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**REPORT SUBMITTED BY ITALY  
PURSUANT TO ARTICLE 25, PARAGRAPH 1  
OF THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

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## PART I

### INTRODUCTION

The purpose of this Report is to provide a general presentation of the legislative and other measures taken for the protection of minorities, from which it will be seen that Italy has made a significant commitment in this field.

The information set out in Part I of the Report will, of course, be described more fully and in greater detail in Part II under the provisions of the Convention referred to in the body of the Report and in accordance with the Outline for Reports drawn up by the Council of Europe.

The Report has been prepared by the Ministry of the Interior (Central Department for the Problems of Frontier Areas and Ethnic Minorities), with the assistance of the Office of the Council of Ministers (Department for Regional Affairs), the Ministry of Foreign Affairs and the Ministry of Education.

When the Report was being drawn up it was also considered appropriate to seek the opinion of CONFEMILI (National Federative Committee for Linguistic Minorities in Italy).

#### **Italy's policy concerning the protection of national minorities**

The Framework Convention for the Protection of National Minorities entered into force in Italy on 3 March 1998, following the adoption of Law No 302 of 28 August 1997 authorising its ratification and the deposit of Italy's instrument of ratification on 3 November 1997.

The guide to the drafting of the Reports to be submitted pursuant to Article 25 paragraph 1 of the Convention provides that Part I is to contain an introduction describing the way in which the Convention has been implemented in each country. It is clear, moreover, that an exhaustive account of the commitment and the efforts which Italy has made over the years in relation to the protection of minorities, in accordance with the principles set out in the Convention, must necessarily take account of the period preceding the adoption of the Convention.

For historical reasons Italy has a multilingual context, with different populations which have been settled in its territory for centuries; it includes communities whose languages are German, Albanian, Greek, Slovenian and Croat, Franco-Provençal, French, Occitan, Catalan, Ladin, Sardinian and Friulian.

The reasons for the presence of these groups in Italy are very complex.

Linguistic minorities have settled in 13 Italian regions, apart from the two Provinces with Special Statutes, Trentino and Bolzano, which form the Region of Trentino-Alto Adige.

Having regard to this linguistic and cultural wealth, the importance of which was taken into consideration by the Constituent Assembly, the Constitution includes, among its fundamental principles, a specific provision on the protection of linguistic minorities, namely Article 6, which provides that "The Republic shall safeguard linguistic minorities by means of special provisions".

Particular attention was given to the protection and problems of linguistic minorities at the time of the foundation of the Italian Republic, and a significant and complex body of legislation relating to these matters was enacted during the years that followed. The subject has always been a central issue for both Parliament and the Government, and this was recently reaffirmed in October 1998 when the President of the Council of Ministers, presenting the Government's programme to Parliament, emphasised that the Government, in order to ensure "the equality of all citizens before the law, [would] devote particular attention to ethnic minorities, by providing for the dynamic development of their special autonomous powers in order to protect their special features, particularly with a view to possible constitutional or electoral reforms".

In the Italian legal system the concept of "minority" is linked exclusively to that of language, or, rather, linguistic minority, on the basis of Article 6 of the Constitution.

All other factors capable of distinguishing a minority, such as ethnic group, religion, race etc., are dealt with in other general articles of the Constitution; these articles provide that citizens are equal before the law without distinction as to sex, race, language, religion, political opinions and personal or social conditions, and guarantee personal freedoms, the right of assembly, the right of association and the right to profess one's religion freely, both individually and in association, to promote that religion and to worship in private or in public.

The fundamental aspect to emerge from these articles constitutes and defines the position of each and every individual vis-à-vis the Italian legal system: the Constitution asserts the principles of freedom and equality. These two principles permeate the entire Italian legal system; they establish that all citizens are entitled to equal treatment under the same conditions before the law and represent a crucial point on which the Constitution rests.

The Italian Constitution contains the following two fundamental aspects:

(a) absolute respect for the freedom guaranteed in Article 2, which states that "the Republic recognises and guarantees the inviolable rights of man, both as an individual and as a member of the social groups in which one's personality finds expression, and it requires the performance of imperative political, economic and social duties".

(b) equality of treatment, which is clearly provided for in Article 3 paragraph 1, which confers equal social status and equality before the law on all citizens "without distinction as to sex, race, language, religion, political opinions, and personal or social conditions".

This paragraph, which establishes the equality of each individual, is supplemented by paragraph 2 of the same article, which affirms the principle of genuine equality and states that "it is the duty of the Republic to remove all economic and social obstacles which, by limiting the freedom and equality of citizens, prevent the full development of the individual and the participation of all workers in the political, economic and social organisation of the country".

It follows that the institutions are required not only to adopt the same approach when dealing with similar situations but also to use all the appropriate legislative and administrative means of achieving the objective laid down in the Constitution of compensating for social inequality.

These principles, which were already set out in the Statuto Albertino (Constitution of the Kingdom of Italy), acquired additional status and force in a rigid Constitution, ie one which can be amended only by means of a very strict procedure.

This demonstrates Italy's profound and firmly entrenched concern for human rights and fundamental freedoms and, more generally, for all minority or less favoured populations.

In this context, Italy has ratified and implemented the International Convention on the Elimination of All Forms of Racial Discrimination drawn up in New York on 7 March 1966 (Law No 654 of 13 October 1975); since the Italian Government considered it necessary to supplement and amend the existing legislation on racial, ethnic and religious discrimination as a matter of urgency in order to provide more effective means of preventing and prosecuting intolerance, they promulgated Order No 122 of 26 April 1993, which subsequently became Law No 205 of 25 June 1993 laying down "Urgent measures relating to racial, ethnic and religious discrimination".

The fight against discrimination in general, which merits special attention in this account, was also dealt with in Law No 40 of 6 March 1998 on immigration and the status of aliens: Section 41 paragraph 1 provides that "discrimination exists where there is conduct which directly or indirectly gives rise to distinction, exclusion, restriction or preference by reason of race, national or ethnic origin or religious beliefs or practices, the purpose or effect of which is to prevent or jeopardise the recognition, enjoyment or exercise, in conditions of equality, of human rights and fundamental freedoms in the political, economic, social, cultural or other spheres".

Enforcement of the principle of non-discrimination is clearly guaranteed by Section 42 of that Law, which provides that a civil action may be brought against discrimination: anyone who considers that he is the victim of discrimination may apply to the Pretura (magistrate's court) for an injunction to put an end to the discrimination complained of.

Section 42 also provides for the establishment of Monitoring, Information and Legal Aid Centres for victims of discrimination on grounds of race, ethnic group, nationality or religion.

A number of Institutes for Research into Discrimination are already in operation (the National Institute for Research into Xenophobia and the Institute of the Region of Piedmont for Research into Racism, Antisemitism and Xenophobia in Italy).

This Report is clearly not the appropriate place to deal with the law and regulations on aliens, in particular the recent mass migrations from east-European, Mediterranean, African and Asian countries, which are of immediate concern to Italy and other countries.

It should be pointed out, none the less, that members of the various communities are given the opportunity to become integrated within the social and economic fabric by virtue of Law No 40 of 6 March 1998 and Legislative Decree No 286 of 25 July 1998, which consolidates in a single text all the provisions on aliens; this text favours the integration process while at the same time respecting the culture, traditions and religion of origin.

The Constituent Assembly's aim in Article 6 was to ensure that each linguistic minority would be regarded as a cultural and historic unit to be protected against any assimilation that might alter its essential features; the Constitution is designed not to protect the individual

members of the minority but to protect the linguistic minority as a whole as part of the cultural and historic heritage of the community.

It is for that reason that the protective measures adopted and actually implemented respect the principles of the Constitution on the basis of the territorial criterion, which indicates the area in which the minority is established.

A number of minorities are present in Italy:

- (a) communities established in the frontier areas, which, for historical reasons, have a common cultural and language tradition with the populations of the adjoining countries (multilingual): these are the French-language minority in Valle d'Aosta, the German-language minority in Trentino-Alto Adige and the Slovenian-language minority in Friuli-Venezia Giulia;
- (b) heterogeneous groups of individuals long been established in various regions (known as old-established groups); there are also cases where the need to protect a specific linguistic and cultural reality corresponds with the needs of a significant proportion of the population of certain regions (Friuli and Sardinia).

In the case of the linguistic minorities in the first group, ad hoc legislation has established forms of protection which vary according to the territories in which the minorities are established, and also provided for wide legislative and administrative autonomy, an aspect which is of particular importance because it is provided for in the Constitution itself: protection of the minority and Special Statute are thus closely linked.

In the case of Valle d'Aosta and Alto Adige in particular, the fundamental protection is ensured by the Special Statutes on autonomy provided for in the Constitution and by the provisions adopted to implement those Statutes.

In these areas French and German are used on the same basis as Italian.

The provisions relating to legal protection for the French minority in Valle d'Aosta do not distinguish between the Italian and French linguistic groups, since the residents of that area are bilingual or, better still, "completely bilingual": they are able to use either language equally well and can understand the other perfectly.

