



# European Charter for Regional or Minority Languages (ETS no. 148)

Français

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## *Explanatory Report*

### INTRODUCTION

1. Many European countries have on their territory regionally based autochthonous groups speaking a language other than that of the majority of the population. This is a consequence of historical processes whereby the formation of states has not taken place on purely language-related lines and small communities have been engulfed by larger ones.
2. The demographic situation of such regional or minority languages varies greatly, from a few thousand speakers to several million, and so does the law and practice of the individual states with respect to them. However, what many have in common is a greater or lesser degree of precariousness. Moreover, whatever may have been the case in the past, nowadays the threats facing these regional or minority languages are often due at least as much to the inevitably standardising influence of modern civilisation and especially of the mass media as to an unfriendly environment or a government policy of assimilation.
3. For many years various bodies within the Council of Europe have been expressing concern over the situation of regional or minority languages. It is true that the Convention for the Protection of Human Rights and Fundamental Freedoms in its Article 14 lays down the principle of non-discrimination, in particular outlawing, at least with respect to the enjoyment of the rights and freedoms guaranteed by the Convention, any discrimination based on such grounds as language or association with a national minority. Important though this is, however, it creates only a right for individuals not to be subjected to discrimination, but not a system of positive protection for minority languages and the communities using them, as was pointed out by the Consultative Assembly as long ago as 1957 in its Resolution 136. In 1961, in Recommendation 285, the Parliamentary Assembly called for a protection measure to supplement the European Convention to be devised in order to

safeguard the rights of minorities to enjoy their own culture, to use their own language, to establish their own schools and so on.

4. Lastly, in 1981 the Parliamentary Assembly of the Council of Europe adopted Recommendation 928 on the educational and cultural problems of minority languages and dialects in Europe, and in the same year the European Parliament passed a resolution on the same questions. Both documents concluded that it was necessary to draw up a charter of regional or minority languages and cultures.

5. Acting on these recommendations and resolutions, the Standing Conference of Local and Regional Authorities of Europe (CLRAE) decided to undertake the preparation of a European charter for regional or minority languages, by reason of the part which local and regional authorities must be expected to play in relation to languages and cultures at local and regional level.

6. The preliminary work before the actual drafting of the charter involved a survey of the actual situation of regional and minority languages in Europe and, in 1984, a public hearing attended by some 250 people representing over 40 languages. The initial drafting was carried out with the assistance of a group of experts. In view of the strong and continuing interest of the Parliamentary Assembly of the Council of Europe and the European Parliament in this topic, the former participated in the drafting and contacts were maintained with competent members of the latter.

7. Finally, in its Resolution 192 (1988), the Standing Conference proposed the text of a charter which was designed to have the status of a convention.

8. Following this initiative, which was supported by the Parliamentary Assembly in its Opinion No. 142 (1988), the Committee of Ministers established an ad hoc committee of experts on regional or minority languages in Europe (CAHLR), with responsibility for drafting a charter bearing the Standing Conference's text in mind. This intergovernmental committee began work at the end of 1989. In view of their important role as promoters of the project, both the CLRAE and the Parliamentary Assembly were represented at its meetings. Before submitting the final text of the draft charter to the Committee of Ministers in 1992, the CAHLR consulted and took into account the opinions of a number of specialised committees within the Council of Europe (culture, education, human rights, legal co-operation, crime problems, local and regional authorities, media), as well as the European Commission for Democracy through Law.

9. The charter was adopted as a convention by the Committee of Ministers at the 478th meeting of the Ministers' Deputies on 25 June 1992 and opened for signature on 5 November 1992 in Strasbourg.

## **GENERAL CONSIDERATIONS**

### **Objectives of the charter**

10. As is made clear in the preamble, the charter's overriding purpose is cultural. It is designed to protect and promote regional or minority languages as a threatened aspect of Europe's cultural heritage. For this reason it not only contains a non-discrimination clause concerning the use of these languages but also provides for measures offering active support for them: the aim is to ensure, as far as reasonably possible, the use of regional or minority languages in education and the media and to permit their use in judicial and administrative settings, economic and social life and cultural activities. Only in this way can such languages be compensated, where necessary, for unfavourable conditions in the past and preserved and developed as a living facet of Europe's cultural identity.

11. The charter sets out to protect and promote regional or minority languages, not linguistic minorities. For this reason emphasis is placed on the cultural dimension and the use of a regional or minority language in all the aspects of the life of its speakers. The charter does not establish any individual or collective rights for the speakers of regional or minority languages. Nevertheless, the obligations of the parties with regard to the status of these languages and the domestic legislation which will have to be introduced in compliance with the charter will have an obvious effect on the situation of the communities concerned and their individual members.

12. The CLRAE conceived and presented its draft charter before the dramatic changes in central and eastern Europe and in the light of the needs of the countries which at that time were already members of the Council of Europe. Nevertheless, the relevance of the charter and its approach to the situation of the countries of central and eastern Europe has since been confirmed by the considerable interest expressed by the representatives of a number of these countries in the establishment of European standards on this topic.

13. While the draft charter is not concerned with the problem of nationalities who aspire after independence or alterations to frontiers, it may be expected to help, in a measured and realistic fashion, to assuage the problem of minorities whose language is their distinguishing feature, by enabling them to feel at ease in the state in which history has placed them. Far from reinforcing disintegrating tendencies, the enhancement of the possibility to use regional or minority languages in the various spheres of life can only encourage the groups who speak them to put behind them the resentments of the past which prevented them from accepting their place in the country in which they live and in Europe as a whole.

14. In this context it should be stressed that the charter does not conceive the relationship between official languages and regional or minority languages in terms of competition or antagonism. Rather, it deliberately adopts an intercultural and multilingual approach in which each category of language has its proper place. This approach corresponds fully to the values traditionally upheld by the Council of Europe and its efforts to promote closer relations between peoples, increased European co-operation and a better understanding between different population groups within the state on an intercultural basis.

15. The charter does not deal with the situation of new, often non-European languages which may have appeared in the signatory states as a result of recent migration flows often arising from economic motives. In the case of populations speaking such languages, specific problems of integration arise. The CAHLR took the view that these problems deserved to be addressed separately, if appropriate in a specific legal instrument.

16. Finally, it may be noted that some member states of the Council of Europe already implement policies which go further than some of the requirements of the charter. It is in no way intended that the provisions of the charter should detract from their right to do so.

### **Basic concepts and approach**

#### *Concept of language*

17. The concept of language as used in the charter focuses primarily on the cultural function of language. That is why it is not defined subjectively in such a way as to consecrate an individual right, that is the right to speak "one's own language", it being left to each individual to define that language. Nor is reliance placed on a politico-social or ethnic definition by describing a language as the vehicle of a particular social or ethnic group. Consequently, the charter is able to refrain from defining the concept of linguistic minorities, since its aim is not to stipulate the rights of ethnic and/or cultural minority groups, but to protect and promote regional or minority languages as such.

