

Language Power in Europe

Minority Language Protection as a Threat to EU Normative Power in OCTs

1. Introduction

Overseas countries and territories (OCTs) occupy a unique position as far as the external policy of the EU is concerned as their autonomy from the member states which they are tied to means they are legally (and sometimes conceptually) not fully in the EU nor completely outside of it. At the same time, the relationship between the EU and its OCTs entered a new stage in 2021 with the conclusion of the previous Overseas Association Decision. Thus, an analysis of the EU's normative power in the region is topical. This paper makes the point that it is this unique position that allows for an interesting analysis of how minority language protection rights (as laid out in the European Charter for Regional or Minority Languages) in OCTs risks ending up hampering the EU's normative power. By comparing the situation of Papiamentu (a minority language spoken primarily in the Dutch Caribbean OCTs) and Frisian (a minority language spoken in the Netherlands proper), this paper explores why the situation of the two languages is so different and what could be done to rectify it. Considering the recent year long discussion surrounding the appeal from Bonaire to have Papiamentu recognized, and the Dutch rebuttal of it which both relied on interpretations of the European Charter for Regional or Minority Languages, this paper will specifically be focusing on the policy-based explanations for the situation.

I will argue that the vagueness of the language used in the European Charter for Regional or Minority Languages means that a situation has arisen which threatens the EU's normative power. Specifically, as countries are free to define which minority languages they recognize (and thus protect), as a proxy of being able to define national minorities as laid out in the

Copenhagen criteria, this creates a situation in which a country like the Netherlands can claim to *de jure* be following the criteria, while *de facto* not doing it. In the context of Frisian and Papiamentu, this means that while Frisian is a recognized minority language (and thus protected by the European Charter for Regional or Minority Languages) in the Netherlands, Papiamentu is not,¹ despite Papiamentu not clearly being excluded by the European Charter for Regional or Minority Languages from being a minority language to which the charter does not apply.

This is a threat to normative power in so far as normative power is only truly successful if it ‘has the ability to shape conceptions of “normal”’ (Manners, 2002:239). In other words, normative power can be measured in how well an actor manages to normalize certain standards. In the case of this paper, normative power will therefore be measured in how well the EU manages to normalize minority language protection as a new ‘normal’. Consequently, normative power can be said to fail or be weak when there is a failure to cementing new norms as a new ‘normal’. This paper takes the view that the latter has happened as far as the norm of minority language protections in the EU is concerned. Namely, instead of the norm having become normalized, it has instead resulted in a situation where the norm is applied selectively – even after there have been demands to rectify this. This would indicate that, rather than being a new ‘normal’, the norm is seen as a box-ticking exercise that must be engaged in for the benefit of maintaining a status quo. The norm is thus not applied to bring about a new ‘normal’ as Manners (2002) envisions normative power to be when it is successful. As a result, I interpret such a situation to indicate a failure in normative power in general for the EU as far as minority language protection is concerned.

¹ Despite having formally requested recognition as a minority language (MIN-LANG, 2019:7).

This has potentially wide-ranging consequences in other international areas of the EU as the example of Papiamento and Frisian showcase a wider trend of countries recognizing minority languages that are spoken in their core provinces – but not those that are not. The result is thus that languages primarily spoken in OCTs are excluded from the necessary support they (might) need. This for instance could impede further co-operation between the OCTs and the EU, but also be seen as a weakness in the EU's normative power as a whole, which would affect many more aspects of the Union's international relations.

In order to illustrate this argument in more detail, I will show how the European Charter for Regional or Minority Languages is an instance of the EU's normative power. Second, I will show that the EU has an interest in applying normative power more generally in its OCTs. From there, I will focus on the empirical evidence that the EU's normative power in its OCTs is threatened. I will specifically be looking at the treatment of Papiamento and Frisian as far as the European Charter for Regional or Minority Languages is concerned to show that there exists a real disparity in how these two languages are treated by the member state they are dependent upon (the Netherlands). Having thus established how EU normative power is under threat in the Dutch OCTs, I will look at how this situation has come about. I will mainly be focusing here on the arguments for and against recognizing Papiamento as a minority language that have been put forward in the last year by the OCT Bonaire and the Netherlands in their debate surrounding the issue.

