Policy-to-Outcome Indicators and the European Charter for Regional or Minority Languages

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Introduction

Indicators to measure the performance of international human rights treaties are increasingly a requirement in the assessment of the impact of legal standards. In the case of national minority standards, the Council of Europe's Secretariat of the Framework Convention for the Protection of National Minorities (FCNM)[1] began its work on indicators in 2008. A study to theorize and conceptualize political indicators describing the performance of the FCNM was produced in the areas of legal and political adaptation of provisions in the states parties to the instrument.[2] The study concluded that further efforts should be made to encompass performance indicators assessing the *direct impact* of the FCNM on the lives of persons belonging to national minorities. Meanwhile, there has been no parallel process by the Council of Europe to compile indicators of impact for its other legally binding instrument that is of special relevance to national minorities: the European Charter for Regional or Minority Languages (the Charter).[3] This paper provides a preliminary conceptual framework for the development of indicators to measure the impact of the Charter in the states parties to the instrument, using a policy-to-outcome approach.

Other studies have been conducted in related areas, particularly focusing on the impact of language policies.[4] Grin and Moring engaged

in the conceptualization of a framework for the analysis of effectiveness and cost-effectiveness of language policies.[5] In this study, Grin and Moring used a policy-to-outcome approach, with an emphasis on the actual *results* of policies.[6] Other studies have primarily been based on legal/institutional approaches, language policies/sociolinguistic approaches, and educational and language didactics.[7] A comprehensive checklist of indicators in relation to the Charter provisions on the media was developed by Moring and Dunbar, although it did not extend to the measurement of the Charter's direct impact on languages and speakers.[8] This working paper draws upon previous work, particularly that of Grin and Moring, to develop a framework for indicators aiming at highlighting to what extent the Charter's legal provisions are translated into practical implementation. This approach is in line with the spirit of the Charter itself as an action-based, result-based instrument, structured around specific undertakings that states select and commit to fulfil. Dunbar writes:

> Unlike other treaties which focus narrowly on the articulation and implementation of rights, the [Charter], by its very nature, requires […] us to focus not merely on the fulfilment of legal obligations, but on whether both those obligations and their fulfilment contribute to the ultimate purpose of the

charter – the preservation and promotion of regional or minority languages. The ECRML is result-based, and this is what makes it so distinctive […].[9]

Following a short introduction on the Charter's main features, the paper comprises three main sections. First, it outlines the aims and conceptual framework of indicators, as well as analysing notions related to 'impact' of the Charter. Second, it illustrates the methodology and methods for impact evaluation. Third, it elaborates on a number of specificities of the Charter, examining how these are likely to affect the drafting of indicators of impact.

The Charter's Niche

November 2012 will mark twenty years since the Charter was opened for signature, while 2011 was the 30-year anniversary of Recommendation 928 of the Parliamentary Assembly of the Council of Europe,[10] calling upon states to support minority language use in public life and thereby initiating the Charter's drafting process. Since opening for signature, the Charter was ratified by 25 states;[11] given that the Council of Europe counts 47 member states, and the FCNM has been ratified by 39 states,[12] the number of states parties to the Charter is relatively low. Despite its limited outreach, the Charter occupies a special niche among the legal instruments of relevance to national minorities. The adoption of the Charter marked a departure from the traditional approach to minority issues, centring around the recognition of national minorities and the guarantee of their rights through protection from discrimination and affirmative action. The uniqueness of the Charter lies in the promotion of *languages* rather than (minority) rights, through a series of proactive measures implemented by states. Grin writes:

> The Charter is not about rights. It is not about standards. It is not about national minorities […]. The Charter is about *languages* [...] and about the measures

required for safeguarding their existence in the long run.[13] [italics in original]

The Charter approaches languages as 'cultural wealth',[14] and aims at protecting cultural and linguistic diversity *per se*. Diversity as a value is reflected in the Charter's preamble:

> [T]he protection of the historical regional or minority languages of Europe, some of which are in danger of eventual extinction, contributes to the maintenance and development of Europe's cultural wealth and traditions.

The preamble further refers to 'the value of interculturalism and multilingualism'.[15] The Charter, then, has a normative approach to linguistic diversity in the sense that it treats such diversity as positive. Similarly, there is a general social consensus that diversity is 'a good thing'.[16]

The Charter defines 'regional or minority languages' (hereafter RML) in Article 1(a), as languages that are:

> traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's population; and

> different from the official language(s) of that State.[17]

The same article specifies that 'dialects of the official language(s) of the State' and languages of migrants are not included in the scope of the definition – not being traditionally used in the state: thus, speakers of RML should have a historical base in the territory of a state party to the Charter. An additional distinction is made between territorial and non-territorial languages. Territorial languages are those spoken in particular regions where speakers are concentrated, as the Charter's undertakings tend to require a defined geographical area for their application. Non-territorial languages are traditionally used within the territory of the

state, but cannot be identified with a particular area (Article 1(c)).[18]

Another specificity of the Charter lies in the modality of fulfilment of the international commitments it generates. The Charter is divided into five parts, of which Part II and Part III are of relevance to indicators. Part II (Article 7) provides general protection to all RML in the territory of the ratifying state within the meaning of Article 1(a); instead, Part III (Articles 8 to 14) requires specific commitments to be made: states need to choose 35 undertakings out of 68 options, and to select specific RML to which such undertakings will apply. Part II, which is applied in full, complements part III for those languages that are selected to be covered under Part III, and simultaneously provides a regime of protection for those languages that do not enjoy the special Part III protection. Part III, then, is applied flexibly and selectively. This flexibility aims at enabling states to develop tailor-made policies that adjust to the specificities of different languages: as the Explanatory Report of the Charter notes, each language is a 'special case'. Thus, the approach of the Charter is 'to preserve the single notion of regional or minority language, while enabling states to adapt their undertakings to the situation of each regional or minority language.'[19]

This means that, in relation to Part III, the Charter is more flexible than the FCNM, which instead applies in toto in the state parties. At the same time, the Charter requires the states parties to make concrete commitments on practical measures that are to be adopted, with a stricter reporting period (three rather than the five years foreseen by the FCNM). The Charter's provisions go much further than the FCNM with regard to the use of minority languages in the public sphere.[20] Most of the undertakings are concrete, although this does not mean that the Charter is devoid of ambiguities, as illustrated below.