#### *Terminology used*

18. In preference to other expressions such as "less widespread languages", the CAHLR opted for the term "regional or minority languages". The adjective "regional" denotes languages spoken in a limited part of the territory of a state, within which, moreover, they may be spoken by the majority of the citizens. The term "minority" refers to situations in which either the language is spoken by persons who are not concentrated on a specific part of the territory of a state or it is spoken by a group of persons, which, though concentrated on part of the territory of the state, is numerically smaller than the population in this region which speaks the majority language of the state. Both adjectives therefore refer to factual criteria and not to legal notions and in any case relate to the situation in a given state (for instance, a minority language in one state may be a majority language in another state).

#### *Absence of distinction between different "categories" of regional or minority languages*

19. 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.

20. Nevertheless, it was decided not to attempt to define different categories of languages according to their objective situation. Such an approach would not do justice to the diversity of language situations in Europe. In practice, each regional or minority language constitutes a special case and it is pointless to try and force them into distinct groups. The solution adopted was 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.

#### *Absence of a list of regional or minority languages in Europe*

21. The charter does not specify which European languages correspond to the concept of regional or minority languages as defined in its first article. In fact the preliminary survey of the linguistic situation in Europe carried out by the Standing Conference of Local and Regional Authorities of Europe prompted the authors of the charter to refrain from appending a list of regional or minority languages. However expert its compilers, such a list would certainly be widely disputed on linguistic and other grounds. Moreover, its value would be limited, since at any rate with respect to the specific measures in Part III of the charter it is left largely up to the parties to determine which provisions shall apply to which language. The charter puts forward appropriate solutions for the different situations of individual regional or minority languages but does not prejudge what is the specific situation in concrete cases.

#### *The structure of the charter*

22. On the one hand, the charter establishes a common core of principles, set out in Part II, which apply to all regional or minority languages. On the other hand, Part III of the charter contains a series of specific provisions concerning the place of regional or minority languages in the various sectors of the life of the community: the individual states are free, within certain limits, to determine which of these provisions will apply to each of the languages spoken within their frontiers. In addition, a considerable number of provisions comprise several options of varying degrees of stringency, one of which must be applied "according to the situation of each language".

23. This flexibility takes account of the major differences in the de facto situations of regional or minority languages (number of speakers, degree of fragmentation, etc). It also has regard to the costs entailed by many of the provisions and the varying administrative and financial capacity of the European states. In this respect it is important that the parties are allowed to add to their commitments at a later stage, as their legal situation develops or their financial circumstances allow.

24. Finally, Part IV of the charter contains implementing provisions, including in particular the establishment of a European expert committee to monitor the application of the charter.

## **COMMENTARY ON THE PROVISIONS OF THE CHARTER**

### *Preamble*

25. The preamble sets out the reasons for having the charter drawn up and explains its basic philosophical approach.

26. The aim of the Council of Europe is to achieve a greater unity between its members in order to promote their common heritage and ideals. Linguistic diversity is one of the most precious elements of the European cultural heritage. The cultural identity of Europe cannot be constructed on the basis of linguistic standardisation. On the contrary, the protection and strengthening of its traditional regional and minority languages represents a contribution to the building of Europe, which, according to the ideals of the members of the Council of Europe, can be founded only on pluralist principles.

27. The preamble refers to the United Nations International Covenant on Civil and Political Rights and to the European Convention on Human Rights. In addition, it cites the commitments of a political nature adopted within the framework of the Conference on Security and Co-operation in Europe. Having regard to the present weakness of some of the historical regional or minority languages of Europe, however, the mere prohibition of discrimination against their users is not a sufficient safeguard. Special support which reflects the interests and wishes of the users of these languages is essential to their preservation and development.

28. The approach of the charter respects the principles of national sovereignty and territorial integrity. Each state is required to take into account a cultural and social reality and there is no question of challenging any political or institutional order. On the contrary, it is because the member states accept territorial and state structures as they are, that they believe it is necessary, within each state, but in a concerted manner, to take measures to promote languages of a regional or minority nature.

29. The affirmation of the principles of interculturalism and multi-lingualism serves to remove any misapprehension as to the aims of the charter, which by no means seeks to foster any kind of partitioning off of linguistic groups. On the contrary, it is recognised that in every state it is necessary to know the official language (or one of the official languages); consequently, none of the charter's provisions should be interpreted as intending to raising obstacles to the knowledge of official languages.

## **Part I - General provisions**

### *Article 1 - Definitions*

Definition of "regional or minority languages" (Article 1, paragraph a)

30. The definition employed in the charter emphasises three aspects:

*Languages traditionally used by nationals of the State:*

31. The purpose of the charter is not to resolve the problems arising out of recent immigration phenomena, resulting in the existence of groups speaking a foreign language in the country of immigration or sometimes in the country of origin in case of return. In particular, the charter is not concerned with the phenomenon of non-European groups who have immigrated recently into Europe and acquired the nationality of a European state. The expressions "historical regional or minority languages of Europe" (see second paragraph of the preamble) and languages "traditionally used" in the state (Article 1, paragraph a) show clearly that the charter covers only historical languages, that is to say languages which have been spoken over a long period in the state in question.

*Different languages:*

32. These languages must clearly differ from the other language or languages spoken by the remainder of the population of the state. The charter does not concern local variants or different dialects of one and the same language. However, it does not pronounce on the often disputed question of the point at which different forms of expression constitute separate languages. This question depends not only on strictly linguistic considerations, but also on psycho-sociological and political phenomena which may produce a different answer in each case. Accordingly, it will be left to the authorities concerned within each state, in accordance with its own democratic processes, to determine at what point a form of expression constitutes a separate language.

*Territorial base:*

33. The languages covered by the charter are primarily territorial languages, that is to say languages which are traditionally used in a particular geographical area. That is why the charter seeks to define the "territory in which the regional or minority language is used". It is not only the territory within which that language is dominant or spoken by the majority, since many languages have become minority languages even in the areas where they have their traditional territorial base. The reason why the charter is mainly concerned with languages which have a territorial base is that most of the measures which it advocates necessitate the definition of a geographical field of application other than the state as a whole. Obviously there are situations in which more than one regional or minority language is spoken on a given territory; the charter also covers these situations.

*Definition of the territory of a regional or minority language (Article 1, paragraph b)*

34. The territory referred to is that where a regional or minority language is spoken to a significant extent, even if only by a minority, and which corresponds to its historical base. Since the terms used in the charter in this respect are inevitably fairly flexible, it is up to each state to define more precisely, in the spirit of the charter, the notion of regional or minority languages' territory, taking into account the provisions of Article 7, paragraph 1.b, regarding protection of the territory of regional or minority languages.

35. A key expression in this provision is "number of people justifying the adoption of the various protective and promotional measures". The authors of the charter avoided establishing a fixed percentage of speakers of a regional or minority language at or above which the measures laid down in the charter should apply. They preferred to leave it up to the state to assess, within the spirit of the charter, according to the nature of each of the measures provided for, the appropriate number of speakers of the language required for the adoption of the measure in question.

*Definition of "non-territorial languages" (Article 1, paragraph c)*

36. "Non-territorial languages" are excluded from the category of regional or minority languages because they lack a territorial base. In other respects, however, they correspond to the definition contained in Article 1, paragraph a, being languages traditionally used on the territory of the state by citizens of the state. Examples of non-territorial languages are Yiddish and Romany.

