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## BETWEEN MINORITY PROTECTION AND LINGUISTIC SOVEREIGNTY

Peter A. Kraus\*

### Abstract

Twenty-five years after the Charter for Regional or Minority Languages, it is imperative to thoroughly reassess the status of language groups against the background of, first, the massive changes that have taken place in the framework of European politics since 1992 and, second, the normative deficits of approaches that may well have been designed with good intentions, yet end up reproducing entrenched structures of domination and subalternity. On the side of European politics, one can hardly say that recent developments bear witness to the emergence of a post-national order. In an environment characterized by the growing impact of identity politics played out by and for majorities, the generosity European governments were formerly willing to express towards minority concerns – however rhetorical it may have ultimately been – has nowadays become an exceptional phenomenon. On the normative side, we have seen that the Charter, notwithstanding its relevance for offering a template that facilitates the articulation of minority needs, does not constitute a real counterweight to the limits of a political order effectively controlled by national governments. When it comes to guaranteeing the institutional visibility and safe reproduction of minoritized identities, the impact of minority provisions and autonomy regulations is a limited one. Equal linguistic rights at the individual and the collective level require the active promotion of sovereignty options beyond the conventional majority-minority frame.

Keywords: autonomy; Catalonia; Committee of the Regions; Council of Europe; equal dignity; European Charter; European Union; majority/majorities; minority/minorities; minority politics; minority protection; nation-state; recognition/unequal recognition; sovereignty

## ENTRE LA PROTECCIÓ DE LES MINORIES I LA SOBIRANIA LINGÜÍSTICA

### Resum

Vint-i-cinc anys després de la Carta europea de les llengües regionals o minoritàries, és imperatiu tornar a avaluar amb detall l'estatus dels grups lingüístics en el context de, en primer lloc, els canvis massius que s'han produït en el marc de la política europea des de 1992 i, en segon lloc, els dèficits normatius d'enfocaments que potser van ser dissenyats amb bones intencions, però que han acabat reproduint estructures arrelades de dominació i subalternitat. En el cas de la política europea, difícilment es pot afirmar que els esdeveniments recents presentin indicis de l'emergència d'un ordre postnacional. En un entorn caracteritzat per l'impacte creixent de polítiques identitàries promogudes per i per a les majories, la generositat que els governs europeus s'havien mostrat disposats a expressar envers les inquietuds de les minories –encara que de fet pogués ser retòrica– avui ha esdevingut un fenomen excepcional. En el vessant normatiu, hem vist que la Carta, malgrat la seva rellevància com a patró que facilita l'articulació de les necessitats de les minories, no és un contrapès real als límits d'un ordre polític controlat efectivament pels governs estatals. Quan cal garantir la visibilitat institucional i la reproducció segura de les identitats minoritzades, l'impacte de les mesures per a les minories i de les regulacions en matèria d'autonomia és limitat. La igualtat dels drets lingüístics en el nivell individual i col·lectiu requereix la promoció activa de les opcions de sobirania més enllà del marc convencional majoria-minoria.

Paraules clau: autonomia; Catalunya; Comitè de les Regions; Consell d'Europa; dignitat igual; Carta europea de les llengües regionals i minoritàries; Unió Europea; majoria/majories; minoria/minories; política minoritària; protecció de les minories; estat nació; reconeixement; reconeixement desigual; sobirania.

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## **Summary**

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## References

## 1 The European Charter for Regional or Minority Languages: a new paradigm or institutional cosmetics?

When the Council of Europe (CoE) completed the elaboration of the European Charter for Regional or Minority Languages in 1992, the document was considered a political milestone. The Charter connected the protection of minorities with the production of a catalogue of minimum norms for addressing linguistic diversity in Europe. Its priorities actually reflected the concerns of *West* European states with issues of language rights towards the end of the 1980s. However, historical contingency would give the Charter additional weight: Although it was a coincidence that the Charter was drafted at a time when the Berlin wall came down and Central Eastern Europe (CEE) was transformed, this coincidence gained special relevance after the Eastern European states began joining the Council, and the Charter thus became an important element in the process of constructing a trans-European human rights regime. It must be emphasized that the CoE and the European Union (EU) operate in clearly distinct institutional realms. Nonetheless, EU organs such as the Committee of the Regions or the European Parliament were eager to express their support for the Charter from the very moment when the process of its signature started (Kraus 2008: 109–110). Ultimately, the historical conjuncture of post-communism implied that its content could be exported eastward. With the Framework Convention for the Protection of National Minorities introduced, again, by the CoE in 1995, the Charter should have played a key role as part of the conditionality criteria the CEE states had to meet if they wanted to join the European Union (Sasse, 2008).