This is possible because of the school curricula, which provide for the same number of hours' tuition in each of the two languages. In public life the use of both languages is guaranteed by both national and regional provisions: for example, regional provisions are published in both languages in the Official Gazette of the Region, the measures adopted by the Administration are drafted in French and Italian, and everyone is entitled to use either language when dealing with the Administration or the judicial authorities.

The use of French in Valle d'Aosta is thus increasing steadily, owing to the provisions in force and the legislative and administrative initiatives taken by the Region.

The Official Gazette of the Region, the proceedings of the Regional Council and some regional administrative measures are drafted in French and Italian.

The staff of local or decentralised public institutions are required to demonstrate their knowledge of French when they are recruited; in addition, they receive a “two languages” bonus.

French is taught in all the region’s schools at the same level as Italian. Throughout compulsory schooling both French and Italian are essential languages for the study of certain subjects.

The Regional Education Department and the IRRSAE (Regional Institute for Educational Research and Improvement) of Valle d’Aosta periodically organise training courses for schoolteachers in French and the technique of bilingual education. Twinning arrangements with schools and cultural institutions in the neighbouring French-speaking regions are very common and well organised, in particular with the Universities of Chambéry and Grenoble.

A French Language Office based in Aosta is at the disposal of the Administration and the general public; it prepares texts in French and translates documents both into and from French.

Now that French has been taught in all schools for 50 years, a good proportion of the population of the region is now capable of using both oral and written French.

Between the fourteenth century and the unification of Italy all the expressions of religious, cultural and literary life in Valle d’Aosta took place directly in French, and for the most part the use of French was resumed after the Second World War.

At least 80% of historical research and of literary output in Valle d’Aosta is now in French.

The use of French is also supported and encouraged by a number of long-established institutions of very high scientific standing, such as the Academy of Saint Anselm of Aosta and the Historical Archives of Valle d’Aosta, and by institutions and associations with a very wide range of interests, such as the Committee for Valle d’Aosta Traditions, or those dedicated to local sectors, such as the Valle d’Aosta Institute of Culture, the Society for Flora of Valle d’Aosta, the Valle d’Aosta Prehistorical and Archaeological Society and the Regional Office for Ethnology and Linguistics.

The staff employed by the regional services receive a “two languages” bonus.

As well as giving full effect to the provisions on the protection of the French language in all the relevant fields (education, information, training), the linguistic and cultural policy of the Region places considerable emphasis on co-operation with cultural and training establishments (universities and schools) in the neighbouring French-speaking regions (Savoy and French-speaking Switzerland) and French-speaking countries in general (France, Belgium, Canada, etc.).

In the case of the Franco-Provençal language, action has been taken in a large number of sectors. Like that taken in the case of the French language, this action represents the response at organisational, financial and scientific levels to specific initiatives taken by associations or other groups.

The Region’s efforts – in terms of training and the budget – to promote bilingual teaching should also be emphasised.

The Regional Administration plays a very active part in promoting ad hoc initiatives to train schoolteachers, who must be capable of using both official languages of the Valle d'Aosta community, French and Italian.

In the case of Alto Adige the protection of minorities is provided for not only in the Constitution but also in the De Gasperi-Gruber Agreement drawn up in Paris between Italy and Austria on 5 September 1946, which prepared the ground for the granting of special autonomous status to the Region of Trentino-Alto Adige and the introduction of a series of provisions in favour of the German-language minority in that region which make the protection of that language the essential element of the legislative and administrative autonomy of the territory in which the German-speaking populations are established.

In Alto Adige linguistic protection is ensured by recognition, as expressly provided for in the Constitution, of the existence of three linguistic groups (Italian, German and Ladin).

The cohabitation of these groups is regulated by a number of laws designed essentially to organise an education system which makes distinct provision for Italian-language and German-language schools and also for teaching in Ladin (in the areas in which the Ladin-speaking population lives). Furthermore, an implementing provision has enhanced the autonomy of the education system by delegating to the Province of Bolzano certain functions relating to the legal status of schoolteachers which are normally exercised by the State. These laws have also organised the civil and local government service according to the (very strictly regulated) principle that posts are reserved for the three linguistic groups in proportion to their size, as determined on the basis of the general census carried out every ten years, in which citizens are free to declare their group of origin.

Finally, there is a third group of very specific provisions on the use of German in the administration, in relations between citizens and the judicial authorities, and both orally and in writing, in relations between citizens and the Administration.

In Alto Adige, as in Valle d'Aosta, the use of the mother tongue in relations with the judicial authorities is guaranteed, and records of proceedings are drawn up in the language used when the accused is questioned.

The reason why the minorities in Alto Adige and Valle d'Aosta enjoy the degree of protection that they do is because, as stated above, the relevant legislation is constitutional or sub-constitutional by nature and can therefore be amended only by measures with the same legal force.

As regards, in particular, the German-language minority in the Province of Bolzano, it should be emphasised that the new Special Statute on Autonomy, amending Constitutional Law No 5 of 28 February 1948 and the subsequent provisions, was transposed in Decree No 670 of the President of the Republic of 31 August 1972, which was published in Official Gazette No 301 of 20 November 1972 and which constitutes the present Statute.

Law No 118 of 1 March 1972 laying down "Measures in favour of the populations of Alto Adige" introduced further provisions. The use of the word "measures" in the plural is not accidental: it demonstrates the State's intention to apply the constitutional principle of protection of linguistic minorities, while at the same time taking into account the need to draw up a system of guarantees for the three linguistic groups referred to in the Statute.



The measures thus far adopted in implementation of the current Statute now concern a large number of different fields, many of which are not included either in the Statute or in other legal texts. The power of autonomy is therefore wider than was originally envisaged.

The Alto Adige model is a significant example of an understanding among various linguistic groups settled in the same territory, achieved, in particular, by means of a series of legal provisions adopted after the representatives of the populations concerned had expressed their views.

What has been established is a special system which stipulates that legal provisions are to be agreed between the State and the minority linguistic group; these provisions are completely autonomous in scope and prevail over ordinary legislation. Their direct relationship with rules of a constitutional nature has been defined by the word “ultraprimacy”, which refers to the very particular position which these provisions occupy in the hierarchy of sources of law, while the Constitutional Court has held that they are “specific and separate in their sphere of application”.

In accordance with Article 107 of the Special Statute of the Region of Trentino-Alto Adige, legislative decrees contain provisions concerning the application of the Statute which are determined “after consultation of a Joint Committee composed of 12 members, six of whom shall represent the State, two the Regional Council, two the Provincial Council of Trento and two the Regional Council of Bolzano. Three members shall belong to the German linguistic group”.

“Within the Committee referred to in the preceding paragraph, a Special Committee shall be formed to implement the provisions relating to matters for which the Province of Bolzano is responsible. This Special Committee shall be composed of six members, three of whom shall represent the State and three the Province”.

“One of the representatives of the State shall belong to the German linguistic group, while one of the representatives of the Province shall belong to the Italian linguistic group.”

The Committee referred to in Article 107 of the Special Statute is therefore responsible for preparing opinions on proposals for the implementation of the Special Statute on Autonomy, which the Council of Ministers subsequently approves in the form of a legislative decree. The Committee, which was established in 1972 and first renewed in 1994, serves as an instrument for the development of the Autonomous Regions and for mediation between the State and those Regions, while at the same time reconciling what are sometimes different positions and interests: the implementing provisions adopted by means of this process are described as “negotiated” provisions.

The special nature of the Statute of Trentino-Alto Adige and its implementing measures clearly renders the Committee’s work particularly complex and delicate, since it must continually endeavour to adapt and co-ordinate the provisions adopted at national level and those in force in Alto Adige, in particular with regard to bilingualism and the fair allocation of posts in the civil and local government service. Furthermore, the Committee’s opinions on the provisions adopted to implement the Special Statute have enabled Alto Adige to achieve a significant part of its autonomy.

Under this legislative process numerous implementing legislative decrees forming the main structure of Alto Adige's autonomy have been adopted, as have measures designed to protect the minority groups living there.

In order to guarantee and safeguard the legal system of the Statute of Alto Adige and the provisions which flow directly from it, a number of special provisions have been adopted in order to provide an additional guarantee for the system vis-à-vis the Government's policy-making and co-ordinating powers.

Some claim that these guarantees are based on the international nature of the Special Statute on the Autonomy of Trentino-Alto Adige. The effectiveness of the Government's policy-making and co-ordination depends very much on whether there are any objections alleging that an administrative decision is incompatible with the legal system of the autonomous province.

Where such an objection is rejected, the person concerned may seek a review of the constitutionality of the decision in question; an application for review has the effect of suspending execution of the contested decision.

The autonomy of Trentino-Alto Adige and Valle d'Aosta is further evidenced by the presence in the Italian Parliament of representatives elected in accordance with the law governing the composition of constituencies, which is described in detail in Part II of this Report.

The protection of the Slovenian minority of Friuli-Venezia Giulia is also international in nature, as a result of the Second World War, and in particular of the Special Statute on Trieste annexed to the London Memorandum of 1954.