2. The European Charter for Regional or Minority Languages as Normative Power

As mentioned in the introduction, for normative power to be considered to be weak or to have failed, it needs to be shown that a norm has not successfully been normalized. This is based on it being the reverse of Manners (2002) interpretation that normative power can be

identified as the ability to shape what is conceived of as 'normal'. Therefore, if the way minority language protection is implemented in OCTs is a threat to normative power, it should be shown that i) minority language protection is a norm that the EU seeks to normalize, ii) that there existed interest applying normative power in OCTs, and iii) this normalisation has failed. This section will show that assumption i) holds by looking at how the European Charter for Regional or Minority Languages that governs this norm came to relate to other clearly normative policy documents of the EU such as the Copenhagen Criteria. Further, I will also look at the signatories and ratifications of the charter to show that it can be constituted as a norm that is part of the EU's normative power in international relationships.

The relation of the European Charter for Regional or Minority Languages and the Copenhagen criteria, is fairly strong albeit not straightforward. While the European Charter for Regional or Minority Languages, has been adopted by the vast majority of EU nations and especially new entrants, it is not an official EU policy. It is however the framework of choice for many new and applying members to satisfy the minority language protection part of the Copenhagen Criteria. Since the Copenhagen criteria regulate what potential new member states must fulfill in order to be considered candidates for joining the Union, the contents of the Copenhagen Criteria are a clear example of a policy document that embodies normative power in international relationships. Any country wishing to change the nature of their relationship with the EU to one of a member state in the Union, must make certain changes in the way they run their country in order for this to be considered. As such, the Copenhagen Criteria normalize the norms contained within it as more countries seek to join the EU.

Considering the Copenhagen Criteria list the protection of national minorities as one such norm, and this protection includes language, we can assume that by property of transitivity minority language protection is a norm the EU seeks to normalize in its international

relationships. I.e. If we agree that protecting national minorities is a norm the EU seeks to normalize, and in order to protect national minorities, their language must also be protected, then protecting minority languages is part of a norm the EU seeks to normalize and thus something that influences the EU's normative power.

Further, even without appealing to the Copenhagen Criteria, it is clear that the European Charter for Regional or Minority Languages plays a part in the EU's international relationships. This can be seen by it not only being member states that have signed or ratified the charter. Russia and other non-candidate countries such as Azerbaijan have for instance signed the charter. Potential candidate countries such as Bosnia and Herzegovina have even both signed and ratified it. The same goes for candidate countries like Montenegro. Thus, while there are also candidate countries such as Turkey who have not signed the charter, it still goes to show that the charter has an international political life outside of the EU, thereby acting as an instance of normative power.

In conclusion, since the protection of minority languages falls under the protection of national minorities which is a norm the EU explicitly seeks to normalize under the Copenhagen criteria, minority language protection is an instance of normative power. Further, since the European Charter for Regional or Minority Languages is signed by countries of differing closeness to the EU (candidate, potential candidate, and third states) the charter also normalizes minority language protection as a norm even in countries that are not beholden to adopt the Copenhagen Criteria. As such, minority language protection can on its own be seen as an instance on which the normative power of the EU can be measured. The next section will now focus on showing that assumption ii) holds: that the EU is trying to apply normative power in its OCTs. If this is the case, a failure to normalize certain norms can be interpreted as a weakness in normative power, rather than lack of effort or disinterest from the EU.

3. Evidence that the EU is Applying Normative Power in OCTs

As laid out in Hannibal et al (2013), the trajectory of the EU's relationship with the OCTs of its member states can be characterized as moving from a relationship where the OCTs were granted an exception status, to one where the EU's relationship with the OCTs is mirroring – where possible considering the non-sovereign status of the OCTs – the relation the EU has with its member states. In fact, Kochenov (2012a) argues that historically '[the OCT category] was clearly designed with a view to the eventual incorporation of [the OCTs] into the scope of [...] the acquis' (Kochenov, 2012b:686). Therefore, signaling that from the outset there was a need to apply normative power in these regions so that they could eventually be fully incorporated into the EU.