The three-year cycles of monitoring and reporting have, to some extent, crystallised several of the principles contained in the

Charter. Monitoring is undertaken by the Committee of Experts, established under Article 17 of the Charter, following the submission of reports by states, pursuant to Article 15(1). On the basis of monitoring reports by the Committee of Experts, recommendations are formulated and issued by the Council of Europe's Committee of Ministers. Given the Charter's specificities, indicators to measure its impact have to be tailored to take into account its unique characteristics. Before analysing the challenges inherent in this process, some clarifications are needed on the notion of indicators itself.

I. INDICATORS: AIMS AND CONCEPTUAL ISSUES

Indicators enable the accumulation of knowledge on policies and their outcomes, which allows their assessment and potential review. In the case of international human rights treaties, indicators aim at evaluating whether the desired protection of beneficiaries is obtained. An 'indicator' has been defined by the Organisation for Economic Cooperation and Development as:

> [A] parameter […], or a value derived from parameters, which points to, provides information about, describes the state of a phenomenon/environment/area, with significance extending beyond that directly associated with a parameter value.[21]

Indicators, then, project discreet findings to a much wider context. They identify desired outcomes, through indices that reveal achievements; they can also identify a lack of progress or negative impact. The collection of quantitative data is often preceded by qualitative analysis: thus, by asking specific qualitative questions concerning language use one may determine the quantitative data needed for its assessment.[22] Policy indicators, aiming at measuring public policy, are of particular relevance to the assessment of the effectiveness

of language policy. Grin's definition of language policy is used here:

> [A] systematic, rational, theory-based effort at the societal level to modify the linguistic environment with a view to increasing aggregate welfare. It is typically conducted by official bodies or their surrogates and aimed at part or all of the population living under their jurisdiction.[23]

Policy indicators are part of a larger group of indicators known as governance indicators, as they are commonly narrowed down to measure specific areas of governance such as electoral systems, corruption, human rights and gender equality.[24]

Indicators are an attempt to gather information despite conditions of uncertainty due to the lack of comprehensive data and the ever-changing nature of the phenomena under analysis. One of the main areas of analysis is the so-called 'implementation gap'.[25] This notion is attributed by Hogwood and Gunn to Dunsire,[26] who refers to a 'gap' when a government develops a particular policy to address a problem, but the output differs from that which was originally envisaged.[27] To provide the required data for analysis, performance indicators should have specific characteristics: they should be relevant, reliable, accessible, and clear.[28]

Aims of Indicators

The indicators on the Charter conceptualised in this paper have the objective of assessing the extent to which efforts towards Charter implementation have led to tangible impact – on languages themselves, and on speakers of a RML. The potential benefits of performance indicators are manifold. First, they generate analysable data for the monitoring and evaluation of policies. They address a specific challenge in the Committee of Experts' monitoring activities, which are often impeded by anecdotal self-reporting by states; indeed, states sometimes refrain from providing factual

and analysable data that is reliable and disaggregated according to language and ethnicity. An excessive amount of information provided by states in their reports is of a qualitative nature, which short 'on-the-spot' visits to the state by the Committee of Experts are often unable to substantiate. It is not infrequent for the Committee of Experts to indicate in its reports that it could not assess specific circumstances surrounding RML due to the paucity of data at its disposal - including with regard to information that had been specifically requested in previous communications with the states parties.[29] While some states might intentionally withdraw specific data, countries with low GDP are certainly affected by a meagreness of resources for data collection, and/or lack the know-how to optimise its effectiveness. A set of targeted indicators can then serve as a tool for the states parties to the Charter - as well as for the Committee of Experts and minority groups - to harness their resources for effective data collection, ultimately facilitating the measurement of the Charter's impact on beneficiaries. Thus, indicators may enhance minority governance and participation in policy-making.

Second, indicators can assist in the process of pinning down the responsibilities of ratifying states. At times states seem insufficiently aware of their responsibilities arising from the Charter's ratification. Some appear to operate on the assumption that the Charter primarily generates negative, rather than positive, responsibilities; alternatively, legislation might be adopted by a state, but be of a vague nature and/or not be followed by effective implementing measures. Although the Charter outlines clear options for concrete action, it also contains ambiguities;[30] these, and the fact that some minority groups may perceive few practical benefits resulting from the Charter's ratification, might be the reason behind minorities' dwindling interest in 'high politics' in relation to the Charter.[31] The translation of anecdotal information into measurable data can highlight the areas in which

country leaders might be failing their electorate; these can result in protest, and demands of positive change. Then, impact assessment can serve to enhance the accountability of the authorities in the implementation of Charter. It addresses the 'implementation gap' referred to above, through what Grin and Moring define 'good housekeeping'.[32]

The assessment of the authorities' actions is of paramount importance since the promotion of RML, inasmuch as it requires the alteration of the linguistic environment, necessitates a proactive attitude by the state. Given that financial and human resources are finite, language policies require strategic choices to be made, whose outcomes are clear and measurable. Language policies have to be developed by the central authorities,[33] and coordinated with the regional and/or local administrations. When state responsibilities are nebulous, implementation can be delegated (without sufficient guidance and coordination) to the regional administration, whose staff might not have received the necessary information or training to implement the Charter at the local level. Targeted data collection and targeted monitoring requires a definition of goals and predicted outcomes. It can serve the dual purpose of: a) making a state's language policies more focused - by clarifying objectives and targets prior to the adoption of a policy, and sources of information needed to measure impact; and b) facilitating the monitoring of the Committee of Experts - by identifying specific priorities for data collection during on-the-spot visits. This process can further improve benchmarking, including by making available information on examples of good practice from particular states, that may be replicated, after being adapted, to other states.

Third, information emerging from evaluations form the basis of public, democratic debate on Charter implementation.[34] It can further place an emphasis on the need for diversity management, including linguistic diversity, in the domains covered by the Charter, such as education and culture. This can facilitate a shift from the residual perception of minority issues being primarily linked to conflict management, whereas, in the majority of cases in Europe, states and their minorities have overcome the threat of secession and armed conflict, while still being affected by tensions that can only be solved through diversity management[35] - a diversity that continues to increase with the rapid pace of transnational migrations.

More specifically, the objectives of indicators for the Charter are to:

- Enhance the revitalisation of languages;

- Ensure that the full catalogue of domains of language use is covered;

- Ensure broad impact both within states and across Europe.

The objectives of monitoring policy-making on minority governance are to:

- Improve institutional infrastructure and capacities;

- Improve data collection;

- Ensure that programmes set adequate targets;

- Improve benchmarking;

- Ensure review and restructuring of existing programmes.