In a nutshell, the Charter was a major and systematic attempt at connecting the protection of autochthonous (i.e. non-immigrant) language minorities and the defence of human rights. It may be considered a “soft law” document *avant la lettre*: It basically contains a catalogue of obligations that the signatory states adopt in a voluntary way, according to the logic of “best practice”. There are no real sanctions if a state does not comply with these obligations. What we get instead, are periodic reports by expert groups, who may make recommendations and ask for better compliance with the Charter’s regulations in specific cases. Yet in no way can the membership of a state in the Council of Europe be put under threat if this state does not apply the norms of the Charter that it has ratified. The historical novelty of the Charter, we may say with hindsight, resided in the expression of a minimum consensus on the necessity of redefining – and ultimately weakening – the prerogatives concerning the linguistic identities of their citizens. “Protection” can be considered the key term in the Charter, and the protection of language rights of citizens of a minority group vis-à-vis the majority state may indeed be regarded as an element that makes for a direct link between language and human rights, thereby constituting the document’s normative core. At present (early 2018), 25 member states of the Council of Europe (including Germany, Spain, and the United Kingdom) have ratified the Charter. There are 8 states – France possibly being the most notorious case – which have signed, but not ratified it. Several CoE members with politically salient language issues – such as Belgium, Bulgaria, Estonia, Greece, Latvia, and Turkey – are among the non-signatory countries.

From the beginning, evaluations of the Charter have gravitated around two opposite poles.<sup>1</sup> For one side (Tomuschat, 1996), the Charter was a crucial step towards defining critical standards for protecting minorities. From this angle, virtually all demands made by linguistic minorities could be met if all CoE members shared in the will to implement the contents of the Charter evenly. For the other side (Blumenwitz, 1996), the treaty was no reason for euphoria, as it was assumed that it would have little real impact due to the optional character of many of the obligations it listed. This implied that it would become an effective protection tool only in those states that were already predisposed to giving their minorities a generous treatment. For countries like Finland or Norway, for reasons of domestic politics, implementing the Charter was basically an exercise in line with their commitment to promoting minority rights. At the other end of the scale stand cases such as Turkey’s, where the defence of linguistic minorities remains a risky political business, yet the Charter offers not even the possibility of a symbolic external monitoring of language rights, as the Turkish state has not signed the Charter. Seen from today’s perspective, 25 years after the start of the signature process, it seems worthwhile to stress that in normative terms the Charter was quite in tune with what we might call the normative mood of the times, which was to build a Europe “united in diversity”.<sup>2</sup> The promotion of cultural

<sup>1</sup> For a general legal commentary of the Charter see Woehrling (2005).

<sup>2</sup> We should not forget that this was supposed to become the official motto of the EU before the spectacular failure of the Treaty establishing a Constitution for Europe in 2005. Since then, diversity seems to have lost much of its former appeal in Europe’s political discourse.

diversity, in general, and linguistic diversity, in particular, was still an objective shared by the bulk of EU member states, and provoking resistance only in the most stubborn strongholds of French republicanism.<sup>3</sup> At the same time, in the Maastricht period, Europe was still looking forward to the prospect of building an “ever closer Union” that would end up entailing a break with the institutional rigidities the Westphalian system of nation-states brought about for those groups that had not managed to create a state “of their own”. Twenty-five years later, things have changed in ways that only few people anticipated when the European Community turned into the European Union. The process of constructing an “ever closer Union” stalled. When this objective was formally established in Maastricht in 1992, the Union consisted of 12 member states. At the peak of its expansion in the following two decades the number had indeed increased steeply, with Croatia becoming member 28 in 2013. Few would have denied that the European project was already in bad shape that year. The situation has deteriorated considerably since then, as the EU is at present facing a real risk of dissolving. With Brexit, disintegration has become a very concrete threat. In parallel, diversity, instead of serving as a normative template for building unity, has come under heavy attack as well. At any rate, it can hardly be considered to still be the buzzword that once seemed so apt for providing European citizens with a shared normative horizon. Rather the opposite seems to apply, as substantial portions of these citizens are now expressing their support for the political representatives of a right-wing populism that is on the advance all over the Continent and sees diversity not as an asset, but as an obstacle in its strive for socio-cultural homogeneity.

