated so far by the Charter's Committee of Experts, we have identified a number of particular problems that can be grouped in two main blocks. On the one hand, a significant part of the discussions held on what the languages covered by the Charter are deals with identity issues. Questions related to the name of some languages, the relative closeness of different linguistic varieties or the significant presence of a particular community can be summed up around the identification of languages. Here, legal definitions must correspond to linguistic or political diverging opinions, different socio-linguistic data and identity feelings. We may hold that in this domain legal debates about the application of the Charter's categories to languages just reflect a pre-legal conflictive situation.

On the other hand, a second group of problems identified in this analysis has to do with the correspondence between the Charter's definitions and the domestic legal categories. In particular, questions about the condition of non-official de facto majority languages under the Charter and the consideration or not of recent minorities' languages as languages of immigrants show a significant importance from a legal perspective. In fact, considering the future development of the Charter in relation to the analysis carried out in this paper, we may state that almost all these issues remain relatively unsolved. This certainly makes necessary further research on the need to clearly relate domestic and international legal standards. The monitoring process of the Charter has proved a useful tool to draw a comprehensive systematisation of these concerns that may facilitate the future work of the Committee of Experts and stimulate the effectiveness of the Charter's protection.

#### 5. Bibliography

- AGIRREAZKUENAGA, I. (2003). *Diversidad y convivencia lingüística*, Diputación Foral de Gipuzkoa, Donostia-San Sebastián.
- ARZOB SANTISTEBAN, X. (2007). «El principio constitucional de igualdad de las nacionalidades en Austria-Hungría», *Revista Española de Derecho Constitucional*, núm. 81, pp. 347-381.
- DUNBAR, R. (2007). «European Traditional Linguistic Diversity and

- Human Rights: A Critical Assessment of International Instruments», in RUIZ VIEYTEZ, E. J. and DUNBAR, R. (eds.), *Human Rights and Diversity: New Challenges for Plural Societies*, Humanitarian Net, Bilbao, pp. 85-110.
- HOGAN-BRUN, G. and WOLFF, S. (eds.) (2003). *Minority Languages in Europe. Frameworks, Status, Prospects*, Palgrave Macmillan, New York.
- KONTRA, M. (1999). «Some Reflections on the Nature of Language and its Regulation», in PACKER, J. (ed.): *Special Issue on the Linguistic Rights of National Minorities, International Journal on Minority and Group Rights*, vol. 6, n° 3, pp. 281-288.
- MAY, S. (2003). «Misconceiving Minority Language Rights: Implications for Liberal Political Theory», in KYMLICKA, W. and PATTEN, A. (eds.), *Language Rights and Political Theory*, Oxford University Press, Oxford.
- NIC CRAITH, M. (2003). «Facilitating or Generating Linguistic Diversity: The European Charter for Regional or Minority Languages», in HOGAN-BRUN, G. and WOLFF, S. (eds.), *Minority Languages in Europe. Frameworks, Status, Prospects*, Palgrave Macmillan, New York.
- PATTEN, A. (2003). «What Kind of Bilingualism?», in KYMLICKA, W. and PATTEN, A. (eds.). *Language Rights and Political Theory*, Oxford University Press, Oxford.
- PÉREZ FERNÁNDEZ, J. M. (coord.) (2006). *Estudios sobre el estatuto jurídico de las lenguas de España*, Atelier, Barcelona.
- RUIZ VIEYTEZ, E. J. (2005). «Immigration Policies and Linguistic Diversity», in SETIEN M. L. and VICENTE T. L. (eds.), *Cross-disciplinary views on migration diversity*, University of Deusto, Bilbao, pp. 179-141.
- (2006). *Minorías, inmigración y democracia en Europa. Una lectura multicultural de los derechos humanos*, Tirant lo Blanch, Valencia.
- URRUTIA LIBARONA, I. (2006). «Derecho, lengua y derechos lingüísticos: el reto de su regulación e implementación», *Revista Vasca de Administración Pública*, núm. 76, pp. 257-270.
- VERNET, J. (coord.) (2003). *Dret Lingüístic*, Cossetània edicions, Valls.
- WELLER, M. (ed.) (2005). *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities*, Oxford University Press, Oxford.
- WOEHRLING, J. M. (2005). *The European Charter for Regional or Minority Languages*, Council of Europe, Strasbourg.