The link between policy-making and ongoing monitoring is of paramount importance in the formulation of targeted policies that are effective as well as accommodating the needs of linguistic groups. Data arising from indicators can lead to the review and potential alteration (and refining) of policies. Although cost-effectiveness is an important aspect of public debate, particularly when a government has but meagre resources to implement language policies, the envisaged study primarily focuses on *effectiveness* of Charter implementation itself. Effectiveness

represents the extent to which the Charter has a positive *impact* on RML.

Impact of the Charter

Impact refers here to progression towards enhanced protection and promotion of RML as a result of Charter ratification. The approach is normative inasmuch as progression towards Charter implementation and the protection of RML is considered 'positive'. Such a progression normally involves measures adopted by the state following ratification to fulfil its legal obligations under the Charter; it can further consist in direct responses to recommendations by the Committee of Experts, when gaps in implementation are identified. Indeed, Charter ratification initiates a three-way dialogue between the Council of Europe, the ratifying state's government and linguistic minorities, which start a fluid process of exchange aiming at enhancing favourable conditions for RML. The post-ratification period requires the formulation of a policy for the protection of RML; impact, then, signifies that this policy is effective (successful) in the progression towards the achievement of the desired outcome. Impact is measured against the objectives and principles of the Charter as listed in its Article 7. The essence of these objectives is captured, in particular, by Article 7(c):

> [T]he facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life.

If indicators measure to what extent policies for Charter implementation are 'successful', a related question is how one defines 'success'. For example, if new courses in RML are made available in schools but there is no desire to attend them on the part of pupils and their parents, can the intervention be regarded as successful? One ought to also keep in mind that some policies might have a delayed effect. While language courses may be set up swiftly, the (re)shaping of an interest in RML might require sustained campaigning efforts over a

number of years, to reverse a possible erosion of the prestige of a language that may have occurred over decades or even centuries. Thus, indicators should take into account steps that can pave the way for a possible (long-term) progression towards impact. For example, in the area of participation, the establishment of institutions facilitating communication between the authorities and linguistic minorities, such as advisory bodies, might not produce immediate change but initiate a dialogue that leads to impact in the long-term (clearly, these steps might also not yield positive results, in both the short- and long-term, if conditions are not created for these institutions to operate effectively).

Thus, Grin and Moring argue that the improvement of a linguistic environment involves the fulfilment of three conditions:

1. the capacity to use a language (linked to knowledge of the language and education);

2. opportunities to use it (linked to public services creating such opportunities, and the encouragement of the private sector to do the same);

3. a desire to use it (often contingent upon efforts to raise the prestige of a language).[36]

The three conditions are interdependent and ideally should be mutually reinforcing. In assessing the effectiveness of measures aiming at creating these conditions one should be aware of opposing (contradictory) moves by a state – such as measures that facilitate linguistic assimilation and offset possible efforts to promote RML. In some cases the protection and promotion of a language might entail robust measures for language revitalisation – particularly given the predominant 'standardising influence' of modern society.[37] Language revitalisation involves moving up (Joshua Fishman's) Graded Intergenerational Disruption Scale (DIDS), from stage 8

(moribund language) to stage 1, where the language is fully functioning and being transmitted to future generations.[38] Stage 4 marks the recognition of a language and its use in the state education system. Part III of the Charter, insofar as it contains provisions on education, starts with stage 4, and progression consists in moves towards stage 1.

The measurement of the Charter's impact is certainly not straightforward. A seemingly small advancement in language use might break an impasse, initiating a process of language revitalisation. Instead, the official recognition of a language by a state might seem a breakthrough for a language not previously recognised, but not be followed by additional practical outcomes in terms of its usage in the public sphere. A related issue concerns the speed and modality of 'progression' towards implementation. In some cases a state might opt for the 'mirror approach' at the time of ratification – meaning that no new measures for RLM promotion are introduced to add to those available pre-ratification. This can be considered sufficient in the case of stronger RLM, as at the time of ratification policies are likely to be already in place to promote their use. The same mirror approach can be chosen in the case of weaker languages, for example where there are underdeveloped facilities for their teaching and use in the public sphere, with a view to enhancing them at later stages.[39] The maintenance of the *status quo* could still *lead* to impact, as the crystallisation of the language protection framework through the Charter sets into motion a mechanism by which international monitoring assesses whether commitments are indeed fulfilled. It might, then, incentivise states to complement legislation, which might have been until then neglected, with practical implementation measures.[40] In other cases, a periodic, sustained progression towards enhanced promotion might be followed by a phase in which a state reaches a plateau. While it is difficult to determine when language promotion is 'enough', a state should continue to monitor its linguistic environment, particularly in light of new challenges, and remain in

permanent dialogue with stakeholders. Hence, the significance and scope of 'impact' can itself alter.

A complicating factor in defining and assessing impact is that the Charter provisions do not tend to be built around 'impact' *per se*. For example, Article 8 includes provisions for states to 'make available' education in RML, without providing indication as to the outcomes to be achieved. Article 7 lists 'objectives and principles'; it does require, in some cases, actions to be undertaken (such as the establishment of anti-discrimination measures - Article 7(4) - and consultation with members of linguistic minorities - Article 7(4)). Article 7(1) stipulates that states should develop policies, legislation and practice taking into account the principles enumerated in the article. Among these principles are, for example, 'the facilitation and/or encouragement of the use of regional or minority languages' (paragraph 1(d)) on 'the promotion of study and research on regional or minority languages at universities or equivalent institutions' (paragraph 1(h)). This type of provision is not conducive to measurement, as the text contains no clarification as to what 'facilitation' or 'promotion' entail. The more practical provisions on discrimination and consultation, similarly, do not necessarily command that corresponding measures have a practical impact. For several Charter provisions, the adoption of relevant legislation can be considered by the Committee of Experts as sufficient to satisfy a state's responsibility under the Charter. In contrast, Dunbar argues that the Committee of Experts should concern itself not so much with the purely legal commitments emanating from the Charter, but with *impact*:

> A state may, for example, be fulfilling its *legal* obligations under the charter, and yet the demographic and the sociolinguistic position of its regional or minority languages may continue to deteriorate. […] Instead of assessing merely whether commitments are being fulfilled, the Committee of Experts

might assess whether they are effectively contributing to the vitality of the regional or minority languages in question. [...] There is a danger than a sharper focus on narrowly "legal" issues might result in a loss of focus on the wider sociolinguistic picture […].[41]

When the ultimate results to be achieved through the Charter are unclear, the assessment of the measures towards Charter implementation can be similarly ambiguous.