It seems obvious that the realization of the Charter’s goals has not remained immune to this general trend. If its non-mandatory – “soft” – character was already considered a major problem of the Charter 25 years ago, then this problem has become even more accentuated in the light of current developments. Even for those states that ratified the document, implementing its regulations often does not involve much more than symbolic declarations and some window dressing in the realm of minority policy. The ambitious standards established by the Charter thus remain mere rhetoric. Adopting such a strategy does not involve high costs for a signatory party, as there are no “hard” legal mechanisms that could sanction an actual lack of compliance by a state. In consequence, as critics of the Charter already observed in the 1990s, fulfilling the Charter’s potential depends strictly on the political will of the states’ parties and is therefore subject to shifts in the political conjuncture. But even in those cases where the ratifying states show a genuine concern for recognizing the rights of linguistic minorities, the adoption of the contents of the Charter may become just a well-intended exercise without substantial consequences. Putting it in somewhat cynical and drastic terms, we might even speak of mild forms of linguistic euthanasia for groups whose perspectives for securing their cultural continuity into the future look dim. As I will argue in the last section of this article, this is so because – almost by definition – the protection of minorities does not necessarily involve their active empowerment; in a literal sense, it means the protection of a group as minority, *as a subordinate collectivity* that is. Even in those (rare) situations where minority protection goes hand in hand with genuine goodwill on the majority-side, the combined consequences of past grievances, demographic factors, economic pressures, and socio-linguistic dynamics may weigh too heavily to turn former minoritization into equal status. But before elaborating on this view, it seems in order to assess the history of the Charter in the light of the massive transformations that minority politics has undergone in Europe since 1992. Given the features of the Charter that have been highlighted so far (the non-binding quality of its regulations and the vulnerability of its content when the institutional context is not a context of conditionality anymore), the impact of the political factor on the achievement of its original goals is even more manifest than is the case with arrangements for minority protection established at the constitutional level by single nation-states.

## 2 The transformation of minority politics in Europe after 1992

Western and Eastern Europe are characterized by quite distinct majority-minority constellations. The West of the continent may be considered the genuine historical territory of the “state-nation”. In cases such as Britain, France or Sweden, the formation of modern state structures can be traced back to the late middle ages. Strong political centres could use these structures to build nations “from above” and to foster the spread of uniform cultural and linguistic standards among a population that under democratic conditions

<sup>3</sup> See, for instance, Le Pourhiet (2001).

would become the citizenry.<sup>4</sup> The success story of the West European state nation is not an unquestioned one, as the persistent mobilization of those minorities who became the “victims” of state- and nation-building strategies by the centres shows. Nonetheless, an assimilationist *longue durée* paralleled the consolidation of the Westphalian state system, exposing virtually all minorities to the majority culture. It also has to be noted that those minorities who managed to resist the century-long push for homogeneity did so relying only on their own strength. In particular, those linguistic minorities in Western Europe that are regarded as relatively “strong” – for instance, the Catalans – lack a kin state that would support their cause vis-à-vis the international community. After centuries of inter-state conflicts over issues of geopolitical hegemony, one can say that border disputes ended in the West after World War II. The start of the integration process in the 1950s was even originally meant to supersede the nation-states, which those minorities who had survived hegemony saw as an opportunity to overcome their status of subordination.