37. In the absence of a territorial base, only a limited part of the charter can be applied to these languages. In particular, most of the provisions of Part III aim to protect or promote regional or minority languages in relation to the territory in which they are used. Part II can more easily be applied to non-territorial languages, but only *mutatis mutandis* and on the terms set out in Article 7, paragraph 5.

*Article 2 - Undertakings*

38. Article 2 distinguishes between the two main parts of the charter, namely Part II and Part III.

*Implementation of Part II (Article 2, paragraph 1).*

39. Part II is general in scope and applies in its entirety to all regional or minority languages spoken on the territory of a State Party. It will be noted, however, that the use of the expression "according to the situation of each language" shows that this part is drafted so as to cater for the very great variety of language situations that may be encountered in the various European countries and within each country. In particular, in the first paragraph the States Parties are required to undertake to match their policy, legislation and practice to a number of principles and objectives. These are fairly generally defined and allow the states concerned a broad measure of discretion as regards interpretation and application (see explanations below concerning Part II).

40. Although the States Parties are not free to grant or to refuse a regional or minority language the status which it is guaranteed under Part II of the charter, they are responsible, as authorities for the application of the charter, for deciding whether the form of expression used in a particular area of their territory or by a particular group of their nationals constitutes a regional or minority language within the meaning of the charter.

*Implementation of Part III (Article 2, paragraph 2)*

41. The purpose of Part III is to translate the general principles asserted in Part II into precise rules. It is binding on those contracting states which, in addition to the provisions of Part II, undertake to apply the provisions of Part III which they have chosen. In order to enable the charter to be adapted to the variety of linguistic situations encountered in the various European states, the authors of the charter have provided for a twofold modulation: firstly, the states are free to name the languages to which they agree to Part III of the charter being applied and, secondly, for each of the languages for which they accept that the charter shall apply, they can determine the provisions of Part III to which they subscribe.

42. It is possible for a contracting state, without offending the letter of the charter, to recognise that a particular regional or minority language exists on its territory but consider it preferable, for reasons which lie within its discretion, not to extend to that language the benefit of the provisions of Part III of the charter. Clearly, however, the reasons which prompt a state to exclude a recognised regional or minority language completely from the benefit of Part III must be reasons compatible with the spirit, objectives and principles of the charter.

43. Once a State has agreed to apply Part III to a regional or minority language spoken on its territory, it will still have to determine which paragraphs of Part III are to be applied to that particular regional or minority language. Under paragraph 2 of Article 2, the parties undertake to apply at least 35 paragraphs or sub-paragraphs chosen from among the provisions of Part III. The role of the state in the choice between these different paragraphs will consist in matching the charter as closely as possible to the particular context of each regional or minority language.

44. For this purpose the conditions stipulated by Article 2, paragraph 2 are kept to a minimum designed to provide for a reasonable distribution of the parties' undertakings among the different articles of the charter and thus ensure that they do not ignore any of the major fields of protection of regional or minority languages (education, judicial authorities, administrative authorities and public services, media, cultural activities and facilities, economic and social life).

45. The expression "paragraphs or sub-paragraphs" refers to distinct provisions of the charter which stand on their own. Thus, if a state chooses paragraph 3 of Article 9, this paragraph will count as one unit for the purposes of Article 2, paragraph 2; the same applies if a state accepts sub-paragraph g

of Article 8, paragraph 1. Where a given paragraph or sub-paragraph contains several options, the choice of one option will constitute a sub-paragraph for the purposes of Article 2, paragraph 2. For example, in Article 8, if a state chooses option a.iii in paragraph 1, this text will count as a "sub-paragraph". The position is different when the options are not necessarily alternatives but may be accepted cumulatively. Thus in Article 9, if a state chooses options a.iii and a. iv in paragraph 1, these texts will count as two sub-paragraphs within the meaning of Article 2.

46. The aim of these options is to introduce a further element of flexibility into the charter so as to take account of the wide disparities in the de facto situation of regional or minority languages. It is clear that certain provisions which are perfectly well adapted to a regional language practised by a large number of speakers are not suited to a minority language used only by a small group of persons. The role of the states will be, not to choose arbitrarily between these alternatives, but to seek for each regional or minority language the wording which best fits the characteristics and state of development of that language. The purpose of these alternative wordings is clearly expressed in the very text of the relevant articles or paragraphs of Part III, which provide that they are applicable "according to the situation of each language". Broadly speaking, and in the absence of other relevant factors, this would imply, for instance, that the larger the number of speakers of a regional or minority language and the more homogeneous the regional population, the "stronger" the option which should be adopted; a weaker alternative should be adopted only when the stronger option cannot be applied owing to the situation of the language in question.

47. It will therefore be for the states to choose in Part III provisions forming a coherent framework adapted to the specific situation of each language. They may also, if they prefer, adopt a general framework applying to all the languages or to a group of languages.

### *Article 3 - Practical arrangements*

48. Article 3 describes the procedure for the implementation of the principles just outlined in Article 2: each Contracting State specifies in its instrument of ratification, acceptance, approval or accession, firstly, those regional or minority languages to which Part III applies and, secondly, the paragraphs of Part III chosen for application to each language, it being understood that the paragraphs chosen need not be the same for each language.

49. The charter, in its Article 2, does not compel acceptance of both Parts II and III, since a state could confine itself to ratifying the convention without selecting any language for the purposes of the application of Part III. In such a case, only Part II would apply. In general, the spirit of the charter would require that states make use of the possibilities offered by Part III, which constitutes the essence of the protection afforded by the charter.

50. It is also clear that, at any time, a party may accept new obligations, for example by extending to an additional regional or minority language the

benefit of the provisions of Part III of the charter or by subscribing, in respect of a language or all the minority or regional languages spoken on its territory, to paragraphs of the charter not previously accepted.

51. The wording of Article 3 takes account of the position in certain member states whereby a national language which has the status of an official language of the state, either on the whole or on part of its territory, may in other respects be in a comparable situation to regional or minority languages as defined in Article 1, paragraph a, because it is used by a group numerically smaller than the population using the other official language(s). If a state wishes such a less widely used official language to benefit from the measures of protection and promotion provided for by the charter, it is therefore enabled to determine that the charter shall apply to it. Such an extension of the application of the charter to an official language then holds good for all articles of the charter, including Article 4, paragraph 2.

#### *Article 4 - Existing regimes of protection*

52. This article relates to the combination of the charter with domestic legislation or international agreements laying down a legal status for linguistic minorities.

53. Where certain languages or the minorities who practise them already enjoy a status defined in domestic law or under international agreements, the purpose of the charter is clearly not to reduce the rights and guarantees recognised by those provisions. However, the protection afforded by the charter is additional to the rights and guarantees already granted by other instruments. For the application of all these undertakings, where competing provisions exist on the same subject the most favourable provisions should be applied to the minorities or languages concerned. Thus the existence of more restrictive provisions in domestic law or under other international undertakings must not be an obstacle to the application of the charter.

54. Paragraph 1 of this article is concerned with the specific case of the rights guaranteed by the European Convention on Human Rights. It seeks to exclude the possibility that any of the provisions of the charter might be so interpreted as to detract from the protection accorded thereby to the human rights of individuals.