## Resum

# Constitucions, llengües, definicions i la Carta Europea de les Llengües Regionals o Minoritàries

Eduardo J. Ruiz Vieytez

La Carta Europea de les Llengües Regionals o Minoritàries ha estat ratificada ja per vint-i-tres estats europeus. La Carta estableix, als primers articles, certs conceptes i definicions que s'han d'aplicar en sistemes legals interns ben diferents. Això fa que definicions adoptades legalment o constitucionalment a cada estat membre i les que dona la Carta no sempre corresponguin a les mateixes realitats. A més, a l'hora d'afrontar la situació de les llengües regionals o minoritàries en diferents països europeus,

sorgeixen algunes qüestions políticament rellevants. En conseqüència, cal promoure la reflexió a l'entorn del significat de les definicions legals de la Carta i la seva aplicabilitat a algunes situacions problemàtiques. Aquest estudi pretén oferir una tipologia dels problemes d'adaptació de la Carta a situacions internes, mitjançant una anàlisi comparativa i la feina feta pel Comitè d'Experts en els deu primers anys d'implantació.

Paraules clau: llengües oficials; llengües minoritàries; Carta Europea; Consell d'Europa; dialectes.

## Resumen

### **Constituciones, lenguas, definiciones y la Carta Europea de las Lenguas Regionales o Minoritarias**

Eduardo J. Ruiz Vieitez

La Carta Europea de las Lenguas Regionales o Minoritarias ha sido ratificada ya por veintitrés estados europeos. La Carta establece, en los primeros artículos, ciertos conceptos y definiciones que se tienen que aplicar en sistemas legales internos muy diferentes. Esto provoca que definiciones adoptadas legalmente o constitucionalmente en cada estado miembro y las que proporciona la Carta no siempre correspondan a las mismas realidades. Además, en el momento de afrontar la situación de las lenguas regionales o minoritarias en dife-

rentes países europeos, surgen algunas cuestiones políticamente relevantes. En consecuencia, hay que promover la reflexión en torno al significado de las definiciones legales de la Carta y su aplicabilidad a algunas situaciones problemáticas. Este estudio pretende ofrecer una tipología de los problemas de adaptación de la Carta a situaciones internas, mediante un análisis comparativo y el trabajo realizado por el Comité de Expertos en los diez primeros años de implantación.

Palabras clave: lenguas oficiales; lenguas minoritarias; Carta Europea; Consejo de Europa; dialectos.

## Résumé

### **Les constitutions, les langues, les définitions et la Charte européenne des langues régionales ou minoritaires**

Eduardo J. Ruiz Vieytes

La Charte européenne des langues régionales ou minoritaires a déjà été ratifiée par vingt-trois États européens. La charte établit, dans ses premiers articles, certains concepts et certaines définitions qui doivent être appliqués dans des systèmes légaux internes bien différents entre eux. Cela fait que des définitions adoptées légalement ou constitutionnellement dans chacun des États membres et celles que donne la charte ne correspondent pas toujours aux mêmes réalités. En outre, au moment d'affronter la situation des langues régionales

ou minoritaires dans les différents pays européens, surgissent des questions politiquement pertinentes. En conséquence, il est nécessaire de promouvoir la réflexion autour du sens des définitions légales de la charte et de leur applicabilité dans certaines situations problématiques. Cette étude prétend offrir une typologie des problèmes résultant de l'adaptation de la charte à des situations internes au moyen d'une analyse comparative et du travail effectué par le Comité d'Experts au cours des dix premières années de sa mise en œuvre.

Mots-clés : langues officielles ; langues minoritaires ; Charte européenne ; Conseil de l'Europe ; dialectes.