In Eastern Europe, old imperial legacies proved stronger than in the West, and the power of the Habsburgs, the Ottomans, and the Russian Tsars “delayed” the nationalization of collective identities. With World War I and the ensuing first wave of democratization of the region, the situation changed dramatically and led to a quick spread of the national principle, which – in contrast with the West – set apart the new titular nations and mobilized minorities, who saw their homeland rather in a neighbouring state than in the states they now belonged to. Thus, what emerges after 1918 is a triangular configuration of nationalist conflict that to some extent keeps shaping parts of the CEE area to the present (Brubaker, 1996). This triangular configuration means that a nationalizing state perceives its minorities as “external” minorities, as minorities whose political loyalty lies with another state abroad rather than with the state whose citizens they are. And it may well actually be the case that a minority does enjoy the support of such a neighbouring kin state. In contrast with the interwar period, such support today is not linked anymore to territorial disputes and to irredentism. That the bulk of CEE countries over the last two decades became EU members has certainly been a central factor in rendering minority conflicts less virulent than in the past. Nonetheless, as the examples of the Hungarians in Slovakia and Romania or of the Russian speakers in Estonia and Latvia show, the perception of minority groups as “external”, as well as the instrumentalisation of such groups for purposes of inter-state politics is still an important element of majority-minority relations in the East.

How has minority politics in Europe developed in the 25 years that have passed since the completion of the Charter against the background of the constellations sketched out? Both in the West and in the East, the changes are certainly significant. Let us cast a brief look at Europe around 1992. In the West, the politics of most minority movements were based on demands for autonomy, an autonomy that in many cases had yet to be achieved (think of the Corsicans, for instance), while in other cases it was to be expanded, at any rate from the perspective of minority activists (Catalonia, South Tyrol). In two important regions – the Basque Country and Northern Ireland – the situation was exceptional in the sense that the territorial status quo was militantly questioned by an important segment of the minority, and that this questioning was linked to the use of political violence by organizations such as ETA or the IRA. All in all, however, minority demands were raised very much in accordance with what we might call the “spirit” of the Charter, and the expectations of linguistic minorities were closely bound up with a political discourse focusing on the relevance of strengthening a third level of European governance based on regional units. In the East, the breakdown of the Soviet empire entailed great political turbulence. On the one hand, the breakdown paved the way for a dynamic of transformations that combined democratic and national demands, leading to the dissolution of multinational polities and to the creation of many new states based on the principle of national sovereignty.<sup>5</sup> Thus, in an area that comprised 26 states in 1992, we now count 36. On the other hand, the creation of these new political units often came with a high humanitarian cost, reaching a peak in the ethnic cleansing practiced in the Balkan wars.

Two and a half decades later, the situation in CEE has apparently stabilized, the accession of the bulk of countries from the region to the EU being an important aspect of this stabilization, even more so as their neighbours share the goal of becoming EU members as well. To the extent that minority issues are still open, as is the case, for instance, between Hungary and Romania (who have an important Magyar minority), the institutional framework offered by the EU certainly contributes to reducing the risk of an exacerbation of

<sup>4</sup> See Weber (1976) for a thorough discussion of the paradigmatic example of republican France.

<sup>5</sup> On the complex relationship between democracy and nationalism cf. Calhoun (2007).

conflicts. Further eastward, however, the political trend initiated in 1989 apparently has come to an end, as the impact of a new Russian territorial revisionism on the crisis in Eastern Ukraine has evidenced. We may all in all consider that minority conflicts in the CEE are far from vanishing, though they have become less turbulent in the course of their “Europeanization”, whereas minority politics in the West seems to have moved in a different direction. In Northern Ireland and the Basque Country, there is still conflict, but this conflict is now mainly articulated within institutional channels. As actors the IRA and ETA have opted to lay down their arms, and violence has ceased. The second major change consists in the rise of secessionist demands in Scotland and Catalonia. Frustrated with the limited leeway the Europe of the Regions offers them, the main political actors of these minority nations have come to the conclusion that ending subordination requires becoming sovereign. In the case of Catalonia, a former champion of the Europe of the Regions agenda, the consequences of this shift have been particularly dramatic.