This protection is currently guaranteed by legislation, especially in the sphere of education and culture, which extends it beyond Trieste, as originally envisaged, to the Province of Gorizia, and by the Osimo Agreement signed by Italy and the Socialist Federal Republic of Yugoslavia on 10 November 1975.

The legislative measures concerning the Slovenian minority are made up of a series of provisions originating in international treaties, such as the London Memorandum, and in domestic law, where a different level of protection is afforded to Slovenian-speaking persons residing in the Provinces of Trieste, Gorizia and Udine with a profoundly different linguistic, cultural and administrative history.

The Memorandum of Understanding signed in London in 1954 and the Special Statute annexed thereto already contained provisions designed to protect the Yugoslav minority in the Province of Trieste, the former Zone A, and the Italian minority in the former Zone B.

The Special Statute annexed to the Memorandum of Understanding consists of eight articles implementing the preamble, whereby the Italian and Yugoslav Governments reciprocally undertake "to ensure human rights and fundamental freedoms without discrimination on the grounds of race, sex, language or religion in the areas under their administration ...".

In Italy the undertakings embodied in that Statute are implemented by means of legislative and administrative measures.

Article 5 enshrines *inter alia* the right of the minorities to use their own language in their official relations with the administrative and judicial authorities and to receive replies (either directly or through an interpreter) in the same language.

In addition, public notices, municipal and prefectural decrees and court decisions must be accompanied by a translation.

The article further requires that the names of localities and streets must be in both languages, as must the inscriptions on all public buildings and, in particular, the names and signs of the electoral districts of the municipality of Trieste and other municipalities where the minority community represents at least a quarter of the total population.

By the Treaty of Osimo, which was signed by Italy and Yugoslavia on 10 November 1975 (and subsequently ratified and implemented by Law No 73 of 14 March 1977), the two Contracting Parties decided that the guarantee governed by international law provided for in the Special Statute annexed to the 1954 Memorandum would cease to have effect and that the legal protection of the Italian and Yugoslav minority groups would be provided by new legislation to be adopted within the domestic legal systems.

Article 8 is worded as follows: “Each Party declares that when the Special Statute annexed to the Memorandum of Understanding signed in London on 5 October 1954 ceases to have effect it will maintain in force the national measures already adopted on the basis of that Memorandum and that it will ensure, under its national law, that the level of protection afforded to both ethnic groups as provided for in the repealed Special Statute is maintained”.

Furthermore, in the fourth recital in the preamble to the Treaty the Parties confirm “their loyalty to the principle of the maximum possible protection of citizens belonging to ethnic minorities, a principle which is laid down in their Constitutions and their legal systems and which each Party shall implement autonomously, being guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights”.

Whereas the bilateral agreements governed by international law specifically relate to a single region, Zone A of the former Free Territory of Trieste, the Treaty of Osimo does not specify the geographical area to which it applies and therefore lends itself to a flexible interpretation of its geographical scope.

In this sphere, the Italian administrative courts and the Constitutional Court have delivered two fundamental decisions (No 28 of 20 January 1982 and No 62 of 5 and 24 February 1992) defining the concept of minimum protection with specific reference to the Slovenian minority.

With a view to introducing a general and exhaustive set of rules for the overall protection of the Slovenian minority as regards all aspects of the life of the community, a number of Bills are currently being examined by the Chamber of Deputies; these Bills have already been combined in a Consolidated Text laying down “Rules for the protection of the Slovenian-language minority of the Region of Friuli-Venezia Giulia”, on which the Government authorities are to give their opinion.

The language and culture of the Slovenian population are also among the languages and cultures to be protected by the Consolidated Text of Bills concerning all the historic linguistic

minorities which has already been approved by the Chamber of Deputies and is due to be definitively adopted in the near future.

A large number of linguistic minorities are scattered throughout Italy. These are minority groups of distant and diversified origins – Albanian, Catalan, Germanic (Walser, Cimbres and Mocheni), Greek, Ladin, Croat, Franco-Provençal, Occitan, Friulian and Sardinian (the latter two correspond largely to the populations of the regions in question).

There is already a vast body of regional legislation on minority groups, both within the framework of the Statutes and in the areas coming within the competence of the Regions, in particular in the field of cultural assets and cultural and educational development.

Within this general legislative context, having regard to Italy's signature of the Convention and with a view to applying the principles laid down therein, although only a short period has elapsed since the signature of the Convention, the Chamber of Deputies has approved the Consolidated Text referred to above laying down "Rules for the protection of the historic linguistic minorities", which is currently being examined by the Senate.

The fact that this text has been approved by one of the two Chambers of Parliament constitutes the firm expression of Italy's intention to achieve a rapid legislative solution to the problem and to consolidate the numerous provisions on the protection of minority linguistic groups already in force, in such a way that it will be possible to arrive at an effective system of general legal protection for the linguistic minorities and for all minorities.

The Consolidated Text, which should be finally voted in the near future, aims to safeguard and thereby develop the language and culture of the linguistic groups which are distinct from the national group, and in that regard envisages broad co-operation on the part of local authorities, which in this sphere too should find an opportunity to turn their own organisational capacities to good account.

The most significant provisions of the text are as follows:

- the identification of the minorities present in Italy, taking proper account of the general distribution of the linguistic minorities, their origin and their historical development; to that end, Article 2 refers to the Albanian, Catalan, Germanic, Greek, Slovenian and Croatian populations and to those speaking French, Franco-Provençal, Friulian, Ladin, Occitan and Sardinian;
- the enlistment of the provinces and municipalities in the process of the recognition of the territorial settings in which the linguistic minorities concerned by the draft legislation are found, and the consequent enhancement of the role of these institutions in the protection of minorities;
- a wide-ranging and meticulous regulation of the teaching of the protected minority languages and their respective cultures and traditions in State primary and secondary schools and also in universities, where action may be taken to promote the languages and train teachers;
- municipal councillors are authorised to use the minority language not only in the proceedings of the municipal council but also in other areas of municipal administration of concern to linguistic minorities; this provision is extended, on

certain conditions, to the members of the councils of mountain communities, provincial communities and regional communities in which the municipalities in question are situated;

- the option to use the protected minority language, orally or in writing, in the offices of the public authorities of the municipalities in which the corresponding minorities are found, and also to use that language before the judicial authorities, pursuant to Article 109 of the Code of Criminal Procedure;
- agreements whereby the public regional radio and television stations broadcast news bulletins and various other programmes in the protected minority languages;
- the possibility for the regions, provinces and municipalities concerned to adopt measures in favour of the press, publishers and private radio and television stations which use the protected minority language;
- the possibility given to the Regions, within the matters falling within their competence, to adapt their legislation to the principles established by the rules, taking into account such regional legislative provisions in force as provide more favourable conditions;
- the option for the local councils of the municipalities in whose territory the minorities live, to use traditional and customary local names in addition to the official place names;
- the right to restore surnames and forenames to the original language.

In the field of the protection of minority groups, for which the central government is not exclusively responsible, it is necessary to emphasise, as pointed out above, the commitment of the ordinary-statute Regions in favour of the minorities present on their territory, a commitment which generally takes the form of turning to best account and developing the cultural and linguistic heritage of the local communities.

In some cases this commitment is guaranteed by provisions set down in the Regional Statutes; this is the case in Piedmont, Veneto, Molise, Basilicata and Calabria.

The Statute of Piedmont provides that “the Region shall protect the original linguistic and cultural heritage of the local communities and encourage its development”.

The Statute of Veneto states that “the Region shall assist the development of the cultural and linguistic heritage of all communities”.

The Statute of the Region of Molise states: “... [the Region shall] protect the historical and linguistic heritage and the popular traditions of the ethnic communities in its territory and, in agreement with the communities concerned, encourage their development”.

The Statute of Basilicata states: “... [the Region shall] encourage the development of the original linguistic and cultural heritage of the local communities”.

The Statute of Calabria states: “... in homage to its own traditions, [the Region] shall encourage the development of the historical, cultural and artistic heritage of the populations of

Albanian and Greek origin; [and] encourage the teaching of both languages in the places in which they are spoken”.

Even within the framework of the powers conferred on them, however, and particularly in the field of cultural assets and activities associated with cultural and educational development, a number of regions have enacted legislation to protect the cultural and linguistic heritage of the minorities present in their territories.