Finally, one should be aware of complexities in the assessment of impact on the basis of indicators. Indicators force one to rely on what can be perceived as a reductionist model, which does not sufficiently appreciate the multitude of factors involved in producing a particular outcome. Few factors develop independently; rather, they are linked to numerous other developments and variables. In the attempt to compile systematic, comparative indicators, one can force complex socio-political and socio-linguistic phenomena into a rigid framework of analysis. The very assumption that a policy may be measured can be disputed.[42] Additionally, rigid formulas might lead to some states focusing on formal, superficial benchmarks, rather than developing policies aiming at the genuine enhancement of RML use.

II. METHODOLOGY: IMPACT EVALUATION

The indicators for the Charter will use *impact evaluation*, with the identification of effects that the states' undertakings have on languages themselves, via their speakers and institutions promoting them. Impact evaluation compares the situation from the time of ratification (or later stages) to the present conditions of RLM use (*ex-post* evaluation). The process of assessment involves the identification of a particular problem (e.g. decline of RML), and the state goals to remedy it, through a series of interventions whose outcomes are measureable where possible.[43] Clearly, indicators can also reveal retrogressive steps. As noted, the effects

of certain policies might be felt only in the long-term. Thus, assessing impact is a long-term process, where one should also anticipate likely future impact: *ex-post* evaluation should be combined with considerations *ex ante* (what is likely to happen).[44]

Two levels of impact evaluation are taken into account. The first concerns the impact of the Charter inasmuch as it affects: *policy* (including new legislation and case-law) and *performance* towards Charter implementation (parliamentary politics, media, etc.); these are measured through policy and performance indicators respectively.[45] The second is a more in-depth assessment of the impact of policy and performance on language use itself (policy-to-outcome).

Impact evaluation involves policy analysis. In the case of the Charter, analysis centres around language policy – a series of interventions aiming at improving the 'linguistic environment' and enhancing the 'welfare' of speakers through the revitalisation of their language.[46] Political processes lead to relevant policy measures, which themselves lead to *outcomes*.[47] Hence, the second level of impact evaluation, referred to above, is necessary to reveal the actual outcomes of policies. What is of relevance, for example, is not the number of translations of laws produced, but whether these translations are *used*. Similarly, it is relatively simple to analyse legal provisions and compare quantifiable data (such as the number of schools teaching RLM, or through the medium of RML). What is much more complex is to assess the impact of these measures on languages and their speakers. The indicators required for in-depth (policy-to-outcome) analysis can be referred to as 'non-self-evident indicators'.[48] The use of these indicators necessitates the forging of a link between the measure ('upstream') and the outcome ('downstream'). The policy-to-outcome approach also involves intermediary steps: the formulation of a policy leads to a particular measure (input), which leads to an output, and itself (may or may not produce) an outcome. Actors' (stakeholders') behaviour is responsible

for the transition between output and outcome. One must identify goals of a particular policy (what we want to measure) and units of measurement (how we are going to measure it). The model developed by Grin and Moring measures effectiveness on the basis on a unit of measurement corresponding to an increase of the amount of time of usage of a language, as a result of a particular measure.[49]

In analysing the trajectory from policy to outcome, one has to be wary of making assumptions on a presumed causal link between an input and an outcome. An outcome might be generated by factors other than the input in question. One has to separate, as much as possible, the increase or decrease of language use as a variable from other variables – factors external to Charter implementation that may impact on language use. Thus, one should ask whether without a particular policy, and resulting measure, the outcome would have been different. There may be a myriad of independent variables affecting an outcome, which may also have taken place without the policy.[50] As scientifically demonstrating a causal link between an input and an outcome (and fully isolating variables) presents often insurmountable logistic difficulties, Grin and Moring suggests resorting to the principle of *plausibility*:

> Plausibility ... requires us to explain clearly we are accepting that a certain measure has exerted a certain influence on a certain outcome. In practice, we must ask ourselves (i) if other changes in explanatory variables (apart from those possibly brought on precisely by the measure being investigated) have taken place more or less in parallel, and if so, how such changes are likely to have affected the outcome; (ii) if some trend may also have been present, to which part of the outcome should be credited. It is therefore incumbent upon the researcher to establish the plausibility the cause-and-effect relationship that he or she postulates

through a convincing reasoning.[51]

The indicators and their indices will incorporate the considerations enumerated above, and be:

- Multi-dimensional and compounded;

- Multi-domain and inter-disciplinary;

- Quantifiable and qualitative; and

- Cross-country applicable.

The indicators will be developed on an article-by-article basis. They will be divided into the main spheres of language use identified in the Charter: a. Education (Article 8 of the Charter); b. Judicial authorities (Article 9); c. Administrative authorities and public services (Article 10); d. Media (Article 11); e. Cultural activities (Article 12); f. Economic and social life (Article 13); g. Transfrontier exchanges (Article 14). These spheres of language use can, in turn, be grouped in 4 macro categories:

> 1. education (Article 8);
>
> 2. media and culture (Articles 11, 12 and 14);
>
> 3. state services (including judicial and administrative authorities) (Articles 8 and 9);
>
> 4. socio-economic life (Article 13).

Thus, indicators will not only be formulated for the legal and political spheres, but also for the socio-economic and cultural spheres – thereby providing a multi-faceted approach to the assessment of Charter implementation.

The indicators will be developed by a group of experts. By including experts from different disciplines, and with expertise on the Charter, elements that denote impact of the Charter or lack thereof will be identified. The indicators will be holistic (multidimensional) as they will encompass the different areas of specialisation of different experts, themselves reflecting different sections of the Charter. The

Charter has, in particular, traditionally brought together lawyers and sociolinguists.[52] Other aspects of Charter implementation involve: education (requiring the input of teachers/educators), media (media experts), economic processes (economists) and political processes (political scientists).

The indicators will further identify sources of information that will provide the necessary data for impact evaluation. In addition to the instrument of ratification, states provide data on the conditions of their RLM in the first report submitted to the Committee of Experts following ratification. Successively, state reports give some indication as to whether a particular measure was adopted as a result of the Charter. Measures themselves (inputs) are not indicators of success, but their outcomes are. As noted, indicators can assist states in more clearly determining these outcomes – in planning as well as in evaluating outcomes following interventions.