Summarizing things very roughly, one can make out a strange interplay of indicators of continuity *and* discontinuity in Europe since the “golden” period of Maastricht and the Charter. In the East, old ethno-national cleavages are still in place, and articulated both by minorities *and* by majorities. Ethnic and minority politics thereby continue being very much a matter connected with international – in the sense of inter-state – affairs, and the question of minority protection is often a question of mutual monitoring between states that to different degrees continue positioning themselves in the triangular configuration sketched out above. The West, somewhat paradoxically, seems to have moved towards the East, albeit for reasons different to those that led the East to adopt EU standards. Facing massive challenges in the field of migration and asylum policy, and under the effects of the rise of right-wing populism, several nation-states have shifted from a more “civic” to a more “ethno-national” profile, emphasizing the importance of the majority culture for the purposes of social and political integration. It is hard to say to what extent the shift also affects “autochthonous” minorities. Against this very background it is striking to observe that some minorities have moved precisely in the opposite direction and started replacing their former emphasis on a particular cultural identity with a more civic discourse, which cherishes diversity and is disposed to embrace all kinds of cultural markers under the umbrella of a common political project. At any rate, this was the observable trend in the campaigns for Scottish and Catalan independence. These campaigns introduced a critical new moment in Europe’s minority politics, as one of the major claims in the mobilizations of Scots and Catalans was that being protected does not necessarily entail becoming equal. As it turns out, minority rights must not be underestimated in their importance for concrete groups; in other cases, however, they may not be much more than a second-class surrogate for being granted equal dignity.

### **3 From the protection of minorities to sovereign empowerment**

Under conditions of modernity, the survival of language communities is impossible without institutional support. The role of such support is even more critical in the case of smaller language communities, and it is the very lack of institutional backing that is the main reason for the extinction of thousands of languages that is taking place on a global scale today. While the making of European nation-states went hand in hand with a strong push towards linguistic homogenization all over the Continent, the survival of minority languages has today become an objective largely shared by a majority of EU members, as their signing of the Charter shows. However, the commitment to fostering multilingualism, in general, and to protecting linguistic minorities, in particular, comes in different forms, and involves approaches that have a highly contrasting character. The basic principles on which the regulation of linguistic pluralism in any political context relies are the principle of personality and the principle of territoriality. These two principles can be adopted and implemented in a rather generous way or in a rather narrow way. In order to offer a rough assessment of the type of language policy applied in any given context, we can combine the principle of linguistic recognition mainly at work and the effective scope of such recognition, which gives us a typology of four institutional approaches. These stretch from simple minority provisions to institutional multilingualism.

Figure 1: Institutional strategies adopted by European states in order to accommodate multilingualism (Kraus 2008: 95)

| principle of recognition        |                                                          |                           |
|---------------------------------|----------------------------------------------------------|---------------------------|
| functional scope of recognition | <i>personal</i>                                          | <i>territorial</i>        |
| <i>partial</i>                  | I provisions protecting members of linguistic minorities | II linguistic autonomy    |
| <i>unrestricted</i>             | IV institutional bilingualism                            | III linguistic federalism |

The important point now is that the recommendations of the Charter remain limited to fields I and II in the figure. Field I – provisions protecting members of linguistic minority groups – applies typically in situations in which a group has been minoritized even in its former homeland, and the cultural dominance of the majority is politically undisputed (think of the Slovenians in Carinthia or the Sorbs in Saxony, for instance). In such a context, the practical impact of protection is often merely symbolic; it may slow down a long process of linguistic assimilation, but will hardly change the underlying dynamic. Ultimately, minority members will have no alternative to using the majority language if they want to cope with the functional requirements of a differentiated society. Field II – linguistic autonomy – refers to institutional contexts in which the status of the minority language is formally equal to the status of the majority language. However, this equality is restricted to the area of the state's territory in which the minority is concentrated (as is the case of South Tyrol, where German and Italian are co-official, and the case of those Autonomous Communities in Spain whose autonomy provisions recognize a regional language in addition to Spanish, to give but two examples). Equal language rights thereby apply only at the regional level, whereas the state continues to be officially monolingual (in Italian or in Spanish, in our examples). This situation obviously entails a hierarchy of cultural status, as levels of recognition vary with the language people identify with.

Socio-linguistic evidence shows that we should not be too naïve regarding the possibilities of changing language use and language status by political regulations, if such regulations remain disconnected from the general cultural and economic dynamic in a society. Yet what institutional regulations adopted by functioning liberal democracies do reveal, is the determination and scope of political efforts to take equality and justice seriously vis-à-vis structural minorities. It is in this respect that autonomy provisions – even if they seem to offer a more solid template for sustaining language rights than minority protection on the basis of personality do – still fail to assign different language groups similar levels of dignity. As I argue elsewhere (Kraus 2015: 81–89), autonomy ultimately institutionalizes a system of *unequal recognition*. I want to elaborate on this point here, as I think that it is of great importance for understanding some of the limitations documents such as the Charter have.

