

3

Organisation in favour of the language rights of Basque speakers
Organisation pour la defense des droits linguistiques des bascophones
Organizacion para la defensa de los derechos lingiiisticos de los vascohablantes
1 Arsenal square.64
75 Marcelo Zelaieta

0 559594948
: +34 948 146 172

The Basque language
Belonging to

e Rights of Persons
guistic Minorities

La langue basque et la la Declaration des droits des personnes appartenant

Euskara y la Declaración sobre los derechos de las personas pertenecientes a minorías nacionales o étnicas, religiosas y

Addressed to:
Soumis au / Dirigido a:

Independent expert on minority issues
Experte indépendante questions relatives aux minorités
Experta independiente cuestiones de las minorías

UNITED NATIONS

HUMAN RIGHTS COUNCIL – 5th FORUM ON MINORITY ISSUES

Conseil des droits de l'homme - Forum sur les questions relatives aux minorités Cinquième session
Consejo de Derechos Humanos Foro sobre Cuestiones de las minorías Quinto periodo de

November, 2002

des minorités nationales ou ethniques, religieuses et linguistiques

Madam Independent expert on minority issues,
Madam High Commissioner of the United Nations for Human
Rights, Mister President of the Forum on Minority Affairs:

I represent a broad majority of elements in organised civil pro-Basque-language society. Today the Basque language community is viewed as a minority within its own territory. Indeed quantitatively we *are* a minority, but I wish to point out that the fact of our *being* a minority in our own territory today is the product of brutal processes of linguistic assimilation, processes to which our language community has been subjected throughout history.

The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was approved on the 18th of December, 1982.

This is, in fact, the international agreement to have been approved by the UN that refers most specifically to the issue of protecting linguistic minorities, although as its preamble acknowledges, it is inspired by earlier texts, including Article 27 of the International Covenant on Civil and Political Rights.

The most interesting advance represented by the Declaration is the fact that it transcends the principle of non-discrimination, asserting the need to adopt measures that support and promote a given minority. From this perspective it is valid to talk about the recognition of the collective rights of minorities in connection with protecting their identity or existence as a human group.

The Declaration is not a binding document, it is only a set of recommendations; nevertheless, in our opinion it has a number of important aspects. It is valuable, first of all, because it helps to clarify the general subject of the protection of minority rights. It is also useful for the interpretation of the content of articles of other documents which support minority language rights. Yet another positive point is the recognition it gives, or the proclamation, in a document with international status, of the right to one's linguistic identity.

That of course is in the theoretical dimension, but now let us examine the real effect of the Charter.

Part of our language community is situated on French territory, where, because there is no recognition of collective rights, our language community, just as the Breton, Occitan, Catalan, Corsican and other communities, *have* no rights. Indeed the position of the French state is completely opposed to the very spirit of the Declaration. So for example, the French state maintains

a qualification of Article 27 of the International Covenant on Civil and Political Rights, and of Article 30 of the Declaration of the Rights of the Child, stipulating that there are **no minorities in the French state, on which grounds these articles are deemed not to apply. From this curious posture it may be concluded that the Declaration which we are studying today is null and void in France.**

The former independent expert on minority issues, Ms. Gay McDougall, in pursuance of her mandate, visited France between 19 and 28 September 2007. In her final recommendations she proposed:

The Government of France is urged to: (1) recognize the existence of national or ethnic, religious and linguistic minorities within its territories and to withdraw its reservation to article 27 of the International Covenant on Civil and Political Rights relating to the rights of persons belonging to minorities and article 30 of the Convention on the Rights of the Child; and (2) ratify the European human rights treaties relating to the rights of minorities, including Protocol No. 12 to the European Convention on Human Rights and the Council of Europe's Framework Convention on the Protection of National Minorities.

In its evaluation of the French state in 2008, the Committee of Economic and Social Rights said:

The Committee reiterates the recommendation formulated in its previous concluding observations (E/C.12/1/Add.72, para. 25) that the State party (i) withdraw its reservation to article 27 of the International Covenant on Civil and Political Rights and to article 30 of the Convention on the Rights of the Child and (ii) consider ratifying the Council of Europe Framework Convention for the Protection of National Minorities, as well as the European Charter for Regional or Minority Languages.

Moreover, they reminded to the State that the principles of equality before the law and prohibition of discrimination are not always adequate to ensure the equal and effective enjoyment of human rights, in particular economic, social and cultural rights, by persons belonging to minority groups

Now let me make a couple of observations about the Spanish state, briefly in order not to take up too much of your time. In recent times the Spanish state has been urged by the Advisory Committee on the Framework Convention for the Protection of National Minorities to reconsider its refusal to apply the Charter to the Basque, Catalan and Galician communities. By way of illustration, I would like to single out the fact that in Navarre, which is a territory in which Basque is spoken, recognition of the right of Navarrese citizens to speak their own language depends on where exactly in the territory they live; consequently, 1,400 girls and boys are now forced to travel a total of five million kilometres every year in order to be able to go to school in Basque, with all the risks and expense that entails. This is happening in Europe, in the twenty-first century.

Please note that the passivity or refusal of states to develop measures to guarantee linguistic and educational rights has been highlighted in Resolution n° 2004/51, of 2004, of the Human Rights Commission, which in its second point urges all states to adopt all necessary constitutional, legislative, administrative and other measures to promote the Declaration and achieve its implementation.

I speak on behalf of several dozen organizations, enterprises and other entities working towards the recovery of the Basque language. Basque is a non-IndoEuropean language that is thousands of years old, which has survived the vicissitudes of history and the ravages of brutal assimilation processes. Today, thanks to the action of organised civil society, we have magazines and newspapers in Basque and we have television; we have schools that teach in our language through immersion; literature is translated both from and into Basque; our language is even used in a normal way on the internet; and yet the "powers that be" still have not responded to this fact with conviction.

Ours is a people who want to live in the language of their land and have worked hard to achieve this. We want to LIVE, in capitals, and not to exist as second-class citizens. For us to live with dignity is to live in Basque. We therefore urge this forum, the independent expert and this institution to act to put in place effective processes and protocols to ensure the implementation of the principles of the Declaration, which will result in support for the right to live in our language, in the language of the land in which we live.

Paul Bilbao-Sarria
President of the Observatory of Linguistic Rights
pbilbao@kontseilua.org

Basque Country, 2012 November 27th