#### *Article 5 - Existing obligations*

55. As is already indicated in the preamble, the protection and promotion of regional or minority languages which is the objective of the charter must take place within the framework of national sovereignty and territorial integrity. This article makes explicit in this respect that the existing obligations of the parties remain unchanged. In particular the fact that, by ratifying the charter, a state has entered into undertakings with respect to a regional or minority language may not be used by another state having a special interest in that language or by the users of the language as a pretext for taking any action prejudicial to the sovereignty and territorial integrity of that state.

## *Article 6 - Information*

56. The motive for the undertaking to provide information which is established by this article lies in the fact that the charter can never become fully effective if the competent authorities and interested organisations and individuals are not aware of the obligations which derive from it.

## **Part II - Objectives and principles**

### *Article 7*

*List of objectives and principles included in the charter (Article 7, paragraph 1)*

57. These provisions concern essentially objectives and principles and not precise implementing rules. These objectives and principles are considered to constitute the necessary framework for the preservation of regional or minority languages. They fall under six main headings.

*Recognition of regional or minority languages (Article 7, paragraph 1.a)*

58. This is a question of recognition of the existence of these languages and of the legitimacy of their use. Such recognition must not be confused with recognition of a language as an official language. Admitting the existence of a language is a pre-condition for taking its specific features and needs into consideration and for action on its behalf.

*Respect for the geographical area of each regional or minority language (Article 7, paragraph 1.b)*

59. Although the charter considers it desirable to ensure a consistency between the territory of a regional or minority language and an appropriate territorial administrative entity, it is clear that this objective cannot be achieved in all cases, since settlement patterns may be too complex and the determination of territorial administrative entities may legitimately depend on other considerations than the use of a language. Accordingly, the charter does not require that the territory of a regional or minority language should in all cases coincide with an administrative unit.

60. On the other hand, it does condemn practices which devise territorial divisions so as to render the use or survival of a language more difficult or to fragment a language community among a number of administrative or territorial units. If administrative units cannot be adapted to the existence of a regional or minority language, they must at least remain neutral and not have a negative effect on the language. In particular, local or regional authorities must be in a position to discharge their responsibilities in relation to these languages.

*Need for positive action for the benefit of regional or minority languages (Article 7, paragraph 1.c and d)*

61. It is clear today that, by reason of the weakness of numerous regional or minority languages, the mere prohibition of discrimination is not sufficient to ensure their survival. They need positive support. This is the idea expressed in paragraph 1.c. In this paragraph it is left up to the states to determine the manner in which they intend acting to promote regional or minority languages in order to preserve them, but the charter emphasises that such action must be resolute.

62. Furthermore, as stated in paragraph 1.d, this effort of promotion must include action in favour of the possibility to use regional or minority languages freely, both orally and in writing, not only in private life and in individual relations, but also in community life, that is to say within the framework of institutions, social activities and economic life. The place which a regional or minority language may occupy in public contexts will obviously depend on its own particular features and will vary from one language to another. The charter does not lay down precise objectives in this respect but is content to call for an effort of promotion.

*Guarantee of the teaching and study of regional or minority languages (Article 7, paragraph 1.f and h)*

63. A crucial factor in the maintenance and preservation of regional or minority languages is the place they are given in the education system. The charter is content in Part II to affirm the principle, leaving it to the states to define implementing measures. However, it requires that regional or minority languages be present "at all appropriate stages" of the education system. The arrangements for the teaching of the regional or minority language will obviously vary according to the level of education concerned. In particular, in some cases, provision will need to be made for teaching "in" the regional or minority language and in others only for teaching "of" the language. Only the teaching of the regional or minority language at levels for which the language would not be appropriate, in view of its own particular characteristics, could be left out of account.

64. While paragraph 1.f is concerned to establish or safeguard teaching in or of the language as an instrument of transmission of the language, paragraph 1.h provides for the promotion of studies and research on regional or minority languages in a university or equivalent setting; for such work is essential to the development of such languages in terms of vocabulary, grammar and syntax. The promotion of such studies is part of the general effort to promote regional or minority languages in order to encourage their intrinsic progress.

Facilities afforded to non-speakers of regional or minority languages to acquire a knowledge of them (Article 7, paragraph 1.g)

65. The speakers of regional or minority languages know that, for their own personal fulfilment, they need to know the official language. However, in accordance with the emphasis placed in the preamble on the value of interculturalism and multilingualism, it is desirable that this spirit of receptiveness to several languages should not be confined to the speakers of

regional or minority languages. In order to facilitate communication and understanding between language groups, the parties are called upon, in territories where a regional or minority language exists, to provide facilities for persons who are not native speakers of that language to learn it if they so desire.

66. It is well known that in some states the objective of the appropriate authorities is that the regional language should be the language normally and generally spoken in the region, and measures are taken to ensure that the language is known even by people for whom it is not their native language. Such a policy is not contrary to the charter, but does not constitute the purpose of paragraph 1.g. This paragraph seeks only to ensure greater mutual permeability between language groups.

*Relations between groups speaking a regional or minority language (Article 7, paragraph 1.e and i)*

67. It is necessary that groups speaking the same regional or minority language have the possibility of engaging in cultural exchanges and in general of developing their relations, in order to contribute together to the preservation and enrichment of their language. To this end, the charter seeks to prevent fragmented patterns of settlement, administrative divisions within a state or the fact that such groups are settled in different states from constituting an obstacle to relations between them.

68. Admittedly, such awareness of a shared identity between speakers of a regional or minority language must not be reflected negatively in exclusiveness or marginalisation in relation to other social groups. The objective of promoting cultural relations with speakers of different regional or minority languages therefore serves the goal both of cultural enrichment and of enhanced understanding between all groups in the state.

69. Paragraph 1.i adds a further dimension: the idea that such relations must also be able to develop across national frontiers if groups speaking the same or similar regional or minority languages are spread over several states. By definition, regional or minority languages are spoken in the state concerned by a relatively small number of speakers: for the purpose of mutual enrichment in the cultural sphere, the latter may need to be able to rely on the cultural resources available, across frontiers, to other groups speaking the same or a similar language. This is particularly important where a regional language in one state corresponds to a major cultural language, or even the national language, of another state and where transfrontier co-operation can enable the regional community to benefit from cultural activity in that more widespread language. It is important that states should recognise the legitimacy of such relations and not consider them suspect in terms of the loyalty which every state expects of its nationals or regard them as a threat to their territorial integrity. A language group will feel all the more integrated in the state of which it is a part if it is recognised as such and if cultural contacts with its neighbouring communities are not hindered.

70. However, the states are left free to work out the most suitable arrangements for bringing such transnational exchanges about, especially bearing in mind the domestic and international constraints which some of them may face. More specific commitments are set out in Article 14 in Part III.

*Elimination of discrimination (Article 7, paragraph 2)*

71. The prohibition of discrimination in respect of the use of regional or minority languages constitutes a minimum guarantee for the speakers of such languages. For this reason, the parties undertake to eliminate measures discouraging the use or jeopardising the maintenance or development of a regional or minority language.