Methods

Some methods for data collection, such as large before-and-after surveys, are expensive and labour-intensive, and in practice simpler (even through less rigorous) methods can be used in impact evaluation. These can involve interviews with key informants, case studies and secondary data for rapid assessments.[53] Other sources of information can be interviews (with questionnaires) with the different language groups – elaborating on the questionnaires already used by the Committee of Experts during 'on-the-spot' visits. A rapid appraisal method tends to be quick and low-cost, and facilitate a 'qualitative understanding of complex socio-economic changes', as well as providing the context for the interpretation of quantitative data.[54] Appropriate methods include also focus group discussions and mini surveys,[55] as well as the collection of data by proxy. Of particular importance is that quantitative data is combined with a qualitative appraisal, with a focus on outcomes, so as to expose potentially superficial policies that may aim not at promoting RML, but at ticking indicator boxes.

One should note that if indicators are too detailed, they can be impractical; if not sufficiently detailed they can be too vague and not provide adequate data for analysis.[56] In the case of the Charter, if the indicators require the laborious collection of multiple sets of data to populate the indicators there is a danger that states will simply avoid them. Indicators and indices should, then, be as streamlined and simple as possible, and aim at employing resources for data collection in a way that is as targeted as possible. This ought to enable governments and the Committee of Experts alike not to disperse much-needed resources. One may also envisage a hierarchy of indicators - from basic indicators followed by other indicators of increasing sophistication - allowing the consideration of data in growing detail. Lead indicators are normally referred to as 'primary indicators', which are supported by 'secondary indicators'; the latter provide the framework of analysis for additional dimensions of a particular issue examined through primary indicators.[57]

In cases in which there is a genuine lack of hard data, one may consider the use of estimations. As Grin and Moring write: 'estimations need to make the most of a limited range of data, and proceed on the strength of informed assumptions and credible inferences.'[58] As for issue of plausibility described above, data analysts are required to explain and justify their decisions with regard to estimations. It has been suggested, then, that performance indicators are often 'a trade-off between picking the optimal or desired indicators and having to accept the indicators which can be measured using existing data.'[59]

Theory-based evaluation can be a particularly useful tool in penetrating the workings of a policy. The World Bank describes the method in this fashion:

> [Theory-based evaluation] need not assume simple linear cause-and-effect relationships [...] By mapping out the

determining or causal factors judged important for success, and how they might interact, it can then be decided which steps should be monitored as the program develops, to see how well they are in fact borne out. This allows the critical success factors to be identified.[60]

The analysis of these factors highlights whether or not success in achieving set objectives is likely.[61]

III. INDICATORS OF THE CHARTER

The Instrument of Ratification

The set of indicators envisaged in this paper aim at covering both Parts II and III of the Charter. While Part II is applied in full in all states, in the case of Part III it is the instrument of ratification that provides the framework for impact evaluation: it contains the list of commitments made by each state at the time of ratification, which can be tested for impact. The level of discernible impact of the Charter, with regard to Part III, will be conditional upon choices that are made at the time of ratification, when compiling the ratification instrument. Indeed, as noted, exact modalities of Charter implementation are not contained in the treaty, but depend on each state's choices. The instrument of ratification provides an exhaustive list of those RML that will benefit from Part III protection, in domains such as education, media and culture – and specific commitments for RLM, to be applied in specific geographical areas of the state.[62] A state can, thus, choose a minimalist framework of implementation by selecting the most basic undertakings. This level of protection can be objectively sufficient for certain languages, or, in other cases, it can represent an effective under-commitment by the state.[63] The opposite scenario is also not uncommon. Ambitious sets of commitments might be selected for small language groups: these commitments tend to be not only difficult to implement but also to monitor, due to the challenges in gathering data

on the weaker, lesser-used languages. Despite these potential complications, the Charter is flexible so as to accommodate the circumstances of specific languages. One state may, for instance, opt for providing courses in RML at the primary but not secondary school level. In the particular circumstances of a state (or a region with a concentration of speakers of RLM) primary school language tuition might be more effective in revitalising a language than tuition in secondary school, or represent a more viable choice under the circumstances of the case.

The indicators will be unable to analyse these variables, nor should this be their aim: they cannot unearth the specificities of the states' choices with regard to their undertakings, or issues of possible over-commitment or under-commitment in the ratification instrument. Indicators would also not aim at judging whether the impact of the Charter is *enough*, as this would be subjective as well as depend on the situation of each country, RML and attitudes of their speakers. Upon ratification, some states might start the process towards Charter implementation with a situation that is inimical to the promotion of RML - for example in states that do not have a long history of multilingualism but one of homogeneity, whether due to insulation or linguistic assimilation. Others will have the conditions for Charter implementation already in place: in fact, even many states that have *not* ratified the Charter are equipped with legal provisions and practice that promote RML.[64] On the other hand, impact evaluation that reveals a lack of overall improvement in the conditions of RLM following ratification, or a decline in their use, will clearly suggest that different choices of undertakings ought to be considered.

The instrument of ratification, then, and states' choices contained therein, will determine the framework of analysis of indicators. Comparison between the situation pre- and post-ratification can use as starting point the first report produced by a state, which describes the linguistic environment and the situation of the different RML. The different options available

to ratifying states in formulating their ratification instrument, however, have clear implications on the formulation of indicators – particularly with regard to their comparability. The evaluation of the Charter's impact is forcefully highly complex since not only states select different undertakings, but are there also variations in the procedures for implementation in different states parties *for the same undertaking*. Thus, while the overarching objective is the same for all state parties (that of protecting languages as societal wealth), states will set mini-goals, and targets to reach that overall objective following different paths. A set of (varied) outcomes will mark a progression towards the main objective. Moreover, the same ratifying state may select different undertakings for each of its RML. The undertakings might change at later stages, with states increasing the protection given to RML if they so choose, and in consultation with linguistic minorities. Dialogue with the Council of Europe and linguistic minority groups can further result in new languages being added to the list of RLM for Part III protection. Then, the framework for analysis will alter as states modify their undertakings.

Challenges in the Development of Indicators

Four specific, additional challenges in the development of indicators for the Charter are identified here: the distinction between Part II and Part III; issues related to speakers of RML and their participation in decision-making; the substantial flexibility that is required of indicators for the Charter; and a series ambiguities contained in the treaty.

First, different sets of indicators have to be devised to reflect the distinction between Part II (Article 7) and Part III (Articles 8 to 14) – although many domains overlap. As noted, under Part III states have to provide a list of languages qualifying for special protection. There is no obligation to provide such a list for Part II, as its provisions automatically apply to all RML spoken within the territory of a state.[65] A further complexity is generated by the distinction between territorial and non-territorial languages in the scope of application of Article 7.