Until 1991 the relationship is best understood as one of patronage. The OCTs gained certain privileges in the form of developmental assistance but had no seat at the table. Instead, the EU negotiated this relationship with the member states on whom the OCTs were dependent (Hannibal et al, 2013:80).

In 1991 however, an association decision was made which gave the OCTs a seat at the table by formalizing a partnership between the EU and the OCTs. As a result, OCTs now enjoyed a degree of agency by being able to apply for certain EU funds. Thus, they were now able to more freely define what they wanted assistance with and what not (Hannibal et al, 2013:80). This ultimately resulted in the creation of OCTA as an association for all OCTs that could negotiate with the Council of the EU directly (Hannibal et al, 2013:81). This initial association decision was last renewed in 2013 to last until 2020.

However, as stated in Kochenov (2012a), integration into the EU for instance via a uniform application of EU law has been very far away. But even in this area the EU has shown a willingness to increase integration by incorporating all OCTs' funding (including Greenland

that had a special status) into the general EU budget. Thus, the financial relationship between the OCTs and the EU become more integrated and the overall system more streamlined by incorporating the European Development Fund (where the OCTs financial assistance was coming from) into the general budget.

Even disregarding this evidence for the EU's objective of increasingly integrating the OCTs, the Dutch Caribbean OCTs in particular have shown a willingness for more integration into the EU (Kochenov, 2012b). This is for instance illustrated by Aruba rejecting independence, and Bonaire opting to become special municipalities (*bijzondere gemeenten*) within the Country of Netherlands (Kochenov, 2012b:150) – the European part of the Kingdom of Netherlands. In fact, in 2009 Aruba won a case in the European Court of Justice to allow its inhabitants to vote in European Parliament elections (Kochenov, 2012b:151). It thus seems that both parties are equally interested in a closer relationship, which Kochenov (2012b) speculates might mean a future 'upgrading' of these OCTs to Outermost Regions, whereby EU law would apply more uniformly in these territories.

As such, it can be confidently argued that the EU does apply normative power in the OCTs, since it is actively seeking closer relationships with them. This in turn would also automatically mean an increased normalization of EU norms in these OCTs, whereby it can be concluded that the EU is applying normative power in the OCTs.

Now that it is clear that the protection of minority languages can constitute an instance of normative power and that the EU is (interested in) applying normative power in the OCTs, I will turn to view how well the norm of minority language protection has been adopted in the Dutch Caribbean OCTs in regard to Papiamentu. I will compare this implementation with the protection afforded to Frisian, to show that there is a real disparity in how the norms are applied to the detriment of Papiamentu. Consequently, as far as minority language protection

is concerned, the normative power of the EU in the region is threatened, since the norm of protecting minority languages is not normalized. Instead, the norm is only applied selectively to (presumably) avoid open violations of the charter.

4. The Charter in Relation to Papiamentu and Frisian

In order to evaluate how Frisian and Papiamentu are protected by the Netherlands, I will first give a brief overview of the history and relationship of Frisian and Papiamentu with the Netherlands. Then I will review how the languages are represented in the domain of education, law, and culture, since these are areas the European Charter for Regional or Minority Languages specifically mentions a minority language must be promoted in.

Both Frisian and Papiamentu are minority languages with a long history of being part of the Netherlands. Frisian has been spoken as a separate language in the current area of the Netherlands since at least 500 – 700 AD and has been spoken in the Netherlands since its founding (Gorter, van der Meer, and Riemersma, 2008:185) in the 16th century. Apart from the Netherlands linguistically distinct minority languages that are also known as Frisian are also spoken in Germany, but this paper focuses only on Frisian spoken in the Netherlands. In terms of number of speakers Gorter, van der Meer, and Riemersma (2008) estimate about 325.000 people speaking Frisian in the Netherlands, though this number is far from exact as counting speakers of minority languages is a difficult task and the Dutch Census does not include a question to ascertain data on this.