72. However, the purpose of this paragraph is not to establish complete equality of rights between languages. As is indicated by its wording, and in particular by the insertion of the term "unjustified", it is in fact quite compatible with the spirit of the charter that in the pursuit of policies which relate to regional or minority languages certain distinctions could be made between languages. In particular, the measures laid down by each state in favour of the use of a national or official language do not constitute discrimination against regional languages on the sole grounds that these same measures are not taken for their benefit. However, such measures must not constitute an obstacle to the maintenance or development of the regional or minority languages.

73. At the same time, precisely because disparities exist between the situation of official languages and that of regional or minority languages and because those who practise the latter are often at a disadvantage, the charter accepts that positive measures may be necessary with the aim of preserving and promoting such languages. Provided that the measures have such an aim, and that they seek to do no more than promote equality between languages, they are not to be regarded as discriminatory.

*Promotion of mutual respect and understanding between linguistic groups (Article 7, paragraph 3)*

74. Respect for regional or minority languages and the development of a spirit of tolerance towards them are part of a general concern to develop understanding for a situation of language plurality within a state. The development of this spirit of tolerance and receptiveness through the educational system and the media is an important factor in the practical preservation of regional or minority languages. The encouragement of the mass media to pursue such objectives is not considered to constitute illegitimate state influence; indeed respect for human rights, tolerance of minorities and avoidance of incitement to hatred are the kinds of objective which most European states do not hesitate to impose as obligations upon the media. In the same spirit, for speakers of regional or minority languages, this principle constitutes an important factor causing them to be receptive to majority languages and cultures.

*Establishment of bodies to represent the interests of regional or minority languages (Article 7, paragraph 4)*

75. The CAHLR thought it important that in each state mechanisms should exist whereby the public authorities take account of the needs and wishes expressed by the speakers of regional or minority languages themselves. Consequently, it is recommended that for each regional or minority language there should be a promoting body responsible for representing the interests of the language at national level, carrying out practical measures to promote it, and monitoring the implementation of the charter in relation to that particular language. The expression "if necessary" indicates *inter alia* that, where such institutions already exist in one form or another, it is not intended to encourage states to establish new ones which would duplicate them.

*Application of the charter's principles to non-territorial languages (Article 7, paragraph 5)*

76. Although the charter is primarily concerned with languages which are historically identified with a particular geographical area of the state, the CAHLR did not wish to ignore those languages traditionally spoken within the state but which have no precise territorial base.

77. However, it is recognised that, owing to the territorial field of application of a number of principles and objectives laid down in Part II and the practical difficulty of taking measures to implement them without defining their geographical scope, these provisions cannot without certain adjustments be applied to non-territorial languages. Paragraph 5 accordingly specifies that they are to be applied only so far as possible to these languages.

78. Some of the provisions contained in paragraphs 1 to 4 can be applied without difficulty also to non-territorial languages; this is the case regarding the recognition of these languages, the measures to develop a spirit of respect, understanding and tolerance towards them, the prohibition of discrimination and the action to afford them positive support, the possibility for the groups speaking those languages to develop links with each other within the state and abroad, and the promotion of language research and study. On the other hand, it will not be possible to apply to non-territorial languages the provisions concerning administrative divisions and the facilities provided for non-speakers of these languages to acquire some knowledge of them, since such measures are capable of being taken only in a specified territory. Lastly, the objectives of making provision for the teaching and study of these non-territorial languages and the promotion of their use in public life can probably, for practical reasons, be implemented only with certain adjustments.

**Part III - Measures to promote the use of regional or minority languages  
in public life  
in accordance with the undertakings entered into under Article 2,  
paragraph 2**

*Article 8 - Education*

79. The provisions of paragraph 1 of this article relate only to the territory in which each regional or minority language is used. They are also to be applied "according to the situation of each of these languages". As indicated with reference to Article 2, paragraph 2 above, this stipulation is especially relevant to the choice of which option to accept for which language in sub-paragraphs a to f.

80. The phrase "and without prejudice to the teaching of the official language(s) of the state" is intended to avert any possibility of interpreting the provisions of Article 8, paragraph 1 - and in particular the first option in each of sub-paragraphs a to f - as excluding the teaching of the language(s) spoken by the majority. Such a tendency to form linguistic ghettos would be contrary to the principles of interculturalism and multilingualism underlined in the preamble and inimical to the interests of the population groups concerned. In the special circumstances of those countries where the charter applies to less widely used official languages, this phrase should be interpreted as meaning that the provisions of paragraph 1 are without prejudice to the teaching of other official languages.

81. Article 8 deals with several levels of education: pre-school, primary, secondary, technical and vocational, university and adult education. For every one of these levels, different options are presented according to the situation of each regional or minority language.

82. Some of the sub-paragraphs employ the expression "in a number considered sufficient". This recognises that the public authorities cannot be required to take the measures concerned where the situation of the linguistic group makes it difficult to attain the minimum number of pupils required to form a class. On the other hand, given the particular circumstances of regional or minority languages, it is suggested that the normal quota required to constitute a class may be applied flexibly and a lower number of pupils may be "considered sufficient".

83. The wording of option iv in sub-paragraphs c and d takes account of the fact that national situations vary with regard to both the age of majority and the age at which such education may be completed. Depending on these circumstances, the wishes to be taken into account may be either those of the pupils themselves or those of their families.

84. It is recognised that not all education systems distinguish between secondary education and vocational education, the latter being merely regarded as a particular type of secondary education. Nevertheless, as made in sub-paragraphs c and d, this distinction takes account of the differences in systems of vocational training. In particular, in the case of countries where vocational training is largely carried out by means of apprenticeship and measures in favour of regional or minority languages are therefore difficult to apply, it enables the parties at least to accept the more stringent requirements in the field of general secondary education.

85. The provisions concerning university and adult education are comparable to those for other levels of education in as much as they offer an alternative between teaching in the regional or minority language and teaching of it as a subject of education. Moreover, as in the case of pre-school education, a further solution is offered for those cases in which the public authorities have no direct competence for the type of education concerned. In certain states, the number of speakers of a regional or minority language might be judged insufficient for the provision of university education in or of that language. In this connection, the example has been cited of states which, by virtue either of a specific agreement or of a general agreement on the recognition of diplomas, recognise the university degree obtained by a speaker of a regional or minority language at a university of another state in which the same language is used.

86. Paragraph 1.g is motivated by a concern not to isolate the teaching of regional or minority languages from their cultural context. These languages are often related to a separate history and specific traditions. This history and regional or minority culture constitutes a component of Europe's heritage. It is accordingly desirable that non-speakers of the languages concerned should have access to it too.

87. Where a state undertakes to guarantee that a regional or minority language is taught, it must see that the necessary means are available in terms of finance, staff and teaching aids. This necessary consequence does not need to be specified in the charter. However, where staff are concerned, the question also arises of their competence and therefore of their training. This is a fundamental aspect, which is why specific provision is made for it in paragraph 1.h.