Second, indicators for the Charter need to measure its impact on users of RML. Indeed, although the focus of the Charter is languages themselves, the speakers of RML are those who possess and transmit the cultural wealth intrinsic in languages.[66] The interest in 'users', or 'speakers', of RML extends to the Charter provisions on the participation of language users in policy-development, with a requirement of consultation contained in the Charter.[67] The importance of dialogue is reinforced through Article 16(3), stating that reports of the Committee of Experts must be made public, thereby stressing the importance of transparency, given its link to public debate.[68] Indicators ought to measure the levels of constructive engagement – one that involves inclusive democratic processes, avoiding segregation between the government and the linguistic groups. It can be, however, unclear who exactly the members of a linguistic group (the 'users' of RML), and their representatives, are.[69] Additionally, indicators for impact need to encompass *potential* speakers, as language policy aims at increasing the number of speakers - either by reversing language assimilation among minority groups, or by encouraging individuals who do not belong to a linguistic minority to nevertheless embrace one or more RLM.[70] This is one of the objectives of plurilingualism and interculturalism.[71]

A third challenge in the development of indicators is that they need to provide a framework for the analysis of a broad range of languages, spoken in large or small territories, with high or low status and/or levels of development. The Explanatory Report reads:

> The authors of the charter were confronted by the problem of the major differences which exist in the situations of regional or minority languages in Europe. Some languages cover a

relatively large territorial area, are spoken by a substantial population and enjoy a certain capability of development and cultural stability; others are spoken only by a very small proportion of the population, in a restricted territory, or in a very marked minority context and already with greatly impaired potential for survival and development.[72]

The indicators should, then, provide a general framework within which the variegated conditions of languages and their speakers, in different environments, can be accommodated. Thus far the Committee of Experts has refrained from developing indicators, given that their assessment has had to take into account the specificities and circumstances of each language: major differences exist between stronger and weaker RML.[73] The Committee of Experts' assessment of the implementation of states' undertakings has been carried out through the examination of states' reports, data from civil society and minority groups themselves, and on-the-spot visits and questionnaires. Differences in the circumstances of languages and legal frameworks clearly mean that guaranteeing the comparability of indicators will be fraught with difficulties.

The general circumstances surrounding the Charter itself also vary. The global environment has already altered in the relatively short time since the drafting of the Charter: the advance of globalisation - facilitating language standardisation - and, politically, the fall of communism are but two of the main changes.[74] Other changes such as the spread of Internet usage might effectively cause the Charter to age.[75] This commands even greater flexibility on the part of indicators.

A forth challenge in the development of indicators is found in a series of ambiguities present in the Charter. They complicate the setting of short-term goals in the protection of languages and, consequently, their assessment. The Charter contains requirements to take up specific undertakings 'as far as this is reasonably possible' (Article 10(1), 10(3), 13(2)), and 'according to the situation of each language' (Articles 7(1), 8(1), 9(1), 10(1), 10(3) 11(1)). The Explanatory Report indicates that the latter refers primarily to the choice of undertakings;[76] however, it can also impact upon the way a commitment is implemented, since, as noted, the circumstances of every language are different.[77] Another example is the lack of clarity as to the meaning of the expression 'to the extent that radio and television carry out a public service mission', in Article 11(1)(a), (b) and (c).[78] Overall, the Charter, as for other treaties, is the result of negotiations between Council of Europe member states, which cannot always find perfect agreements in legal formulations. Then treaty provisions are at times left with a degree of vagueness.[79]

The Committee of Experts can provide some clarification in relation to these ambiguities, but neither it, nor the Committee of Ministers, can supply an ultimate interpretation of the Charter provisions.[80] The absence of a court that can consider cases of failure to implement Charter provisions means that the Committee of Experts can provide guidance, through recommendations, but there are no options for the crystallisation of its legal principles through jurisprudence.[81]

CONCLUSION: DETERMINING IMPACT

In line with the policy-to-outcome model, indicators and their indices need to focus on *results*. The main question to be answered is to what extent language use is enhanced as a result of Charter ratification. Indicators should reflect the main domains of the Charter, while also intersecting the main conditions for language revitalisation: the capacity to use a language, opportunities to do so, and a desire to use it. Indicators need to apply to each RML – either only under Article 7 for those languages that benefit exclusively from Part II protection, or under both Parts II and III.

This paper has highlighted some of the challenges in developing this type of indicators. These relate primarily to: the changing circumstances in which languages develop (along with possible shifts in the framework of analysis, with the evolution of commitments under the instrument of ratification); the issue of causality (in the identification of causal chains between a policy and an particular outcome); the different framework of analysis between Part II and Part III; the broad range of RML, with varied conditions and levels of development, to be covered by indicators; and the flexible, at times ambiguous, nature of the Charter. These factors raise issues with regard to the comparability of indicators. At the same time, the elaboration of policy-to-outcome indicators can produce considerable benefits in the assessment of Charter implementation, and of the level of success of policies aiming at facilitating RML use. Among them are: the identification of targeted measures to reduce the implementation gap between policies and outcomes; the clarification of state responsibilities and possible shortcomings; and the targeted use of resources for effective data collection, itself enabling the optimisation of impact assessment. Policy-to-outcome indicators reflect the objective of the Charter as an action-based, result-based instrument.

Footnotes

[1] Framework Convention for the Protection of National Minorities, ETS No. 157, adopted 1 February 1995, entered in force 1 February 1998.

[2] Malloy, T. H., Medda-Windischer, R., Lantschner, E., & Marko, J. *Indicators for Assessing the Impact of the FCNM in its State Parties*. Study commissioned by the Council of Europe Secretariat of the FCNM and presented at the Conference Enhancing the Impact of the Framework Convention, Council of Europe, October 2008. http://www.coe.int/t/dghl/monitoring/minorities/6_resources/PDF_IAConf_Report_Bolzano_en_12nov08.pdf.

[3] European Charter for Regional or Minority Languages, ETS No. 148, adopted 5 November 1992, entered into force 1 March 1998.

[4] Language policy is defined below, Section 1 ("Indicators: Aims and Conceptual Issues"). See also Section 2 ("Methodology: Impact Evaluation"). For an overview of the international discourse on indicators, and the progression towards cultural indicators, see Malloy, T.H. "Minority Indicators: A New Era for the Framework Convention for the Protection of National Minorities", *European Yearbook of Minority Issues*, Vol. 7, 2007/8, 57-91, at 59-66. On indicators for cultural diversity, see for example John Foote, *Indicators for Monitoring Cultural Diversity, Social Cohesion and Inter-Cultural Dialogue within the Compendium of Cultural Policies and Trends in Europe* (ERICarts, 2005).

