4
The Ratification and Application of the European Charter for Regional or Minority Languages

In December 1999, the devolved Northern Ireland Assembly was established at Stormont Buildings in East Belfast under the CR provisions of the GFA. The ECRML was ratified by the British government in June 2001 (Charter, Strasbourg, 5.XI.1992). The contemporary CR context was particularly troubled. In July 2001 the British government moved unilaterally to suspend the operations of the Assembly in the face of unionist opposition to the agreed power-sharing arrangements. The Irish government acquiesced. The Assembly was further temporarily suspended in August and again in September 2001. Finally, in October 2002, it was suspended once again. This time the suspension was to last for five years. During this period, Direct Rule by British Ministers elected at Westminster was administered. As I shall discuss in the next chapter, it was not until May 2007 that devolution was re-established under the provisions of the St Andrews’ Agreement (SAA).

In this chapter, I shall briefly comment on the nature of language protections within human rights legislation before detailing the background and structure of the ECRML. I shall then examine key parts of the UK ratification instrument. Following this, in three further sections, there will be a discussion on the implementation of the ECRML in respect of Irish in the three monitoring cycles to date, drawing on UK periodical reports, on the findings of the Council of Europe (CoE) Committee of Experts (COMEX) and on monitoring reports from the Irish language NGO, POBAL. In relation to the third monitoring cycle (2005–8), I shall discuss the implications of the late submission by the UK government of an incomplete periodical report. Having outlined its contents, I shall draw on the findings of the key watchdog NGO, POBAL in respect of implementation in this period. At the time of writing, the response of the COMEX to the 2005–8 monitoring cycle is not available. At the end of the chapter I shall make some general comments about the ability of the ECRML to identify and help progress
fundamental issues of LPP in a CR situation. I shall also analyse some issues which impact on the interface between NGOs and the monitoring process.

I am grateful to the Council of Europe for permission to reproduce some sections of this chapter, which can also be found in the Council of Europe's publication, *The European Charter for Regional or Minority Languages: Legal Challenges and Opportunities* (2007), Eds. Dunbar, R. & Parry, G. Council of Europe (Muller 2007).

The European Charter for Regional or Minority Languages

The aims and application of the Charter

The ECRML, drafted within the Council of Europe, was adopted by the Council on 5 November 1992 and entered into force on 1 March 1998. It is the first international instrument directed solely at linguistic minorities and focuses solely on those autochthonous languages of long standing in European states. Cardinal (2003) has argued that since language legislation is intended to stem the damage already done to minoritised languages, it is in itself a sign of historic and existing disadvantage. The ECRML preamble echoes this view, stating that languages must be promoted in a range of areas of life because, ‘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’ (Charter Part I). The connection between the ECRML and CR processes is specifically outlined in the preamble,

> While the 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.

(ECRML, Explanatory Report, pt. 13)

Recognising that there may be more than one indigenous threatened language in a specific territory, the ECRML proposes the establishment of ‘a proper place’ for each RML. How this ‘proper place’ may be determined in reality may prove more problematic, since in CR, the treatment of different languages may be subject to manipulation by hegemonic forces. Within the ECRML, the defining of appropriate treatment for each language depends