88. Considering the fundamental importance of teaching and, more specifically, of the school system, for the preservation of regional or minority languages, the CAHLR considered it necessary to provide for a specific body or bodies to monitor what was being done in this field. The characteristics of such a supervisory institution are not specified in paragraph 1.i. It could accordingly be an education authority body or an independent institution. This function could also be conferred on the body provided for in Article 7, paragraph 4, of the charter. In any case, the charter requires the findings of the monitoring to be made public.

89. The charter normally confines the protection of regional or minority languages to the geographical area where they are traditionally spoken. But paragraph 2 of Article 8 constitutes an exception to this rule. It is motivated by the realisation that in modern circumstances of mobility the principle of territoriality may no longer be sufficient in practice for the effective protection of a regional or minority language. In particular, a substantial number of speakers of such languages have migrated to the major cities. However, in view of the difficulties involved in the extension of educational provision for regional or minority languages outside their traditional territorial base, Article 8, paragraph 2, is drafted flexibly in terms of the undertakings involved

and in any case applies only where such measures are justified by the number of users of the language concerned.

#### *Article 9 - Judicial authorities*

90. Paragraph 1 of this article applies to those judicial districts in which the number of residents using the regional or minority languages justifies the measures concerned. This stipulation corresponds in part to the general rule in most of the provisions of the charter, which is concerned to protect regional or minority languages within the territory in which they are traditionally used. For higher courts located outside the territory in which the regional or minority language is used, it is then a matter for the state concerned to take account of the special nature of the judicial system and its hierarchy of instances.

91. The wording of the introductory sentence of Article 9, paragraph 1, also reflects the concern of the CAHLR to protect fundamental principles of the judicial system, such as equality of the parties and avoidance of undue delays in the process of law, against possible misuse of the facilities for recourse to regional or minority languages. This legitimate concern does not, however, justify any general restriction of a party's undertakings under this paragraph; rather, abuse of the possibilities offered will have to be determined by the judge in individual cases.

92. A distinction is made between criminal, civil and administrative proceedings and the options provided for are adapted to the particular nature of each. As is indicated by the words "and/or", some of these options may be adopted cumulatively.

93. The provisions of Article 9, paragraph 1, relate to proceedings before courts of law. Depending on the particular arrangements for the administration of justice obtaining in each state, the term "courts" should, where appropriate, be understood as covering other bodies exercising a judicial function. This is especially relevant in the case of sub-paragraph c.

94. The first option of sub-paragraphs a, b and c of Article 9, paragraph 1, employs the expression "conduct the proceedings in the regional or minority languages". This expression implies, at any rate, that the relevant regional or minority language is used in the courtroom and in those proceedings in which the party speaking this language takes part. However, it is up to each state, in the light of the particular characteristics of its judicial system, to determine the precise scope of the expression "conduct the proceedings".

95. It should be noted that paragraph 1.a.ii, whereby the parties undertake to guarantee the accused the right to use his/her regional or minority language, goes beyond the right of the accused, as laid down in Article 6, paragraph 3.e, of the European Convention on Human Rights, to have the free assistance of an interpreter if he cannot understand or speak the language used in court. Like sub-paragraphs b.ii and c.ii, it is based on the consideration that even if speakers of a regional or minority language are able to speak the official language, when it comes to justifying themselves before a court of law, they

may feel the need to express themselves in the language which is emotionally closest to them or in which they have greater fluency. It would therefore run counter to the purpose of the charter for its application to be limited to situations of practical necessity. On the other hand, given that this provision goes beyond the strictly human rights aspect by in effect giving a free choice to the accused and requires facilities to be provided in accordance with his or her decision, it was considered reasonable to allow states some discretion as to whether to accept it or not and to limit its application to certain judicial districts.

96. The purpose of paragraph 1.d is to provide that the translation or interpretation which may be rendered necessary by the application of Article 9, paragraphs 1.b and c, shall be free of charge. In the case of those states which do not choose this sub-paragraph, it is up to them to resolve this question either according to the existing legal provisions or by adopting new, specific provisions which would take account of the need to promote regional or minority languages. Consequently, the costs could be borne wholly or partly by the person who makes the request for a given act, or shared among the parties, etc.

97. Paragraph 2 concerns the validity of legal documents drawn up in a regional or minority language. Its scope is in fact limited in as much as it does not indicate all the conditions for the validity of a legal document but confines itself to stipulating that the fact that a document is drafted in a regional or minority language cannot by itself alone be a ground for denying its validity. Moreover, it does not preclude a state from providing for additional formalities in such a case, for example the need for a particular formula of certification to be added in the official language. Paragraph 2.b implies that the contents of the document invoked by the party using the regional or minority language are made known, directly or indirectly (advertisement, state information service, etc.), to the other party or to interested third parties who do not speak the regional or minority language, in a form they can understand.

98. The application of Article 9, paragraph 2, is without prejudice to the application of treaties and conventions on mutual assistance in legal matters, in each of which the question of the languages to be used is explicitly dealt with.

99. Paragraph 3 concerns the translation of legislative texts into regional or minority languages. The phrase "unless they are otherwise provided" refers to cases where the text already exists in a regional or minority language because it has already been translated into a similar or identical language which is the official language of another state.

#### *Article 10 - Administrative authorities and public services*

100. The purpose of this article is to allow the speakers of regional or minority languages to exercise their rights as citizens and fulfil their civic duties in conditions that respect their mode of expression.

101. The provisions are mainly designed to improve communication between the public authorities and those who use regional or minority languages. It is true that social and cultural situations have evolved in such a way that the very great majority of the people speaking these languages are bilingual and able to use an official language in order to communicate with the public authorities. However, allowing the use of regional or minority languages in relations with those authorities is fundamental to the status of these languages and their development and also from a subjective standpoint. Clearly, if a language were to be completely barred from relations with the authorities, it would in fact be negated as such, for language is a means of public communication and cannot be reduced to the sphere of private relations alone. Furthermore, if a language is not given access to the political, legal or administrative sphere, it will gradually lose all its terminological potential in that field and become a "handicapped" language, incapable of expressing every aspect of community life.

102. Article 10 distinguishes, in the types of action taken by the public authorities, three categories:

- action by administrative authorities of the state: that is to say the traditional acts of the public authorities, especially in the form of the exercise of public prerogatives or powers under ordinary law (paragraph 1);
- action by local and regional authorities, that is general sub-national territorial authorities with powers of self-government (paragraph 2);
- action by bodies providing public services, whether under public or private law, where they remain under public control: postal services, hospitals, electricity, transport, and so on (paragraph 3).

103. In each field, with suitable adaptations to the specific nature of the authorities or bodies concerned, account is taken of the diversity of linguistic situations. In some cases the characteristics of the regional or minority language allow it to be recognised as a "quasi-official" language, thus making it, on its territory, a working language, or the normal means of communication, of the public authorities. (Recourse to the official or most widely-spoken language remains the norm in contacts with persons who do not speak the regional or minority language.) Alternatively, the language may at least be used in relations which such authorities may have with persons who address them in that language. Where, however, the objective situation of a regional or minority language makes such solutions impracticable, minimum undertakings are provided to safeguard the position of the speakers of the language concerned: oral or written applications or documents may legitimately be submitted in the regional or minority language, but without entailing any obligation to reply in that language.