The most important examples of such laws are:

- Valle d’Aosta: Law No 79 of 9 December 1981: “Contribution to the cultural associations of Valle d’Aosta”, providing for the allocation of funds to associations promoting Franco-Provençal (“René Willen” Centre for Franco-Provençal Studies, in Saint-Nicholas; Committee for Valle d’Aosta Traditions; Fédération dou Téoatro Populéro d’Aoste; Valle d’Aosta Sound Archives Association);
- Valle d’Aosta: Law No 71 of 28 December 1984 and Law No 47 of 29 June 1984: “Financing the expenditure arising under the agreement between the Region of Valle d’Aosta and the R.A.I. relating to the cost of maintaining the equipment used in the Valle d’Aosta to receive television programmes broadcast from the Franco-German cultural region”;
- Valle d’Aosta: Law No 35 of 21 May 1985 establishing the Regional Office for Ethnology and Linguistics (B.R.E.L.) for the promotion, development and co-ordination of ethnographical and linguistic research within the Region. The Office is responsible for implementing a number of projects relating to the protection and dissemination of the regional linguistic and ethnological heritage;
- Valle d’Aosta: Law No 47 of 19 August 1998: “Protection of the linguistic and cultural features and traditions of the Walser populations of the Lys Valley”;
- Region of Molise: Law No 15 of 14 May 1997: “Protection and development of the cultural heritage of the linguistic minorities of Molise”. This Law provides for the protection of the Croatian and Albanian minorities established in Molise by financing programmes for the study of both languages, including in school curricula. The subsidy is provided from the annual programme submitted to and financed by the Regional Council;
- Region of Piedmont: Law No 30 of 20 June 1979: “Protection of the linguistic and cultural heritage of Piedmont”, which was followed by Regional Law No 26 of 10 April 1990: “Protection, enhancement and development of the original linguistic heritage of Piedmont”;
- Region of Piedmont: Law No 37 of 17 June 1997: “Amending and supplementing Regional Law No 26 of 10 April 1990”.
- Law No 26/1990 provides for the general protection of the linguistic heritage, while Law No 37/1997 names the languages to be protected (Occitan, Franco-Provençal and Walser), in respect of which action is to be taken in schools;

- Veneto Region: Law No 40 of 1 August 1974: “Protection of the historical, linguistic and cultural heritage of Veneto” and Law No 73 of 23 December 1994: “Promotion of the ethnic and linguistic minorities in Veneto”;
- Region of Veneto: Law No 60 of 22 December 1983: “Grants for initiatives to improve Ladin culture”;
- Region of Veneto: Law No 24 of 22 May 1984 “Amending and supplementing Regional Law No 60 of 23 December 1983 on ‘Grants for initiatives to improve Ladin culture’”. Other types of action in favour of the language communities are also provided for. These actions are financed under a permanent budget appropriation, which is shared annually among the recipients;
- Region of Basilicata: Law No 3 of 20 January 1986, which set up the Pollina National Park with the aim, inter alia, of protecting the ethnic minorities present on that territory;
- Region of Basilicata: Law No 40 of 3 November 1998: “Provisions to promote the protection of the Arbereshe communities in Basilicata”, for which ITL 200 million were allocated for the 1999 financial year;
- Region of Sicily: Law No 26 of 9 October 1998: “Measures for the protection and enhancement of the historical, cultural and linguistic heritage of the Sicilian communities of Albanian origin and other linguistic minorities”. The beneficiaries of this law are the Sicilian communities of Albanian origin in the municipalities of Contessa Entellina, Piana degli Albanesi, Santa Cristina Gela, Mezzojuso and Palazzo Adriano, where Albanian is spoken, and, to a lesser extent, the smaller Gallo-Italic linguistic minorities found in Nicosia, Aidone and San Fratello. The Law makes provision for two important types of action: Agreements with the regional television station (RAI) and other radio and television stations for programmes in the minority language and the establishment in Piana degli Albanesi of the Institute for the Preservation of the Linguistic, Cultural, Documentary and Bibliographical Heritage. The Law also provides funds for cultural associations and press organs;
- Region of Friuli-Venezia Giulia: Law No 15 of 22 March 1996: “Rules for the protection and development of the Friulian language and culture and for the establishment of the Department for Regional and Minority Languages”.

This Law governs the action taken at regional level to promote the knowledge, learning and use of the Friulian language, by means of action whose purpose is:

- (a) to support additional teaching programmes at nursery school and throughout the period of compulsory schooling;
- (b) to finance research projects relating to language, history and culture, and training programmes for language teaching, in particular at the University of Udine;
- (c) to support cultural institutions and libraries, principally the “Friulian Philological Society” and the special section of the Vincenzo Joppi Municipal Library in Udine;

- (d) to promote events and cultural activities in Friulian organised by associations or by the local communities;
- (e) to support initiatives in the form of publications and radio and television programmes.
  - Region of Friuli-Venezia Giulia: Law No 46 of 5 September 1991.

This regional law gives effect to Section 14 of national Law No 19/1991, which allocates finance to the region for action in favour of the Slovenian minority. It governs action to promote cultural activities staged by the institutions and associations of the Slovenian national minority:

- (a) libraries and cultural and scientific research institutions, in particular the “Slovenian National Library” and the Slovenian Research Institution (slo.ri);
- (b) theatres and film institutes, principally the permanent Slovenian Theatre in Trieste;
- (c) institutes and schools providing musical training, in particular the “Glasbena Matica” in Trieste and the “Komel” institute in Gorizia;
- (d) other educational and training establishments and, in particular, student halls of residence in Trieste and Gorizia;
- (e) local cultural associations and clubs.
  - Region of Sardinia: Law No 26 of 15 October 1997: “Protection and development of the culture and language of Sardinia”. This Law provides not only for cultural initiatives (cataloguing of documentation, research, studies etc.) but also for action in schools.
  - Region of Sardinia: Law No 26 of 15 October 1997: “Promotion and development of the culture and language of Sardinia”. It provides for the organisation of initiatives in the fields of culture (inventories of documents, research, studies etc.) and school education. Under this law the regional administration thus plays an active role in co-ordinating the services responsible for developing and administering the heritage and basic cultural systems (libraries, documentation, museums, monuments, popular traditions) and also in improving the education system and in promoting culture and language, at both private and public levels. The main agents implementing these protective measures are cultural associations, schools and local authorities, which are expected to work for the revival of Sardinia in order to protect and improve the lot of the minorities. The appropriation made in regional Law No 26/1997 was ITL 13,000 million in 1998, ITL 6,900 million in 1999 and ITL 4,600 million in 2000 and 2001.

A number of regional laws specifically intended to protect gypsies have also been adopted. In addition, a number of Bills on the protection of gypsies are currently being examined by Parliament.

Measures taken for the protection of linguistic minorities include, in addition to national and regional legislation, the case-law of the Constitutional Court, which has made an important



contribution in this field by interpreting the relevant provisions in a way which tends to develop the principle enshrined in Article 6 of the Constitution.

Of fundamental importance in this context are judgments nos. 28 of 1982, 62 of 1992 and 15 of 1996; a number of other judgments are also important (nos. 768 of 1988, 289 of 1987 and 312 of 1983).

By these judgments the Constitutional Court clarified the concept of the minimum level of protection to be afforded to recognised minorities.

In particular, in its Judgment no. 28 of 1982, the Constitutional Court held that the Slovenians of the Province of Trieste had the status of recognised minority and defined the concept of minimum protection which, in the circumstances, consisted in the right for persons belonging to that minority to use their mother tongue, inter alia, in their relations with the local judicial authorities. This right therefore represents the minimum level of protection which must be guaranteed to a recognised minority.

By its Judgment no. 62 of 1992 the Constitutional Court confirmed that the mother tongue of an ethnic group represents an essential element of the constitutional concept of ethnic minority and that the right to use one's own language within the community to which one belongs is one of the principal aspects of the protection afforded. Language is a fundamental element of cultural identity and a principal means of passing on values. In the same judgment the Court also held that Article 6 of the Constitution guarantees the right to use one's own mother tongue provided that appropriate means of doing so exist, such as, for example, translators or interpreters in the courts and tribunals coming under the district Courts of Appeal (see Law No 568 of 19 July 1967). In reality application of the principles relating to the protection of minorities laid down in the Constitution and the Regional Statutes depends on administrative provision being made and, ultimately, on the adoption of initiatives at the political level.

In its Judgment no. 15 of 1996 the Court also held that while the rules of the Constitution and the Regional Statutes are of a general nature, they must nonetheless serve as a starting point for the establishment of a practical minimum level of protection arrived at by "interpreting the legislation in a manner consistent with the Constitution and developing the existing provisions along the lines of the objectives laid down in the Constitution".

In this judgment the Court also emphasised the powers competence of regional legislatures in that field, in particular as regards matters relating to the establishment of the means and structures to enable the minorities settled in the region actually to exercise their linguistic rights.

### **Transposition of international law into national legislation**

As regards the transposition of international law into national legislation, it should be pointed out that Italy has signed a number of instruments which deal directly or indirectly with the protection of linguistic minorities.

These include:

- the United Nations Convention on the Rights of the Child, adopted in New York on 20 November 1989 - ratified and executed by Law No 174 of 27 May 1991;

- the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights, together with the Optional Protocols thereto, adopted and opened for signature in New York on 16 and 19 December 1966 respectively — Ratified and executed by Law No 881 of 25 October 1977;
- the International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature in New York on 7 March 1966 — Ratified and executed by Law No 654 of 13 October 1975, as subsequently amended (see Law No 205 of 25 June 1993);
- the Charter of Paris for a New Europe, signed on 21 November 1990;
- the CEI (Central European Initiative) Instrument for the Protection of the Rights of Minorities, signed in Turin on 19 November 1994.