[5] Grin, F. & Moring, T. *Support for Minority Languages in Europe* (ECMI/European Bureau for Lesser Used Languages, 2002), 74. http://ec.europa.eu/languages/documents/eu-policy-to-protect-and-promote-regional-and-minority-languages-support-report_en.pdf.

[6] On cost-effectiveness, see also Grin, F. & Vaillancourt, F. *The Cost-effectiveness Evaluation of Minority Language Policies: Case-Studies on Wales, Ireland and the Basque Country*, ECMI Monograph No.2 (Flensburg: ECMI, 1999). http://www.ecmi.de/uploads/tx_lfpubdb/monograph_2.pdf. Also see the project "DYLAN - Language Dynamics and Management of Diversity" (www.dylan-project.org), analyzing: language practices; representations of multilingualism and linguistic diversity; language policies implemented by the authorities and language strategies of private sector companies; and the linguistic environment in which these actors operate.

[7] For an overview, see Grin & Moring, *op. cit.* note 5, 75.

[8] Moring, T & Dunbar, R. *The European Charter for Regional or Minority Languages and the Media* (Strasbourg: Council of Europe Publishing, 2008). See also Moring, T. & Dunbar, R. "Article 11. Media", in Nogueira López, A., Ruiz Vieytez, E., & Urrutia Libarona, I. (eds.), *Shaping Language Rights. Commentary on the European Charter for Regional or Minority Languages* (Strasbourg: Council of Europe Publishing, 2012).

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[9] Dunbar, R. "Definitively Interpreting the European Charter for Regional or Minority Languages: The Legal Challenges", in Dunbar, R. & Parry, G. (eds.), *The European Charter for Legal or Minority Languages: Legal Challenges and Opportunities* (Strasbourg: Council of Europe Publishing, 2008), 61.

[10] PACE, Recommendation 928 (1981) "On the Educational and Cultural Problems of Minority Languages and Dialects in Europe". http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta81/EREC928.htm.

[11] It was signed, but not ratified, by a further eight states.

[12] It was signed, but not ratified, by a further four states.

[13] Grin, F. *Language Policy Evaluation and the European Charter for Regional or Minority Languages* (Basingstoke: Palgrave McMillan, 2003), 10.

[14] See also Nogueira López *et al*, *op. cit*. note 8, 17.

[15] The Explanatory Report European Charter for Regional or Minority Languages (hereinafter 'the Explanatory Report') further refers to *unity* between the Council of Europe members, to be achieved through the promotion of its 'common heritage and ideas' – an aspect of which is linguistic diversity. It adds that: 'The cultural identity of Europe cannot be constructed on the basis of linguistic standardisation.' (para. 26).

[16] Grin, F. "Diversity as Paradigm, Analytical Device, and Policy Goal", in Kymlicka, W. & Patter, A. (eds.), *Language Rights and Political Theory* (Oxford: Oxford University Press, 2003).

[17] Article 3(1) also refers to 'each official language which is less widely used on the whole or part of its territory'. This applies, for example, in the case of Swedish in Finland - one of country's two official languages, but less widely spoken than Finnish.

[18] Examples are Yiddish and Romani. Explanatory Report, para. 36.

[19] Ibid, para. 20.

[20] It also goes further than the Oslo Recommendations Regarding the Linguistic Rights of National Minorities, (February 1998), and the relevant jurisprudence of the European Court of European Rights. On the latter, see Medda-Windischer, R. "The European Convention on Human Rights and Language Rights: Is the Glass Half Empty or Half Full?", *European Yearbook of Minority Issues*, Vol. 8, 2008/9, at 95-121.

[21] *OECD Environmental Indicators: Towards Sustainable Development* (Paris: OECD, 2001), 133. http://www.oecd.org/dataoecd/37/1/33703867.pdf.

[22] Malloy, *op. cit.* note 4, 58-9. In all cases, quantitative and qualitative assessments should be complementary. See also below, Section 2 ("Methods").

[23] Grin, F. "The Economics of Language: Survey, Assessment, and Prospects", *International Journal of the Sociology of Language*, Vol. 121, 17-44, 31. The definition was adapted by Grin from Cooper, R. *Language Planning and Social Change* (Cambridge: Cambridge University Press, 1989). On language policies, see also de Cillia, R. & and Busch, B. "Language policies: Policies on Language in Europe", in Brown, K. (ed.), *Encyclopedia of Language and Linguistics* (Oxford: Elsevier, 2006); Schmidt, R. "Political Theory and Language Policy", in Ricento, T. (ed.) *An Introduction to Language Policy. Theory and Method* (Oxford: Blackwell Publishing Ltd, 2006); Schiffman, H.F. *Linguistic Culture and Language Policy* (London: Routledge, 1996); Norrby, C. & Hajek, J. (eds.) *Uniformity and Diversity in Language Policy. Global Perspectives* (Bristol: Multilingual Matters, 2011).

[24] See further *Governance Indicators: A Users' Guide* (UNDP, 2004). http://www.undp.org/governance/docs/policy-guide-IndicatorsUserGuide.pdf.

[25] Hogwood, B. & Gunn, L. *Policy Analysis for the Real World* (Oxford: Oxford Univeristy Press, 1984).

[26] Ibid, 197.

[27] Dunsire, A. *The Execution Process Volume I: Implementation in a Bureaucracy* (Oxford: Martin Robertson, 1978), 18.

[28] Malloy, *op. cit.* note 4, 59 (fn. 3).

[29] Among some examples from recent reports see: "Application of the Charter in Armenia", 2nd Monitoring Cycle, ECRML 2009(6), 23 September 2009, para. 38; "Application of the Charter in Cyprus", 3rd Monitoring Cycle, ECRML 2012(2), 14 March 2012, para. 58- 60; "Application of the Charter in Denmark", 3rd Monitoring Cycle, ECRML 2011(1), para. 37; "Application of the Charter in Poland", 1st Monitoring Cycle, ECRML 2011(5), 7 December 2011, para. 121; "Application of the Charter in Romania", 1st Monitoring Cycle, ECRML 2012(2), 19 June 2012, para. 116.

[30] See below, Section 3 ("The Charter's Specificities as Challenges in the Development of Indicators").