104. The undertakings of the parties in paragraphs 1 and 3 are qualified by the phrase "as far as this is reasonably possible". This proviso is not intended to be a substitute for the exercise of the faculty, accorded to the parties by Articles 2, paragraph 2 and 3, paragraph 1, of omitting some of the provisions of Part III of the charter from their undertakings in respect of each particular language. However, it does seek to take account of the fact that some of the measures provided for have significant implications in terms of finance, staffing or training. An acceptance of a particular provision with respect to a given language necessarily entails a commitment to provide the resources and make the administrative arrangements required to render it effective. Nevertheless, it is recognised that there may be some circumstances in which total and unqualified application of the provision in question is not, or not yet, realistic. The phrase "as far as this is reasonably possible" allows the parties, in the implementation of the relevant provisions, to determine in individual cases whether such circumstances obtain.

105. The terms of paragraph 2, and in particular the undertaking of the parties to "allow and/or encourage", are drafted so as to take account of the principle of local and regional autonomy. They do not signify that less importance is attached to the application of the provisions set out therein, which concern the public authorities closest to the citizen. More generally, the CAHLR was aware that the application of some of the charter's provisions falls within the competence of local or regional authorities and may entail substantial costs for those concerned. The parties should ensure that the implementation of the charter respects the principle of local autonomy as defined in the European Charter of Local Self-Government, and in particular its Article 9, paragraph 1, which stipulates that: "Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers."

106. Paragraph 2.a provides for the use of regional or minority languages "within the framework" of the regional or local authority. This formulation is intended to indicate that a regional or minority language may be used as a working language by the authority concerned; however, it does not imply that the regional or minority language may be used when communicating with central government.

#### *Article 11 - Media*

107. The time and space which regional or minority languages can secure in the media is vital for their safeguard. Today no language can keep its influence unless it has access to the new forms of mass communications. The development of these throughout the world and the progress of technology are leading to the weakening of the cultural influence of less widely-spoken languages. For the major media, especially television, the size of the audience is generally the decisive factor. But regional and minority languages represent a small cultural market. Despite the new opportunities offered them by the advances in broadcasting technology, it remains true that to have access to the media they need public support. However, the media constitute a field where public intervention is limited and action by means of regulations

is not very effective. The public authorities act in this field essentially by encouragement and the provision of aid. With a view to ensuring that such encouragement and aid is provided in support of regional or minority languages, the charter asks states to give undertakings on various levels.

108. The measures provided for in this article are for the benefit of the users of regional or minority languages within the respective geographical areas of those languages. However, the wording of paragraph 1 in this respect, which differs from the formulation in other articles, takes account of the special nature in particular of the audio-visual media. Thus even if the measures are taken with reference to a particular territory, their effects may extend well beyond it; on the other hand, the measures need not be taken within the territory in question, provided that they benefit those who live there.

109. It is recognised that the public authorities in the different states have varying degrees of control over the media. For this reason it is specified in paragraphs 1 and 3 that the extent of their commitment is determined by the extent of their competence, powers or legitimate role in this field. It is underlined, moreover, that in every country the legitimate role of the state in creating the legal framework and conditions within which the purpose of this article can be achieved is circumscribed by the principle of the autonomy of the media.

110. Paragraph 1 of Article 11 makes a distinction between the undertakings which are proposed for the benefit of regional or minority languages in the field of radio and television, according to whether or not the latter carry out a public service mission. Such a mission, which may be performed by a public or private broadcasting body, involves the provision of a broad range of programmes including the consideration of minority tastes and interests. In this context the state can make provision (for instance, in legislation or in the broadcaster's specifications) for the broadcasting of programmes in regional or minority languages. Sub-paragraph a deals with this situation. On the other hand, where broadcasting is conceived as a purely private-sector function, the state can do no more than "encourage and/or facilitate" (sub-paragraphs b and c). Only the latter situation applies to the written press (sub-paragraph e). Where relevant, the undertaking given by the parties includes the allocation of the necessary frequencies to those broadcasting in regional or minority languages.

111. However minimal the role of the state may be in relation to the media, it normally at least retains the power to guarantee freedom of communication or take measures involving the elimination of obstacles to such freedom. For this reason, paragraph 2 does not contain the same proviso as paragraph 1 concerning the extent of the competence of public authorities. The undertaking to guarantee freedom of reception relates not only to obstacles deliberately placed in the way of the reception of programmes broadcast from neighbouring countries but also to passive obstacles resulting from the failure of the competent authorities to take any action to make such reception possible.

112. In view of the fact that broadcasts from a neighbouring state may not be subject to the same legitimate conditions as those produced on the relevant party's own territory, the third sentence of this paragraph introduces a safeguard which is worded in the same terms as Article 10, paragraph 2, of the European Convention on Human Rights concerning freedom of expression. It should be pointed out, however, with respect to television, that for those states which are parties to the European Convention on Transfrontier Television, the circumstances and conditions under which the freedoms guaranteed by Article 11, paragraph 2, of the charter can be restricted will be determined by that convention, in particular by the principle of non-restriction of the retransmission on their territories of programme services which comply with the terms of the Convention on Transfrontier Television. Moreover, the provisions of this paragraph do not affect the need for copyright to be respected.

113. Article 11, paragraph 3, provides for the representation of the interests of the users of regional or minority languages in the bodies responsible for ensuring media pluralism. Such structures exist in most European countries. The words "or taken into account" were inserted in response to the possible difficulties involved in determining who were the representatives of the users of these languages. However, the CAHLR considered that it was sufficient that the linguistic groups be represented on similar terms to other categories of the population. This could be arranged, for example, through the bodies representing regional or minority languages which are provided for in Article 7, paragraph 4, of the charter.

#### *Article 12 - Cultural activities and facilities*

114. In this field, as in the case of Article 11, states are asked to commit themselves to the extent to which the public authorities have competence, powers or a legitimate role, enabling them to take effective action. However, since the public authorities have an undoubted influence on the conditions in which cultural facilities are used, the charter requires them to see that regional or minority languages have an appropriate place in the functioning of such facilities.

115. In paragraph 1.a states are asked in general to encourage initiatives typical of the modes of cultural expression specific to regional or minority languages. The means for this support are those usually drawn on for cultural promotion purposes. The expression "the different means of access to works..." covers - depending on the type of cultural activity concerned - publication, production, presentation, diffusion, transmission, and so on.

116. By reason of their limited number of speakers among the population, regional and minority languages do not have the same cultural productivity as the more widely-spoken languages. In order to promote their use and also allow their speakers access to a vast cultural heritage, it is therefore necessary to have recourse to the techniques of translation, dubbing, post-synchronisation and subtitling (paragraph 1.c). The avoidance of cultural barriers implies, however, a two-way process. It is therefore essential to the

viability and status of regional or minority languages that important works produced in them should become known to a wider public. That is the purpose of paragraph 1.b.

117. With regard to the functioning of cultural institutions, that is to say of bodies whose function it is to undertake or support cultural activities in a variety of forms, states are asked to see that such institutions accord sufficient importance in their programmes to the knowledge and use of regional or minority languages and to their attendant cultures (Article 12, paragraph 1.d to f). The charter cannot of course specify how regional or minority languages are to be incorporated in the activities of these institutions. It speaks simply of making "appropriate allowance" for them. The role of states in this sphere is generally one of guidance and supervision; they are not asked to further this objective themselves, but merely to "ensure" that it is pursued.