Furthermore, Italy is currently considering whether to accede to the Council of Europe's European Charter for Regional or Minority Languages.

Part II of this Report (Article 18) also contains a list of the bilateral agreements signed by Italy.

### **Information concerning the presence of smaller minority groups in regions in which minorities are already established**

There are two minority groups of this type in Italy: the Ladins in the Province of Bolzano, who are a minority in comparison with the German and Italian linguistic groups, and the Walsers in Valle d'Aosta, who are a minority in comparison with the French-speaking and Italian-speaking populations.

#### **The Ladins of the Province of Bolzano**

According to the 1991 census, the Ladin minority in the Province of Bolzano consists of 18,434 persons.

This minority is also present in the Provinces of Trento and Belluno, where approximately 12,000 persons in total enjoy a different legal status.

The Ladins of the Province of Bolzano are trilingual: in their relations with the other groups they also use German and Italian.

Ladin schooling is trilingual. However, Ladin is used only within the Ladin community, although the Provincial Administration of Bolzano organises courses in Ladin for those belonging to the other linguistic groups.

The Ladin minority of the Province of Bolzano enjoys special legal protection by virtue of the Treaty on the Protection of the German Linguistic Group of the Province of Bolzano (the De Gasperi-Gruber agreement). The Ladin minority was given official legal recognition in the first Statute on Autonomy of 1948 and also in the new Statute of 1972.

The most important rules laid down in the Statute, whereby the protection is given concrete form, are those on the “right of representation” in the regional and provincial councils of Bolzano, and the right to bring proceedings to protect the principle of equality between the linguistic groups in the Province of Bolzano (cf. Article 56 of the Statute on the Autonomy of the Region of Trentino-Alto Adige). In short, if a Bill is considered prejudicial to the equality of the rights of the members of the different linguistic groups or to their ethnic and cultural characteristics, a majority of the councillors of a linguistic group in the regional or provincial council of Bolzano may propose that a vote be taken by linguistic group. Where the proposal to take a separate vote is not accepted, or where the Bill is approved despite being opposed by two thirds of the members of the linguistic group which put forward the proposal, the majority of that group may refer the law thus voted to the Constitutional Court.

Other important provisions concern the recognition of the right to use one’s own mother tongue in school, and equality of access to posts in the public sector: these provisions are discussed in greater detail in Part II of this Report.

This linguistic group therefore enjoys considerable protection by virtue of constitutional rules (cf. Statute on the Autonomy of Trentino-Alto Adige - Decree No 670 of the President of the Republic of 31 August 1972) or specific rules ranking below the Constitution, such as the Implementing Legislative Decrees adopted under the special procedure referred to in Article 107 of the Statute on Autonomy, Part II of which concerns the use of the German and Ladin languages. These include:

- Legislative Decree No 434 of 24 July 1996: “Rules implementing the Special Statute of the Region of Trentino-Alto Adige and amending and supplementing Decree No 89 of the President of the Republic of 10 February 1983 concerning the education system in the Province of Bolzano”. By this decree a number of powers concerning the legal status and remuneration of both established and non-established teaching staff – whose duties include inspection, administration and training – were delegated to the Province of Bolzano. It contains, in particular, a series of rules designed to maintain a balance between the three linguistic groups established in the Province of Bolzano and provides, inter alia, that “the provincial authorities, after hearing the ‘Superintendent’ or ‘Intendant’ responsible for each linguistic group, shall determine, on the basis of specific research, the curricula and syllabuses which best meet the cultural and linguistic requirements of these groups, within the framework of the provincial legislation on schooling referred to in Article 19 of the Statute”;
- Legislative Decree No 446 of 24 July 1996: “Rules implementing the Special Statute of the Region of Trentino-Alto Adige and amending and supplementing Decree No 574 of the President of the Republic of 15 July 1988 concerning the use of the German and Ladin languages in court proceedings and in relations between citizens and the civil and local government service”.

This decree provides, inter alia, that the Ladins of the Province of Bolzano may use their mother tongue, both orally and in writing, in their relations with the public authorities in the Ladin areas of the province (with the exception of the armed forces and the police), the local authorities and educational establishments, the provincial authorities acting in the interests of the Ladin communities (even where they are established outside those areas) and also providers of public services operating solely within the Ladin areas. Where the public authorities and providers of public services reply orally to questions put to them they are

required to do so in Ladin; where they reply in writing they may do so in Italian or German but must subsequently provide a Ladin translation.

Provisions designed to protect the Ladin language and culture are also found in the legislation of the Autonomous Province of Bolzano.

### **The Walsers of Valle d'Aosta**

The linguistic group of the Walsers of Valle d'Aosta is established in the municipalities of Gressoney Saint Jean, Gressoney-La Trinité and Issime (approximately 1,000 persons). In addition, approximately 2,000 Walsers are established in Piedmont.

The Walsers are Alemannic (an old Germanic tribe) shepherds and peasants who came down from the Bernese Oberland to the Upper Rhône Valley (Valois, hence the name Walser) in the twelfth century and settled in the valleys surrounding the Rose Mountain (Upper Lys Valley, Valsesia, Valle Anzasca and Val Formazza) in the thirteenth century.

Walser is an Alemannic language of the Swiss-Valois type.

The Walsers use their German language in the home, in everyday life, at meetings of their community and in folk gatherings and events.

Walser is also used in nursery schools. In primary and first-level secondary schools, on the other hand, the teaching of German has been authorised.

Local schoolteachers have collaborated with the IRRSAE (Regional Institute for Educational Research) in preparing texts for primary school.

Walser is one of the languages protected by the Consolidated Text referred to above which has been approved by the Chamber of Deputies and concerns all the historic linguistic minorities. These languages are also covered by the following legislative provisions:

- Constitutional Law No 2 of 23 September 1993 “amending and supplementing the Special Statutes of Valle d'Aosta, Sardinia, Friuli-Venezia Giulia and Trentino-Alto Adige” and inserting into the Special Statute of Valle d'Aosta, approved by Constitutional Law No 4 of 26 February 1948, an Article 40a:

“The German-language populations of the municipalities of the Lys Valley, identified pursuant to a regional law, shall be entitled to the protection of their characteristics and their linguistic and cultural traditions.

The teaching of the German language in schools shall be expressly provided for in the case of the populations referred to in paragraph 1, local requirements being taken into account”;

- Regional Law No 28 of 17 June 1992 containing provisions “establishing a network of regional libraries”. This law also made provision for the creation of a specialist Walser library (Article 15, paragraph 4).
- Regional Law No 47 of 19 August 1998, containing provisions to “protect the characteristics and linguistic and cultural traditions of the Walser populations of the Lys Valley”.

## **Historical background**

In view of Italy's complex history, it would seem appropriate to provide only a brief outline of the most important events which have taken place since the proclamation of the Kingdom of Italy, in order to provide a clearer picture of the historical origins of the frontier minorities.

The unitary Italian State came into being when the Parliamentary Assembly which met in Turin on 17 March 1861 proclaimed the Kingdom of Italy under the monarchy of Victor Emmanuel II.

The early years of the new State were not easy: the differences between the historical, cultural, linguistic, economic and social traditions of the States which had been annexed, together with the serious financial situation and attendant tax increases, hampered the development of the new Kingdom. In that context, the problems of Venetia, which was given to the Habsburg Empire by the Congress of Vienna, and of Rome, which still belonged to the Papal States, were of crucial importance to the creation of a united Italy.

The first question was resolved by the Peace of Vienna between Austria and the France of Napoleon III, when Venetia, but not Trentino and Venezia-Giulia, was annexed to Italy. The question of Rome was not resolved until September 1870 when the Italian army broke through Porta Pia and entered Rome.

In order to put an end to Italy's political isolation Prime Minister Depretis entered into an alliance with Germany and Austria and in so doing temporarily renounced claims on Trento and Trieste.

By the early 20<sup>th</sup> century considerable progress was being made in agriculture, while industry was growing significantly owing to the introduction of subsidies and customs duties. This shows that Italy had now emerged from the initial crisis caused by the establishment of the new unitary State.

The guidelines for Italy's domestic policy were determined by the democratic, liberal and social-planning aims pursued by Prime Minister Giovanni Giolitti.

Then came the First World War, and although Italy initially declared itself neutral, it could not remain on the sidelines of a conflict which became daily more widespread and decisive, nor could it ignore the failure of its diplomatic approaches to Austria to secure the cession of Trentino, Venezia Giulia and a number of islands in the Adriatic, and to have Trieste declared a free town.

Consequently, by the Treaty of London of 26 April 1915 Italy acceded to the Triple Entente, which had declared that it was prepared to protect Italian interests on the Adriatic, with the exception of the town of Fiume.

The problems caused by the war were aggravated by the difficulties associated with the peace treaties. The Treaty of Saint Germain was signed on 10 September 1919 and, while Italy was guaranteed the Brenner frontier, it was required to renounce its claims to Dalmatia and Fiume.