The introduction and extension of minority rights in the EU and CoE areas bear witness to a tendency that is observable in other parts of the world as well and reflects major changes in our understanding of democratic politics over the last five decades. These changes have led to a substantial modification of the view that majority rule offers a legitimate basis for imposing the identity of a majority nation unilaterally over minority groups, over groups who have typically never been asked to give their consent to being governed by the majority. Accordingly, safeguarding minority rights through the rule of law is as important

an element of the legitimacy of a state as is the principle of the rule of “the” people: This applies *a fortiori* in environments where the very existence of “one” homogeneous people on the state’s territory is subject to political contestation. Legal scholars and political scientists today tend to agree with respect to the view that enforced assimilation is not a legitimate instrument to ensure democratic stability (McGarry *et al.*, 2008). An influential strand of political theory even goes one step further and argues that assimilation is a form of political domination, which is as unjust as exclusion, as it denies citizens the freedom to decide themselves who they are and want to be (Tully, 2005). For those subject to it, compulsory assimilation may indeed bear a cost that is as high as being deprived of the full range of citizenship rights. Hence the importance of developing a framework of minority policies that goes way beyond mere symbolic concessions and allows an active empowerment of minority members.

Once we adopt such a view, we may question to what extent provisions such as those introduced by the Charter actually entail a clear break with the logic represented by largely homogeneous nation-states and dominant majorities that underlies the Westphalian order and which has structured Europe since early modern times (Krasner 1999: 73-104). The declared goal of such provisions is to reduce the assimilationist pressures minorities are structurally exposed to. Nevertheless, the concessions a state makes by adopting minority provisions and regional autonomy regimes are not meant to question the normative foundations of the Westphalian system; on the contrary, the purpose of such concessions is to stabilize the structures of hegemonic statehood. Granting personal or territorial autonomy to minorities is neither supposed to entail a substantial reframing of majority-minority relations nor to provide *all* citizens of an established polity with the same opportunities for self-categorization and self-determination. In a world that is still characterized by the pervasiveness of “banal” nationalism (Billig, 1995) and by the hegemony of majority identities over historically minoritized collectivities, defining a group as autonomous is ultimately equivalent to saying that this group is not sovereign. In this world, the protection of minorities may lessen the pains of those who have been incorporated into a nation-state against their will, but the remedy only offers a symptomatic treatment and not a proper therapy against the deeper injustices of national domination.

For the groups in question, being protected or autonomous will obviously still be an option clearly preferable to direct subjugation. Yet it is an option that does not allow them to break out of the trap minority provisions involve by creating and reproducing a system of *unequal* recognition. It is true that the bulk of affected groups will consider minority rights a necessary tool for obtaining a minimum of institutional guarantees vis-à-vis the majority state. At the same time, however, by accepting the state’s authority to introduce – and potentially revoke – these rights, they tacitly acknowledge the very legitimacy of the political body they remain subject to as minorities. Let me illustrate this situation of entrapment with two points that relate to the accommodation of linguistic and national pluralism through territorial autonomy, but whose implications can easily be also extrapolated to minority protection based on the personality principle.

Regional autonomy statutes, as we know them from Spain or Italy, institutionalize majority-minority relations in a way that only confronts those citizens who live in the territories whose autonomy is based on cultural distinctiveness with the challenges of diversity. In the context of autonomy, these citizens are supposed to cope with multiple identities and to develop – at the very least – dual attachments, which make their commitment to the regional sub-unit (and its language) compatible with the loyalty to the national state (and its language). Being exposed to a cultural environment that requires a deep immersion into the realm of cultural complexity may actually bring about highly productive consequences both at the level of individuals and at the level of groups. But it remains a telling fact that such exposure is typically a business minorities have to take care of as long as they find themselves in a majority state, while for majority members sticking to the given, “simple” and “normal” identity patterns does not involve extra costs (in terms of learning an additional language or mastering a multicultural curriculum, for instance).