In contrast, Papiamentu is a Spanish-based creole spoken in the Dutch Caribbean islands of Aruba, Bonaire and Curaçao. As the other Dutch Caribbean islands primarily speak a variety of English as their native language, the rest of the paper will focus on the so called ABC islands of the Netherlands. In terms of its history, it is known that Papiamentu was at least a

language that was talked about in the early 18th century, and there exist letters from the latter part of the same century written in Papiamentu to Europe. One of these is fully in Papiamentu (Jacobs and van der Wal, 2015; Grant, 2008; Wood, 1972). The current consensus is that the language established itself on the islands in the latter half of the 17th century (Jacobs and van der Wal, 2015:45; Kouwenberg and Muysken 1994:205; Bartens 1996:274). Contrasting this with the Dutch colonization of the ABC islands in 1634 (Curaçao) (Aggett and van de Leur, 2020:591), it can be said that, Papiamentu like Frisian has been part of the Netherlands not as soon as it was possible for either language to be a part of it. As far as speakers are concerned, the size of the languages is also similar with Papiamentu having some 260.00 speakers according to the UN. What therefore separates Papiamentu and Frisian from one another in descriptive terms, is that Frisian is closer to Dutch linguistically and geographically than Papiamentu.

When it comes to minority language protection, more stark differences emerge. Frisian enjoys the highest protection the Dutch state can give a minority language. Further, it is also the only minority language the Netherlands recognizes in their ratification of the European Charter for Regional or Minority Languages. Papiamentu is not recognized as a minority language but is an official language on the ABC islands.

Due to the recognition of Frisian as a minority language, Frisian therefore has some distinct advantages over Papiamentu. The Netherlands is obliged to promote Frisian in the realms of education, law, and media, which among other things means that Frisian enjoys a written standard language. Papiamentu has no such support from the Netherlands and a unified written standard does not exist. Instead, there is one standard used on Aruba and another used on Bonaire and Curaçao since the late 70s. Since the Netherlands is not supporting Papiamentu under the European Charter for Regional or Minority Languages, the promotion of Papiamentu falls to the ABC islands' local governments after they made Papiamentu an

official language in the early 2000s. However, Gorter, van der Meer, and Riemersma (2008:195) do point out that despite the Netherlands being bound by the charter to promote Frisian, the burden of doing so usually falls per default on the province level of administration. The situation is thus not unlike the one described for Papiamentu in Bröring and Mijts (2017:32), where '[the Dutch government] is very reluctant to intervene in the Caribbean countries, especially where culture and language are at stake'. As a result the linguistic situation for both languages can be summed up as existing in a laissez-faire relationship with Dutch, where Frisian has the right to state support, but by and large receives it from the province administration and Papiamentu has no such rights and is instead supported by the ABC islands' local governments.

In education this relationship manifests itself in that both Frisian and Papiamentu are subjects and mediums of instruction in primary school. However, Papiamentu was by and large only taught for speaking purposes (Dijkhoff & Pereira & Pereira, 2010:248). Further, schools on the islands were to a certain extent free to choose what language to use as a language of instruction. Current legislative efforts are trying to promote the use Papiamentu but have historically been hampered by the lack of materials and teachers. Considering that high school was very Dutch dominated, and national exams were in Dutch, this meant that many Papiamentu speakers in Aruba either dropped out of secondary school or opted for vocational training instead of more academic schooling (Dijkhoff & Pereira, 2008; 2010). As a result, many schools actively fought against having to teach in Papiamentu and the Dutch Education Ministry also indicated that 'Dutch must remain the language of instruction in the Netherlands Antilles' (Dijkhoff & Pereira, 2010:259).