The matter was not resolved until 1920, when the Treaty of Rapallo was signed and Italy was granted the frontier of the Julian Alps, Istria and Zara, while Dalmatia and the Adriatic islands were given to Yugoslavia.

The new frontier approved by the peace agreements brought within Italy's borders approximately 200,000 Croatians and 350,000 Slovenians, who at the time represented almost a quarter of the Slovenian population.

The new provinces changed their names. The former "Litorale" became "Venezia Giulia", which survives today in the present name of the region.

The rise to power of the party of Mussolini, who initially seemed to pursue a peaceful foreign policy, subsequently led to the alliance with Nazi Germany and the Second World War.

Everyone is familiar with the events of the Second World War, which determined Italy's present frontiers and the presence of two important minority groups (the German-language minority in the Province of Bolzano and the Slovenian-language minority in Friuli-Venezia Giulia).

Here it will be of interest to provide an historical outline to enable the reader to understand the specific legislation which gave rise to the frontier minority groups.

### **Historical background to the Slovenian-language minority**

The first Slovenians to be included in Italian territory as an ethnic and linguistic minority were the 35,000 inhabitants of Venetian or Friulian Slavia, ie the eastern part of the Province of Udine bordering on Slovenia. The Natisone Valleys, the Torre Valley and the Resia Valley already enjoyed a measure of autonomy as a frontier district at the time of the Republic of Venice.

In the plebiscite of 1866 these Slovenians voted overwhelmingly in favour of the annexation of Venetia, of which they formed part, by the Kingdom of Italy. Their support may be explained by the fact that the Kingdom of the House of Savoy promised certain rights which up to then had been denied by the Habsburg Empire.

After the First World War Italy acquired a territory which included almost one third of the entire Slovenian population. The Treaty of Rapallo of 12 November 1920 gave Italy the towns of Trieste and Gorizia, including the adjoining territories and a large strip of territory in what is now the Republic of Slovenia.

Subsequently the Canale Valley, in the north-east of the Province of Udine, close to the frontier between Italy, Slovenia and Austria, was also given to Italy.

The defeat of Germany, which after the armistice of 8 September 1943 had annexed these territories to the Third Reich, marked the beginning of a long period of instability along the entire frontier. The 1947 Peace Treaty gave a large part of the hinterland of Trieste and Gorizia to Italy. An Anglo-American Military Government administered Trieste and a small part of the surrounding territory, which constituted Zone A of the Free Territory of Trieste. Following the signature of the London Memorandum (1954) the administration of Zone A was assigned to Italy. The frontier was definitively established by the Osimo Agreements in 1975.

Today there are persons of Slovenian origin in the Province of Trieste (in the town and in all the municipalities); in the Province of Gorizia (in the town, in three municipalities with a very high proportion of Slovenians and in four municipalities with a modest proportion of Slovenians); in the Province of Udine, in the Natisone Valleys, the Torre Valley, the Resia Valley and the Canale Valley. During the Second World War a large group of Slovenians who had settled in the valleys of the Province of Udine moved to the Friulian plain for work reasons.

### **Historical background to the German-language minority**

The German-language minority in the South Tyrol is of Austrian origin. After the dissolution of the Habsburg Empire, and following the Peace Treaty of Saint Germain en Laye, the southern part of the Tyrol, virtually the whole population of which is German-speaking, was detached from Austria and given to Italy, which had already annexed it under the London Peace Treaty of 1915 in the eventuality of victory in the First World War.

The right to self-determination was invoked in a number of popular demonstrations and was the subject of a long series of appeals to the international authorities.

Between 1935 and 1939 several thousand Italian-speaking nationals moved from the poor regions of Italy to the South Tyrol, where industrialisation was proceeding owing to the availability of cheap electricity.

The consolidation of the alliance between Rome and Berlin led to the adoption of the “Options” of 1939. Most of these Italians decided to leave.

The break-up of the alliance between Italy and the Reich on 8 September 1943 was of fundamental importance.

Immediately after the armistice Hitler decided to annex Alto Adige, Trentino and the Province of Belluno, which served as an operational zone in the Pre-Alps.

The Gauleiter, the Supreme Commandant of the zone, immediately abolished all the measures adopted by the Fascists. He thus opened the way to the Germanisation of the territory, a process which provided, inter alia, for the presence of German-language staff in all public offices.

The German-speaking inhabitants became increasingly certain that once the war had ended Alto Adige would retain its German identity.

At the end of the war the South Tyroleans for the second time invoked their right to self-determination; their claim was not favourably received by the Paris Peace Conference, however. A new phase began for the minority of Alto Adige, with relations between the minority and the State regulated by the new instrument of autonomy.

On 5 September 1946, in Paris, the Heads of the Austrian and Italian Governments, respectively Karl Gruber and Alcide De Gasperi, signed the Act establishing the autonomy of Alto Adige, which was subsequently joined as an annex to the peace treaty concerning Italy.



In the framework of the De Gasperi-Gruber Agreement the first Statute on regional autonomy was adopted by Constitutional Law No 5 of 26 February 1948. Other provisions had already been adopted, however, in particular in relation to education, where a distinction was drawn between German-language and Italian-language schools.

In order to ensure that the Statute was applied in accordance with the spirit of the De Gasperi-Gruber Agreement, a number of implementing measures were adopted during the following years.

Legislative Decree No 23 of 2 February 1948 introduced a number of provisions revising the "Options". Later provisions provided for the readmission into service of those who reacquired Italian nationality and for the recognition of qualifications obtained in Germany and Austria.

The dissatisfaction of the South Tyrolean party with the degree of autonomy granted led to a debate in the UN and to a request for the revision of the Statute of Autonomy.

With a view to revising the Statute, the Government set up a special Committee of Inquiry on 1 September 1961 (the "Committee of 9") which was to draw up a consolidated document (known as a "Package") containing the requests of the German-speaking South Tyroleans and setting out the legislative instruments or political guidelines which the Government would need to adopt or follow in order to resolve the dispute. Important in this respect were the transfer of a number of powers from the Region to the Provinces of Bolzano and Trentino and the grant to the Province of Bolzano of certain powers in matters of public interest, such as the Civil Status Registry and the partial administration of civil servants serving in the Province of Bolzano.

The provisions of the "Package" were subsequently transposed in Constitutional Law No 1 of 10 November 1971 and in (ordinary) Law No 118 of 11 March 1972. Both laws were drafted by the "Committee of 9" composed of local and government representatives.

The first of these laws made significant amendments to the Statute of 1948 by increasing the powers of the Provinces of Bolzano and Trieste and reducing the powers of the Region.

In the framework of the Constitutional Law and the existing rules of the Statute a consolidated law (No 670) was subsequently adopted on 31 August 1972, as provided for in Section 66 of Constitutional Law No 1 of 1971 establishing the new Statute.

In October 1991 Parliament adopted the law establishing a separate Section of the Court of Appeal in the town of Bolzano.

In June 1992 the Austrian Minister for Foreign Affairs, Alois Mock, delivered a discharge to the Italian Ambassador and informed the Secretary-General of the UN that the dispute over the question of Alto Adige opened in 1960 had now been resolved.

### **Historical background to the French-language minority in Valle d'Aosta**

The ethno-linguistic history of Valle d'Aosta was profoundly affected by the fact that it belonged to the Frankish-Burgundian Kingdom from 575 and subsequently, with a few brief interruptions, to the Ecclesiastical Province of Tarantasia (Savoy).

Following the division of Charlemagne's Empire in the ninth century Valle d'Aosta was overrun by the Saracens. This led to a reaction on the part of the lords of the country and the inhabitants, who, guided by Saint Bernard of Menton, eventually overcame them.

In the eleventh century Valle d'Aosta passed to the House of Savoy, as may be seen from a document dated 1032 in which Umberto Biancamano is referred to as the Count of Aosta.

The House of Savoy gradually came to hold sway over the entire population, including the nobles, lords, clergy and people. In 1191 Count Tommaso I of Savoy granted Valle d'Aosta the Magna Charta of Exemptions of Valle d'Aosta and the country declared its subjection to the House of Savoy. Since that date the history of Valle d'Aosta has been intimately linked with the history of Savoy.

In 1561 an Edict of King Emanuele Filiberto of Savoy decreed that French should also be used in the trans-Alpine part of his duchy, namely Valle d'Aosta.

During the eighteenth century Valle d'Aosta was invaded by the French on a number of occasions: on 10 September 1792 France, which had declared war against the King of Sardinia, conquered Savoy and Valle d'Aosta.

During the Napoleonic period, Valle d'Aosta was the theatre of numerous military operations: in 1800 Napoleon annexed it, together with the other regions of Piedmont.

In 1814 Valle d'Aosta again passed to the House of Savoy; since then its fate has been linked to that of the monarchy of Savoy and the Kingdom of Italy.

Until the middle of the nineteenth century French was the only language used in the documents of the civil service, the Church and the schools.