To discuss one concrete example that illustrates the uneasiness of a group with such politics of unequal recognition, we may look at the Catalans’ move from autonomism to independentism. The reform of the autonomy statute that was envisaged in Catalonia in 2006 under the government of the socialist leader Pasqual Maragall was intended to substantially transform the model of territorial rule introduced in 1980. Its overarching goal was to set the foundations for a multinational federation in which Catalonia would have achieved recognition as an equal and semi-sovereign actor in areas considered as pivotal for the development

of its specific identity, such as language and education. From the corresponding perspective, the transformation would not only have given Catalans higher and more stable levels of self-government within the realm of their Autonomous Community; it would also have meant a more graspable presence and visibility of the periphery at the level of what was bound to become a politically less dominant centre. However, the reform of Catalan autonomy turned into a spectacular failure, as the mobilization of Spanish nationalism led by the Popular Party, then in opposition, evidenced the little appeal that the discourse regarding an *España plural* had among the bulk of the voters outside Catalonia. They preferred the old image of the one and indivisible Spanish nation to the emergence of a plural Spain. Eventually, this image was officially reaffirmed with the ruling of the Spanish Constitutional Court that invalidated the key elements of the reform of the Catalan statute of autonomy in 2010.

The case of the aborted reform of Catalan autonomy is far from offering just anecdotal evidence. It is an example that cogently shows how autonomy regulations split the “burden” of tackling the challenges of diversity in an uneven way between majority and minority. Let me recapitulate one of my initial assumptions regarding the normative basis on which autonomy regulations are built, namely that autonomy is supposed to alleviate the pressures of assimilation for minority members. The freedom not to be assimilated, one could therefore argue, is the main rationale of the bulk of the political demands raised by the very groups the Charter intends to protect. In a pioneering study published 40 years ago, the Finnish political sociologist Erik Allardt emphasized that the claims put forward by groups such as the Welsh, the Basques, and the Catalans could not be adequately understood in terms of a struggle for social inclusion and a higher economic status. As Allardt (1979, p. 44) literally held long before the term would start its steep career in academic and political debates, the claims of these collectivities must be understood as claims for *recognition*. What the politics of recognition (Taylor, 1992) is ultimately about, is forcing majority members to accept the self-categorization practiced by non-majorities in order to allow such non-majorities to achieve *equal dignity* with regard to the majority. In its most basic form, recognition implies that public institutions accept how people who do not feel represented by the majority define themselves. It is not too difficult to see how, under autonomy conditions, the operation of recognizing bears a different weight for the parties involved. Let me get back to the case of Catalonia: Those who primarily identify with the Spanish nation recognize the Catalan “other”, yet they do so strictly within the limits of the autonomy this other has been granted by the state, that is as an exception to the national “normality” represented by this state. In contrast, Catalans are expected to accept that being “Spanish” is a constitutive element of their own, necessarily “dual” identity. It is this very difference that is subjacent to the politics of *unequal* recognition. After all, the sudden death of the *España plural* approach evidenced in a very concrete way that “standard” Spanish identity must be considered a normative given, an unalterable outcome of historical power relations. Accordingly, dual loyalties may be acceptable, but only as long as the political intricacies they tend to imply remain contained within the subordinate level of autonomy.

It is often and reasonably held that many people not only in Catalonia, but also in other “peripheries” created by the Westphalian system are content with their dual identities, and that the sustainment of such identities actually is the key for resolving minority conflicts. My argumentation does not negate this. Nevertheless, it calls for redefining the terms of a complex identity building in a more equitable way. Thus, both identity components – say “Catalan” and “Spanish”, or, to mention just another example, “Corsican” and “French” – must be given the same chances to flourish culturally and politically. This implies an equally sovereign empowerment of the two parts that make for a compound identity. Otherwise, the identity balance ultimately is built upon a hierarchy of identities. Typically, coping with such a hierarchy is the burden minority citizens have to tackle, even more so if their identity is not dual, but strongly connected to a group whose members consider their incorporation in the dominant state to be unjust. For majority members, on the contrary, such a burden does not exist, unless they regard their very majority status as an undeserved historical privilege. Let me address the issue in a conceptually more common way: As with personality-based minority provisions, under conditions of regional autonomy, sovereignty remains with the titular nation; hence with Spain, in the case I have been discussing here, which is, as the Spanish constitution unmistakably stipulates in Section 2 of its Preliminary Part, “the common and indivisible homeland of all Spaniards”. In relation with this common and indivisible *fait accompli*, diversity-based autonomy can hardly be much more than an identity appendix, if not a sheer anomaly. If the constitutional text, passed in 1978, left any doubt, Spain’s Constitutional Court