In Frisia, Frisian is a required subject in primary school and the lower secondary school. In the later half of the secondary school, it becomes instead an optional subject (Gorter, van der Meer, and Riemersma, 2008:196). Frisian can also be studied at university, though the class

sizes are small, but it does lend the language some prestige through acknowledging the language and its culture as an object worthy of study. As such, Frisian benefits from legal support, standardization, and access to both teachers and materials, by and large due to its status as a recognized minority language. Thus, while the Council of Europe has noted that educational support of Frisian is 'intolerable' in primary schools (Gorter, van der Meer, and Riemersma, 2008:200), Frisian has not had to battle against public perception, lack of resources or interference from the Dutch government, as much as Papiamentu. Being a university subject also conveys it a level of prestige that Papiamentu lacks.

In the justice system, Frisian enjoys full rights to be used in both written and spoken format in the courts. Though Gorter, van der Meer, and Riemersma (2008:196) note that in practice it is hardly being used. One of the reasons is that there are not enough law professionals with sufficient proficiency to use it. This, and a related problem also affect Papiamentu. For all ABC islands two problems remain the same: that the local law is often a carbon copy of Dutch law, and that there are not enough trained professionals in Papiamentu for effective use of Papiamentu as an equal language to Dutch in courts. The former means that often the Dutch law does not take into account a multilingual situation. The latter means that even if the law is modified, that this modification is not reinforced in practice. Bonaire, as an official municipality of the Country of Netherlands also has to contend with that European judges might be called to rule in cases. These judges obviously have no proficiency in Papiamentu. It also does not help that specifically for Aruba, the position of Papiamentu is always labelled as an option, while Dutch is the default. Bröring and Mijts (2017:35) report for instance that when it comes to swearing oaths, the law prescribes the Dutch oath and that an Papiamentu equivalent might also be used. Even more damning is the same authors report that despite being an official language of Aruba, Aruban law still stipulates Dutch exclusively as the language of legislation and criminal proceedings. Meaning, legislation and criminal

proceedings must be held in Dutch (and can only be translated into Papiamentu) (Bröring and Mijts 2017:35). As such in the realm of law, Frisian again has more representation and protections. Though it like Papiamentu suffers from trained professionals who could use the language in the courts.

In culture Gorter, van der Meer, and Riemersma (2008) contend that the presence of Frisian in media, culture and economic activity is modest but increasing. Often there are only one or two media outlets for each medium (television, radio, internet publication, newspaper) to choose from and products and advertisements are largely in Dutch. That being said though, considering that certain areas have seen a higher growth than others (such as family announcements in newspapers) (Gorter, van der Meer, and Riemersma, 2008:199), it seems like there are domains in which Frisian is able to gain ground over Dutch. In a similar fashion Frisian is also regularly used in elderly care. Frisian also benefits from a strong tradition of promoting literacy that goes back to 1947 (Gorter, van der Meer, and Riemersma, 2008:199). This has made sure that Frisian has a stable cultural representation in literature, song, and theatre in the province. Similar findings for Papiamentu are more meager though this should not indicate a lack of cultural productivity. More likely it is the case that the lack of a unified written standard and encouragement to use Papiamentu in writing, stand in the way of similar cultural endeavours. At the same time the ABC island's reliance on tourism automatically means that the local language also has to contend with being sidelined in favour of foreign travelers who make up a large percentage of the islands' economy.

Therefore, in culture Papiamentu also fairs worse than Frisian, though one can ask whether the measures used here for cultural productivity (themselves informed by the charter) are useful for a primarily oral language.

In conclusion it can be said that the situation of Frisian and Papiamentu and their relationship with the Netherlands shows some stark differences but also similarities. While both languages have similar rights in terms of being official languages in their geographic areas. Both suffer from a laissez-faire relationship with the Dutch state, which results in not enough financial support in protecting the language, particularly in education. This has wide-ranged consequences particularly for Papiamentu that lacks a unified written standard. This in turn has a trickle-down effect into how easy it is to be taught or how likely written culture is going to be produced with it. Frisian also has a stronger legal backing from the Dutch state as a recognized minority language, meaning it has an EU-avenue as well to improve its relationship with the Netherlands. Papiamentu lacks this. Frisian is also only in practice sidelined in the justice system due to the lack of professionals that speak it well enough. This practical issue is also a problem for Papiamentu. But Papiamentu also suffers conceptually from not being treated as equal in the formulation of law and legislation. Dutch thus still has the default status on Aruba (the most devolved of the ABC islands) with Papiamentu being presented as a ‘tolerated’ deviance from said norm.