### **Observations concerning the unitary or federal nature of the State**

Article 5 of the Italian Constitution reads: "The Republic, one and indivisible, recognises and promotes local autonomy; it shall apply the fullest measure of administrative decentralisation in services dependent on the State and adjust the principles and methods of its legislation to the requirements of autonomy and decentralisation."

The Italian State is therefore unitary, although it recognises the local autonomies whose realisation has already entailed a vast process of decentralisation which is still incomplete and which envisages the subsequent devolution of important functions.

Furthermore, a number of initiatives have been undertaken with a view to adopting a Constitutional Law which will introduce a federal system in Italy.

### **Promoting general awareness of the Framework Convention**

The creation in the Italian Ministry of the Interior in 1969 of a Central Department for the Problems of Frontier Areas and Ethnic Minorities shows that Italy has taken an increasing interest in the problems of minorities.

This Department not only plays a part in the preparation of specific provisions to protect linguistic minorities and of government decisions in this field; it also ensures that public

opinion is made aware of the problems affecting minorities. To this end it establishes profitable relations with their representative associations.

The Department has prepared numerous publications on linguistic minorities, in particular on their linguistic and cultural heritage and on the legislation designed to safeguard that heritage.

It also drew up the "First Report on Minorities in Italy", which, despite being widely distributed, failed to achieve the desired objectives. A second Report is being prepared.

Finally, the Department has drawn up another document entitled "Europe: Culture and Protection of Minorities", which contains a number of interesting observations on the Framework Convention for the Protection of National Minorities. This work is currently being updated.

In September 1997 a seminar on "New rules to aid minorities in Europe" was held in Bolzano, at which the Framework Convention was discussed in detail.

This seminar was held under the auspices of the Council of Europe, with the collaboration of the Region of Trentino-Alto Adige, the Institute of Ethnic Groups of South Tyrol and CONFEMILI.

### **Economic situation**

The 1997 General Report on the economic situation in Italy submitted to Parliament shows that during that year the Italian economy experienced renewed growth which enabled it to overcome the stagnation of the previous year. At 1.5% (0.7% up on 1996) compared with the European average of 2.5%, GDP grew faster than envisaged in the Economic Forecast and Planning Report. The increase in production was stimulated by domestic demand, and especially by private consumption, while net exports had a negative effect on growth. Employment fell slightly (by 0.2%), however, and did not benefit from the cyclical reversal.

Extremely positive results were recorded in connection with the initiatives taken to contain inflation and bring the public accounts under control: the price index for manual and non-manual employee households rose by 1.7% (the average in the European Union was 2.0%), while the ratio of net indebtedness of the public authorities to GDP fell to 2.7%.

### **Demographic situation**

The official figures are those of the Thirteenth General Census taken on 20 October 1991, when the population of Italy was 56,411,290, of whom 36,020,976 lived in the Central and Northern Regions and 20,390,314 in the South.

The general census is taken every 10 years. The figures available on 1 January 1998 are as follows:

total population: 57,563,354 of whom:

25,567,030	live in the Northern regions;
11,052,605	live in the Central regions; and
20,943,719	live in Southern Italy and the islands.

The region with the largest population is Lombardy (8,988,951 inhabitants), while Valle d'Aosta (119,610 inhabitants) has the smallest.

The data collected in the 1991 census concerning the resident population — by sex and broad age bands, ie age bands 0 to 14, 15 to 64 and 65 and over — show that persons aged 65 and over account for 14.8% of the total population, while those aged 14 and under account for 16.35%; this means that Italy has one of the oldest populations in Europe.

The same data, broken down by geographical area (Centre, North and South), shows that the percentage of young persons is higher in the South (18.4% aged 14 or under) than in the regions of the Centre and the North, which, with a figure of 13.5%, are considerably below the national average (16.3%).

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## PART II

### ARTICLE 1

**The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.**

Italy, through the contribution of officials of the Central Department for the Problems of Frontier Areas and Ethnic Minorities of the Ministry of the Interior, participated in the work of the Council of Europe's Ad Hoc Committee of Experts on Regional and Minority Languages of Europe, which was assigned the task of drawing up — on the basis of Resolution 192 (1988) adopted by the Standing Conference of Local and Regional Authorities of Europe and Opinion No 142 of the Parliamentary Assembly — a draft European Charter on Regional or Minority Languages.

Again through this Department, Italy participated in the work of the CSCE Meeting on national minorities held in Geneva between 1 and 19 July, and also in the CSCE Seminar on National Minorities, held in Warsaw between 24 and 28 May 1993.

The Department also participated in the "World Conference on Linguistic Rights" in Barcelona between 6 and 9 July 1996, which brought together experts from all countries for the purpose of adopting a Universal Declaration of Linguistic Rights.

As regards measures for the protection of national minorities in the context of legal proceedings, the following provisions, which will also be cited under Article 10 of the Convention, are relevant:

- Article 109 of the Code of Criminal Procedure, which provides that "before the courts of first instance or the courts of appeal within whose jurisdiction a recognised linguistic minority is established, an Italian national belonging to that minority may, if he so requests, be questioned in his mother tongue; the record of the proceedings shall also be drawn up in that language. The person concerned may request that the procedural documents, translated into his own language, be communicated to him, without prejudice to documents drawn up in accordance with special laws and international Conventions";
- specific provisions applicable to criminal trials are expressly laid down for French speakers in Valle d'Aosta (Article 4 of the Statute of Valle d'Aosta) and for German speakers in Trentino- Alto Adige (Decree No 574 of the President of the Republic of 15 July 1988 laying down provisions implementing the Statute concerning the use of the minority language in relations with the judicial authorities).

In this connection, Italy is among the countries which have signed the following international instruments:

- International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights and optional protocol, adopted and opened for signature in New York on 16 and 19 December 1966 — Ratified by Law No 881 of 25 October 1977;

- International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature in New York on 7 March 1966 — Ratified by Law No 654 of 13 October 1975 and amended by Law No 205 of 25 June 1993;
- United Nations Convention on the Rights of the Child, New York, 20 November 1989 — Ratified by Law No 174 of 27 May 1991.

In the framework of the CEI, an Instrument for the Protection of the Rights of Minorities was signed in Turin on 19 November 1994 (see Appendix).

The following provisions cited in the Report are enclosed as an appendix (Appendix No 1):

- Article 109 of the Code of Criminal Procedure.
- Section 4 of Constitutional Law No 4 of 26 February 1948 “Special Statute for Valle d’Aosta”.
- Decree No 574 of the President of the Republic of 15 July 1988: “provisions implementing the Special Statute for the Region of Trentino-Alto Adige concerning the use of German and Ladin in relations between citizens and the administrative and judicial authorities”.
- Law No 881 of 25 October 1977 “Ratifying and Implementing the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights, and Optional Protocol thereto, adopted and opened for signature in New York on 16 and 19 December 1966”.
- Law No 654 of 13 October 1975 “Ratifying and Implementing the International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature in New York on 7 March 1966”.
- Law No 205 of 25 June 1993 “Transposing into law and amending Order No 122 of 26 April 1993 laying down urgent measures in relation to racial, ethnic and religious discrimination”.
- Law No 176 of 27 May 1991 “Ratifying and implementing the Convention on the Rights of the Child, New York, 20 November 1989”.

## ARTICLE 2

**The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.**

It is clear from all the measures cited in this Report that Italy’s policy in regard to national minorities is inspired by the principles of good faith, understanding and tolerance, in conformity with the principles of good neighbourliness, friendly relations and co-operation

between States. In accordance with Article 2 of the Convention, those principles will continue to inspire the action to be taken.

The principles of good neighbourliness, friendly relations and co-operation between States have already been mentioned in Part I and will again be referred to in the observations in respect of Articles 15 and 18 of the Convention.

### ARTICLE 3

**1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.**

**2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.**

#### General

As regards the principles laid down in Article 3 of the Convention, our first general point is that Article 3 of the Constitution, which has already been discussed in Part I of this Report, establishes that all citizens are equal before the law, without distinction as to sex, race, language, religion, political opinions, and personal or social conditions.

As far as Italy's legal system is concerned, the fact that a person belongs to a linguistic minority does not in any way constitute a disadvantage: on the contrary, it means that he is entitled to the specific protection measures passed for the benefit of each member of the linguistic minority.

Under the provisions designed to protect the minority language in education or in relations with the administrative authorities, a member of a linguistic minority has the option of using the minority language, but is not obliged to do so.

As regards the possibility for members of minority linguistic groups also to exercise the rights and enjoy the freedoms flowing from the principles enshrined in the Framework Convention in community with others, we would point out that the right of free association is expressly provided for in the Constitution.

Article 18 of the Constitution provides that citizens are to have the right to form associations freely and without authorisation for purposes not prohibited by the criminal law; however, it is forbidden to form secret associations and associations which pursue political aims, even indirectly, through organisations of a military character.

In practice all the minority linguistic groups, even the smallest in numerical terms, have formed associations for the purpose of protecting and disseminating their cultural heritage and establishing contacts with similar associations in the countries where their language is used.