118. The charter also provides for the creation for each regional or minority language of a body responsible for collecting, keeping a copy of and disseminating works in that language (Article 12, paragraph 1.g). Having regard to the weak situation in which many regional or minority languages find themselves, it is necessary to organise this type of work systematically, the manner of its organisation being left to states to decide. For the purposes of the implementation of this paragraph g, it may be necessary for certain states to adapt their legislation on legal deposit and archives so that the body envisaged can take part in the conservation of works in regional or minority languages.

119. The application of Article 12, paragraph 1, relates to the territory in which regional or minority languages are used, even though it is recognised that in practice many of its provisions have implications extending beyond that territory. However, having regard to the nature of cultural promotion and to needs arising outside of the areas in which the languages are traditionally used (in particular as a result of internal migration), Article 12, paragraph 2, introduces provisions corresponding to those of Article 8, paragraph 2.

120. All countries seek to promote their national culture abroad. In order to give a complete and faithful picture of that culture, such promotion should not neglect regional or minority languages and cultures. This undertaking, which is provided for in Article 12, paragraph 3, constitutes one way of applying the principle of the recognition of regional or minority languages embodied in Article 7, paragraph 1.a, of Part II of the charter.

### *Article 13 - Economic and social life*

121. In the economic and social systems which characterise the Council of Europe countries, intervention by the public authorities in economic and social life is mainly confined to the promulgation of laws and regulations. In these circumstances, the possibilities of action on the part of the authorities to see that regional or minority languages receive due consideration in these sectors are limited. Nevertheless, the charter provides for a certain number of measures in this field. It seeks, on the one hand, to eliminate measures to ban

or discourage the use of such languages in economic and social life and proposes, on the other hand, a number of positive measures.

122. The provisions of Article 13, paragraph 1, give concrete application to the principle of non-discrimination. This is why they are intended to apply throughout the territory of contracting states and not only in the parts of that territory where regional or minority languages are used.

123. Article 13, paragraph 2, of the charter lists various concrete measures in support of regional or minority languages in this sector. For practical reasons, they are confined to the geographical areas in which these languages are used. With regard to the proviso "as far as this is reasonably possible", reference should be made to the explanations under Article 10 above (see paragraph 104). Finally, the undertakings of the parties extend only as far as the public authorities have competence, a proviso which, however, is relevant only to sub-paragraph c.

#### *Article 14 - Transfrontier exchanges*

124. This article expands and develops the idea set out in Article 7, paragraph 1.i, and reference is therefore made to the explanations given above (see paragraphs 69-70).

125. In many fields, transfrontier co-operation develops between the neighbouring regions of different states. It is noted that in certain cases such a situation could still be seen as a problem in terms of territorial integrity. With European states now moving closer together, however, it now presents an opportunity for the states concerned to employ a "cultural factor" to enhance their mutual understanding. The Council of Europe has drawn up an outline convention on transfrontier co-operation at local and regional level. While it is desirable that such co-operation should develop in a general manner, paragraph b underlines that this is particularly the case where one and the same regional language is spoken on either side of the border.

126. The co-operation envisaged may extend to such matters as school twinnings, teacher exchanges, the mutual recognition of diplomas and qualifications, the joint organisation of cultural activities, the further circulation of cultural assets (books, films, exhibitions, etc) and the transfrontier activities of cultural agencies (theatre companies, lecturers, etc). In some circumstances, it may also be a satisfactory (and less expensive) means of implementing undertakings entered into under other articles of the charter: for example, with respect to the provision of higher education facilities as laid down in Article 8, paragraph 1.e, a bilateral agreement could make arrangements for the students concerned to attend appropriate institutions in a neighbouring state.

### **Part IV - Application of the charter**

#### *Articles 15-17*

127. To enable its application to be monitored by the Council of Europe, its member states and the general public, the charter has opted for a system of periodical reports by the parties on the action taken in pursuance of its provisions. The reports are triennial; however the first report, which is intended to describe the situation of the regional or minority languages at the time when the charter enters into force for the state concerned, is to be presented within one year of that date.

128. In order to ensure the efficiency of this system for monitoring the implementation of the charter, the latter provides for the setting up of a committee of experts to examine the reports submitted by the various parties. It will also be possible for the committee of experts to be approached by bodies or associations wishing to supply further information or describe specific situations relating to the application of the charter, especially Part III thereof (Article 16, paragraph 2). Only bodies legally established in one of the parties will have access to this committee of experts for matters concerning that party. The purpose of this rule is to prevent groups whose headquarters is outside the party concerned by the application of the charter from using the monitoring system set up under it to generate discord among the parties.

129. It should be emphasised that this is not a quasi-judicial complaints procedure. The committee of experts is merely instructed to monitor the implementation of the charter and receive information to that end. The bodies referred to in Article 16 may not ask it to act as a more or less judicial appeal body.

130. The committee of experts may verify any information submitted with the states concerned and must call on them for further explanations or information for the purposes of carrying out its investigations. The results will be communicated to the Committee of Ministers, together with the comments of the states concerned, on the occasion of the presentation of the experts' reports. Although it might appear that, in the interests of openness, these reports should be published automatically, it was felt that, since they might contain proposals for recommendations which the Committee of Ministers might make to one or more states, it should be left up to the Committee of Ministers to judge case by case to what extent the reports should be published.

131. The number of members of the committee of experts will be the same as the number of parties to the charter. They must be persons of recognised competence in the field of regional or minority languages. At the same time, by placing emphasis on the intrinsically personal trait of the "highest integrity", the charter makes clear that the experts appointed to the committee, in carrying out their task, should be free to act independently and not be subject to instructions from the governments concerned.

132. This machinery for the monitoring of the application of the charter by a committee of experts will make it possible to assemble a body of objective information concerning the situation of regional or minority languages, while respecting to the full the specific responsibilities of states.

## **Part V - Final provisions**

133. The final clauses contained in Articles 18 to 23 are based on the model final clauses for conventions and agreements concluded within the Council of Europe.

134. It was decided not to include among these final provisions a territorial clause enabling states to exclude part of their territories from the scope of the charter. This is because it is already an intrinsic characteristic of the present charter that it is concerned especially with particular territories, namely those on which regional or minority languages are used; moreover, contracting states already have the right, under Article 3, paragraph 1, to specify those regional or minority languages to which their detailed undertakings will apply.

135. Under Article 21, the parties have the right to make reservations only in respect of paragraphs 2 to 5 of Article 7 of the charter. The CAHLR considered that contracting states should not have the possibility to make reservations with regard to Article 7, paragraph 1, since this paragraph contains objectives and principles. As far as Part III is concerned, it took the view that, in a text which already allowed the parties so much choice as to the undertakings they entered into, reservations would be inappropriate.

136. In view of the importance of the subject-matter of the charter for many states which are not, or not yet, members of the Council of Europe, it was decided that the charter should be an open convention, to which non-member states may be invited to accede (Article 20).