It can therefore be contended that the normative power of the minority language of Papiamentu on the ABC island OCTs is a failure in normative power. In fact, it seems this failure in normative power is not only related to the OCTs in the Netherlands but also to Frisian. As the Committee of Experts condemned the Frisian situation in 2004, this and the continued worse situation for Papiamentu showcase the lack of normative power in minority language protection in general in the Netherlands and in Dutch OCTs in particular.

The next section will present an analysis as to how this situation could come about and what the EU could do to rectify it. This is particularly topical with the new stage in EU OCT relations that takes place in 2021 and the recent debate surrounding the appeal of the ABC islands that Papiamentu be protected under the charter – something the Netherlands refused

to do initially, only to revise its position to look into how Papiamentu could be protected on Bonaire.

5. Causes of the Current Situation for Papiamentu

As laid out in the last section, the main difficulties facing Papiamentu are twofold:

- a) Papiamentu lacks the status of recognized minority language.
- b) The funding of initiatives to protect Papiamentu is born by the local governments of the ABC islands. This is a situation Frisian also suffers, since as detailed in Gorter, van der Meer, and Riemersma (2008), the provincial administration – not the national government – is the main governmental participant in protecting Frisian.

This section will present an argument that both problems ultimately came about because the language of the European Charter for Regional or Minority Languages does not take into account OCTs specifically. Further, what language there is regarding applicability of the charter in general, is not fit for purpose for the complicated legal relationships that the OCT governments of some minority languages find themselves in with the member state they depend on.

Difficulty A is a result of the European Charter for Regional or Minority Languages declaring that member states are in charge of both interpreting and implementing the charter. Thus, it is up to the member states to define which languages the implementation of the charter applies to. Considering the confusing legal situation as far as EU-law and policy is concerned that OCTs are in, this obviously results in a situation where minority languages could be taken

advantage of. At the least it represents a considerable conflict of interest when the member state in charge of implementing the charter also gets to decide whether the charter should even be implemented.

Difficulty B – the Dutch state delegating the financial burden to support minority languages to provincial administration - ultimately affects Aruba and Curaçao more so than Bonaire.

The charter that governs the functioning of the Kingdom of Netherlands divides the Kingdom into different countries. Aruba and Curaçao make up are their own countries while Bonaire is part of the Country of the Netherlands. As Aruba and Curaçao are their own countries, the charter does not allow the Netherlands to interfere in language planning and policy (which includes minority language protections) in Aruba and Curaçao. ‘Only when it is evident that treaty law or a fundamental principle like accessibility to law, legal certainty or the equality principle is violated, the Kingdom [namely the King, Parliament, or (state) government] is [sic] permitted to apply its power’ Bröring and Mijts (2017:32).

As a result, the Dutch government does not have competency to address minority language protections on Aruba or Curaçao, but does on Bonaire. Though the example of Frisian shows that even in this scenario it likes to delegate the implementation of even binding minority language protections to the local province administration.

This problem by and large stems from the fact that – as mentioned for Difficulty A – it is not clear whether the European Charter for Regional or Minority Languages in OCTs, since EU law and policy does not automatically apply in OCTs (Kochenov, 2012a:680). Therefore, the Dutch argument is that the European Charter for Regional or Minority Languages does not apply for Papiamentu (MIN-LANG, 2019:7). However, the charter does not specifically refer to its scope as being European. Instead, the charter defines the “territory in which the regional or minority language is used” as ‘the geographical area in which the said language is the

mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter' (ETS No.148, 1992:2). As such, nothing in the charter's language forbids it to apply in OCTs, either.