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[31] Proceedings of the Conference "The Minority Governance Impasse: Overcoming the Macro-Micro Divide", ECMI Advisory Council Conference 2012, 7 May 2012, Berlin (on file with author).

[32] Grin & Moring, *op. cit.* note 5, 74.

[33] See for example Council of Europe, *From Linguistic Diversity to Plurilingual Education. Guide for the Development of Language Education Policies in Europe* (Strasbourg: Council of Europe Publishing, 2007).

[34] Grin & Moring, *op. cit.* note 5, 74.

[35] Conference Proceedings, *op. cit.* note 31.

[36] Grin & Moring, *op. cit.* note 5, 80

[37] Especially in the mass media. See Explanatory Report, para 2.

[38] Fishman, J. *Reversing Language Shift: Theoretical and Empirical Foundations of Assistance to Threatened Languages* (Clevedon, Philadelphia: Multilingual Matters, 1991).

[39] This can lead states to base their commitments primarily on the principle of proportionality (by which stronger languages have greater protection). This, however, is not in the spirit of the Charter if it results in the marginalisation of weaker languages. Woehrling, J.M., *The European Charter for Regional or Minority Languages* (Strasbourg: Council of Europe Publishing, 2005), 97.

[40] Similarly, recommendations by the Committee of Experts and Committee of Experts might ultimately lead to impact, as they might be employed for campaigning purposes by civil society. As such, they constitute potential for impact.

[41] Dunbar, *op. cit* note 9, 38.

[42] Rose, N. "Governing by Numbers: Figuring out Democracy", *Accounting, Organization and Society*, Vol.16, 1991, 673-692.

[43] Malloy. T.H. and Gazzola, M. *The Aspect of Culture in the Social Inclusion of Ethnic Minorities*, ECMI Report No. 60 (Flensburg: ECMI, 2006), 49. http://www.ecmi.de/uploads/tx_lfpubdb/Report_60_OMC_Evaluation.pdf.

[44] Grin & Moring, *op. cit.* note 5, 74.

[45] Malloy *et al*, *op. cit.* note 2.

[46] Grin & Moring, *op. cit.* note 5, 76-7.

[47] Ibid, 77.

[48] Ibid, 88.

[49] Ibid, 84-5; 88.

[50] Ibid, 87.

[51] Ibid, 89.

[52] Dunbar, *op. cit.* note 9.

[53] World Bank, *Monitoring and Evaluation: Some Tools, Methods & Approaches* (Washington: The World Bank, 2004), 22-3.

[54] Ibid, 14.

[55] Ibid,15.

[56] Ibid, 6.

[57] Malloy & Gazzola, *op. cit.* note 43, 38.

[58] Grin & Moring, *op. cit.* note 5, 96.

[59] World Bank, *op. cit.* note 53, 6

[60] Ibid, 10.

[61] Ibid.

[62] A state makes a choice of undertakings that reflect the ongoing situation and is realistic, as well as in line with the 'spirit of the Charter'.

[63] When the conditions exist for the state to make more far-reaching commitments, language groups and the Committee of Experts will solicit an upgrade of undertakings. New languages can also be included in the list of RML benefitting from Part III. The opposite is, however, not true: if a state over-commits, by selecting a set of undertakings whose implementation is non-sustainable, it cannot undo its commitments.

[64] *Ready for Ratification. Early compliance of Non-States Parties with the European Charter for Regional or Minority Languages* (Flensburg: ECMI, 2011).

[65] Within the meaning of Article 1(a). However, in the reports as part of the monitoring process, states list the measures they have undertaken under Article 7, thereby having to spell out what the relevant languages are. Woehrling, *op. cit.* note 39, 71.

[66] Ibid, 20-21.

[67] Article 7(4) states that: 'In determining their policy with regard to regional or minority languages, Parties shall take into consideration the needs and wishes expressed by the groups which use such languages.' See also Article 11(3) on the representation of the interests of users of RML in relation to media pluralism. The requirement of consultation is extended to speakers of non-territorial languages (Article 7(5)).

[68] On the importance of transparency, see also Dunbar, *op. cit.* note 9, 59.

[69] See Explanatory Report, para. 113, on 'possible difficulties involved in determining who were the representatives of the users of these languages'.

[70] For example, Article 7(1) stipulates that 'the Parties shall base their policies, legislation and practice' on, inter alia, 'the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire' (para. g); and 'the facilitation and/or encouragement of the use of regional or minority languages …' (para. d).

[71] Plurilingualism does not only imply the majority learning the rudiments of minority languages, but also the appreciation and respect. See Council of Europe, *op cit.* note 33. Interculturalism implies the interaction between different cultures and groups, and their cross-fertilisation, rather than their segregation. Language policies should carefully avoid the possible creation of "linguistic ghettoes" (Explanatory Report), para. 80.

[72] Explanatory Report, para. 19

[73] The protection of small languages under Part II can only be provided to the extent possible. Woehrling, *op. cit.* note 39, 132.

[74] Dunbar, *op. cit.* note 9, 40.

[75] Moring & Dunbar, *op. cit.* note 8; Dunbar, *op. cit.*, note 9.

[76] Explanatory Report, paras. 22, 46, 79, 81.On the former restriction, see the Explanatory Report, para. 104.

[77] Woehrling, *op. cit.* note 39, 97. The Explanatory Report refers to 'the very great variety of language situations that may be encountered in the various European countries and within each country' (para. 39).

[78] The Explanatory Report simply refers to a 'public service mission' as one that 'involves the provision of a broad range of programmes including the consideration of minority tastes and interests' (para. 110). On this and other ambiguities see Dunbar, *op. cit* note 9.

[79] Dunbar, ibid.

[80] Dunbar, ibid, 53-55. De Varennes further notes that there have been some ambiguities and inconsistencies in the work of the Committee of Experts. De Varennes, F. "Language Protection and the European Charter for Regional or Minority Languages: Quo Vadis?", in R. Dunbar & G. Parry (eds.), *The European Charter for Legal or Minority Languages: Legal Challenges and Opportunities* (Strasbourg: Council of Europe Publishing, 2008).

[81] The absence of a court further leads to a lack of 'justiciability' of the rights of linguistic minorities. See Martín Estébanez, M.A. "Council of Europe Policies Concerning the Protection of Linguistic Minorities and the Justiciability of Minority Rights", in Ghanea, N. & Xanthaki, A. (eds.), *Minorities, Peoples and Self-Determination* (Leiden: Martinus Nijhoff Publishers, 2005), 279.