made it very clear in a sentence produced immediately after the first autonomy regulations in Catalonia and in the Basque Country had come into force: “Autonomy is not sovereignty.”<sup>6</sup> Therefore, if you happen to belong to one of the many linguistic minorities in the contemporary world, autonomy will offer you a protection from assimilation that you will most likely prefer to not receiving any protection at all. Such protection, however, will not turn you into a member of a sovereign group. In the realm of political modernity, exercising sovereignty ultimately presupposes adopting the majority perspective and accepting the amalgamation of statehood, territory, and identity represented by the nation-state. In consequence, linguistic autonomy thereby tends to reproduce the logic of the Westphalian state order at a smaller scale. In most cases, it does not entail consistent efforts to reconcile democratic sovereignty and cultural diversity. Ultimately, one could even make the point that in modern political vocabulary, concepts such as “protection”, “autonomy”, and – as should have become clear by now – “minority” denote, in the first place, a subordinate status.

To summarize the argumentation put forward in this article: 25 years after the Charter, it is imperative to thoroughly reassess identity-cum-minority issues against the background of, first, the massive changes that have taken place in the framework of European politics since 1992 and, second, the normative deficits of approaches that may well have been designed with good intentions, yet have ended up reproducing entrenched structures of domination and subalternity. On the side of European politics, one can hardly say that recent developments bear witness to the emergence of a post-national order. If European integration once began as a process in which political elites were eager to participate in order to secure the “European rescue of the nation-state” (Milward, 2000), we are currently experiencing a heavy attack on the project of Europe’s political deepening due to the excessive weight that the interests of national governments keep bearing in the Union’s institutional architecture. The eastern enlargement and the financial crisis have gone hand in hand with a massive renationalization of decision-making in the EU. The corresponding dynamic has hardly contributed to a “sandwiching” of the nation-state between sub-national and supra-national structures, as some political observers were expecting in the early 1990s. One could rather argue that the opposite has come true, as the marginal role of the Committee of the Regions in Europe’s institutional setting shows. At the same time, it is very difficult to maintain that the European nation-states are in perfect health, immune to the loss of political control over their internal affairs and not exposed to severe legitimation problems (Castells *et al.*, 2017). However, their long crisis is, somewhat paradoxically, fostering a revival of statist nationalism all over the continent. In an environment characterized by the growing impact of an identity politics played out by and for majorities, the generosity European governments were formerly willing to express towards minority concerns – however rhetorical it may have ultimately been – has nowadays become an exceptional phenomenon. Even supposedly “liberal” leaders, who proclaim to stand up against the backlash provoked by right-wing populism, and whose declared goal is to protect the European cause from the evils of nationalism, do not show much disposition to build a Europe of the citizens whose allegiances would potentially question the status of entrenched national identities, as Emmanuel Macron’s reluctance towards accepting Corsica as a diverse element of the French Republic has made patent.

On the normative side, we have seen that the Charter for Regional or Minority Languages, regardless of its relevance for offering a template that facilitates the articulation of minority needs, does not constitute a real counterweight to the limits of a political order controlled by national governments. When it comes to guaranteeing the institutional visibility and the safe reproduction of minority identities, the impact of minority provisions and autonomy regulations is limited. What is required for granting all citizens of diverse polities equal levels of dignity is not simply better minority protection and more concessions in terms of regional autonomy, but ultimately a thorough reconsideration of the meaning of sovereignty along lines that overcome the deeply entrenched and hierarchical dichotomies on which the very existence of “majorities” and “minorities” is based. The patterns of an ever more complex diversity (Kraus, 2012) clash with the rigidity of legal and institutional programs tailored to regulate the multiplicity of languages, cultures and identities in ways that do not endanger the patterns of domination that were established in the process of nation-state construction. In all respects, the best way to protect citizens is effectively empowering them. To make such empowerment a reality, the arbitration set up in order to monitor the respect of cultural and linguistic rights through bodies such as the CoE and other transnational agencies, and the supervising of

<sup>6</sup> See Kraus (2017) for a discussion of autonomy as non-sovereignty.

the implementation of minority regulations alone will not do. What is required is an active promotion of linguistic sovereignty options beyond the conventional majority-minority frame.

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