Assuming however that the charter were applied in OCTs brings up another problem particular to the Netherlands. Since the Kingdom has no competency on Aruba and Curaçao as far as minority language protection is concerned, it seems that Aruba and Curaçao could decide to voluntarily apply the charter to themselves. However, the charter defines a minority language as a language that is (ETS No.148, 1992:2):

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

ii) different from the official language(s) of that State'

Papiamentu is in breach of both conditions of the charter on Aruba and Curaçao. It is not numerically smaller than Dutch and it is an official language. Further, even if Papiamentu could be protected in this manner, it would not solve the issue of the burden of financially supporting it falling on the local government. The only island of the ABC islands where the Kingdom thus does have competency to protect Papiamentu would be Bonaire.² As noted though, even this would not absolve the Netherlands from protecting Papiamentu in Europe as the language has also traditionally been spoken there (MIN-LANG, 2019:7).³

² Interestingly this is also the action the Dutch government decided to investigate in 2021 when it had to contend with an appeal to recognize Papiamentu (Rijksdienst Caribisch Nederland (03/11/21) <https://english.rijksdienstcn.com/latest/news/2021/march/11/governance-agreement-to-protect-papiamentu-on-bonaire> (Retrieved: 05/12/21))

³ Though it is somewhat troubling that it seems to thus indicate that the charter need not apply in OCTs.

Consequently, difficulty B) is born out of an interaction between the charter being unclear whether it applies in OCTs and the devolved relationship some OCTs have with their member state. Thus, OCTs that have full control over their language policy cannot benefit from the charter since the only way to secure its application would be for the OCTs to apply it to themselves. Thus, they could not benefit from their member state being obligated to help ease the financial burden of applying the charter. In fact, applying the charter would also not help the indigenous language at all in the case of Aruba and Curaçao, since Papiamentu does not qualify as a minority language in the OCT. This in turn shows that the definition of ‘minority language’ employed by the charter is not fit for purpose in the OCT context, as it focuses on number of speakers, rather than societal dominance or prestige. Crucially, there also needs to be a reckoning that a language being official does not automatically grant it prestige.

This means there are three main recommendations for how the EU could solve this situation and deal with the threat to normative power that it poses:

- Lobby the Council of Europe to delegate the interpretation of the charter from the member states to the Committee of Experts that already reviews member state compliance after the fact.
- Specify that unless expressly stated otherwise, the member states should apply the charter in OCTs if the OCT requests it and the Committee of Experts agrees that the OCTs indigenous language qualifies as a minority language.
- Lobby the Council of Europe to update the definition of ‘minority language’ to not focus on number of speakers but societal dominance and prestige outwith ‘official language’-status, to more accurately reflect the situation of minority languages in OCTs.

Considering that there are no languages protected under the charter that are spoken in OCTs, the review and suggestions here apply to more situations than just the one detailed here Between Papiamento and the Netherlands. As a result, it would seem that the EU's normative power in this area is weakened in all OCTs because of these issues.⁴

6. Conclusion

This paper has thus argued that based on how on the difference in language protection between Papiamento and Frisian, that the situation posed a threat to the EU's normative power in OCTs. The paper illustrated this point by showing that minority language protection was a norm the EU seeks to normalise. Thus it constitutes an instance on which normative power can be measured. Then the paper also showed that the historical development of the relationship between the EU and its OCTs showed the EU's overall goal benefitting from its normative power to be as strong in OCTs as possible since the EU seeks to integrate the OCTs in the long term.

By showing how minority language protections however differed between Frisian and Papiamento, it became clear that as far as minority language protections were concerned, that the EU's normative power in the region was threatened. The paper then showed how this situation was due to legal unclarity brought on by the language used in the European Charter for Regional or Minority Languages. A number of revisions to the charter to rectify this situation were then posed, which could also help the EU's normative power outwith the Dutch OCTs, since a further review of languages protected by the charter showed that none of these languages were spoken in OCTs.

⁴ French OCTs being an exception since France has not ratified the charter, and thus the normative power there is not primarily weakened by the charter.

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