All the minority linguistic groups in Italy are protected by provisions which are either already in force or in the process of being adopted at various levels (central, regional or municipal).

As regards Italy's political and legislative strategy in relation to linguistic minorities, reference is made to the observations set out in Part I of this Report.

### Legal measures

The provisions referred to, which are appended (Appendix 2), are:

- Articles 3 and 18 of the Constitution.

There is no definition of the concept of "national minority" in Italian law; the provisions designed to protect such a minority refer each time to the minority concerned.

The Consolidated Text referred to in Part I laying down "Rules for the protection of the historic linguistic minorities", which has already been adopted by the Chamber of Deputies and is currently being examined by the Senate (A.S. No 3366), lists, in Article 2, all the linguistic minorities in Italy whose language and culture are protected.

The Government organisation responsible for collecting demographic data is ISTAT.

However, the census concerns only the minority groups of Alto Adige (Germans and Ladin), since a number of provisions depend on the size of the ethnic group; no statistics are collected for the other minority groups.

The numbers of the latter groups are established on the basis of studies and publications; the figures in the following tables are therefore purely indicative.

**Table 1 ALBANIANS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
REGIONS	
Abruzzi	250
Molise	13 400
Campania	1 200
Apulia	13 000
Basilicata	7 800
Calabria	52 900
Sicily	9 000

**Table 2 INHABITANTS OF ALTO ADIGE**

AREAS WHERE RESIDENT	1991 CENSUS
Province of Bolzano	287 503

**Table 3 CARINTHIANS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Province of Udine	2 000



**Table 4 CARNES**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Province of Belluno	1 400

**Table 5 CATALANS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Municipality of Alghero	18 000

**Table 6 CIMBRE**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
Provinces	
Trento	370
Verona	80
Vicenza	200

**Table 7 CROATS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
REGION	
Molise	2 600

**Table 8 FRANCO-PROVENCALS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
REGIONS	
Valle d'Aosta	70 000
Turin	20 000
Foggia	1 650

**Table 9 FRENCH-SPEAKERS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Valle d'Aosta	20 000

**Table 10 FRIULIANS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Region of Friuli	526 000

**Table 11 GREEKS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
Province of Reggio Calabria	5 000
Lecce	15 000

**Table 12 LADINS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
Provinces	
Bolzano	18 434*
Trento	8 800*
Belluno	16 000 – 30 000**

\* 1991 census

\*\* Approximate number

**Table 13 MOCHENI**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Trento	1 000

**Table 14 OCCITANS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBER
Mountain valleys of the Province of Cuneo; valleys of the Province of Turin; Provinces of Cosenza and Imperia	178 000 (50 000 speak pure Occitan)

**Table 15 SARDINIANS**

AREA WHERE RESIDENT	APPROXIMATE NUMBER
Region of Sardinia	1 269 000

**Table 16 SLOVENIANS**

AREAS WHERE RESIDENT	APPROXIMATE NUMBERS
Provinces of Trieste, Gorizia and Udine	60 000 / 80 000

**Table 17 WALSER**

AREA WHERE RESIDENT	APPROXIMATE NUMBERS
Region of Valle d'Aosta	1 400
Province of Vercelli	450
Province of Verbano-Cusio-Ossola	1 100

**Table 18 GYPSIES**

AREAS WHERE RESIDENT	APPROXIMATE NUMBER
Minority with no connection with any particular territory	130 000

The principles set out in the Framework Convention are implemented by the protective measures already in force for the frontier minorities and also, in the majority of cases, for other long-established minorities, and by regional protective measures, covering in particular the cultural and educational aspects; when the draft framework law, referred to above, laying down “Rules for the protection of the historic linguistic minorities” is definitively adopted in the near future these protective measures will be extended, in accordance with the principles of the Convention.

#### ARTICLE 4

**1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.**

**2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.**

**3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.**

#### **General**

The implementation of the principles laid down in Article 4 of the Convention clearly poses no problems for the Italian legal system.

The principles found in this article also feature in Articles 3 and 6 of the Italian Constitution, in respect of which reference should be made to Part I of this Report.

In particular, the application of Article 4 paragraph 1 of the Convention is guaranteed by Article 3 of the Constitution, which provides that all citizens are equal.

As regards Article 4 paragraph 2, moreover, the adoption of measures designed to promote full equality in all sectors of public life in Italy while taking account of the specific conditions of persons belonging to national minorities is clear from the measures cited in Parts I and II and in particular from the information provided in relation to Articles 14 and 15 of the Convention, to which this Report pays particular attention.

#### **Legal measures**

The texts and measures most frequently cited in the Report are appended (Appendix No 3):

- Article 3 of the Constitution;
- Article 6 of the Constitution;
- provisions relating to the teaching of the minority language and its use by the Administration.

### **Responsible departments or authorities**

In this area responsibility lies with the Administration as a whole, including the local authorities (regions, provinces and municipalities).

## **ARTICLE 5**

**1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.**

**2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.**

### **General**

The provisions giving effect to the principles set out in the first paragraph of Article 5 of the Convention have been cited on a number of occasions in Part I of the Report and in more detail in Part II.

All national and regional legislation in force and that currently being adopted give effect to this principle by providing for various forms of protection for the language and culture of the minority: measures in the field of education or to ensure the use of the minority language in relations with the Administration, measures to preserve and develop what is regarded as the cultural heritage of the minorities in question.

Also relevant, in addition to the numerous regional laws which support and encourage the initiatives taken to protect the cultural heritage of the minorities, are the agreements under which Italian radio and television broadcast programmes in the minority languages in the areas in which the minorities live (see observations on Article 9 of the Convention).

The preservation and development of not just the language but the cultural heritage, which is considered an essential feature of the minority, are fully ensured by the Bill laying down "Rules for the protection of the linguistic minorities" which has been approved by the Chamber of Deputies and is currently being examined by the Senate. This Bill provides, inter alia, for initiatives to these ends by schools and universities and for the promotion and implementation by the Minister for Education of national and local projects involving the study of the languages and cultural traditions of the members of a recognised linguistic minority.

As already indicated in Part I of the Report, freedom of religion is fully guaranteed by the Italian Constitution, which provides in Article 19 that all citizens are entitled to profess their religious beliefs freely in any form, individual or in association, to promote them and to celebrate their rites in public or in private.

Italy has no State religion, and Article 8 of the Constitution provides that all religious denominations are equally free before the law.

Italian is the official language of Italy.

As regards Article 5 paragraph 2 of the Convention, in Italy there is neither policy, nor practice nor legislation aimed at assimilation of persons belonging to minority groups; however, their assimilation into the social, political and economic fabric is absolutely guaranteed.

### **Legal measures**

The following texts are appended (Appendix No 4):

- Articles 8 and 19 of the Constitution.

### **Responsible departments or authorities**

Office of the Council of Ministers, Ministry of the Interior, Ministry of National Education, regions, autonomous provinces, local authorities.

## **ARTICLE 6**

**1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.**

**2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.**

### **General**

Intercultural dialogue with linguistic minorities is guaranteed primarily by a series of measures and initiatives relating to the teaching of minority languages and the study of cultural traditions as indicated in this Report. This dialogue is also guaranteed by the agreements on special radio and television broadcasts and by the subsidies granted to minority-language newspapers or periodicals, as described in other paragraphs.

Relations between the various linguistic communities are constant and are maintained through their representative associations. These associations establish contacts with the

Administration (at national and district level), with the regions and the local authorities, with similar associations abroad and with international bodies.

Cultural and linguistic co-operation aimed at developing and protecting the identity of the actual minority takes the form of exchanges within Italy and also with minorities of the same origin established in other countries.

Protection against acts of discrimination, hostility or violence pursuant to paragraph 2 is provided by national law, in particular criminal law.

It should further be pointed out that the Government have found no instance of racial discrimination against nationals belonging to the ethnic minorities represented in Italy which has resulted in application of the criminal law.

### **Legal measures**

As regards acts of discrimination or threats against members of minorities, reference should be made to Order No 122 of 26 April 1993, which was transformed into Law No 205 of 25 June 1993 laying down “urgent measures in relation to racial, ethnic or religious discrimination”, supplementing Law No. 654 of 13 October 1975 ratifying and implementing the International Convention on the Elimination of All Forms of Racial Discrimination signed in New York on 7 March 1966.

This law establishes that, in accordance with Article 4 of the Convention and unless the act constitutes a more serious offence, anyone who disseminates, by any means whatsoever, ideas based on the superiority of one race or on racial or ethnic hatred or commits or incites others to commit acts of discrimination for reasons of racial, ethnic, national or religious identity is liable to be imprisoned for up to three years.

In addition, severe penalties are also laid down for any person who, in any way whatsoever, commits or incites others to commit acts of violence or incitement to violence for reasons of racial, ethnic, national or religious identity.

Finally, the law prohibits the formation of organisations, associations, movements or groups whose aims include incitement to discrimination or violence for reasons of racial, ethnic, national or religious identity, and prescribes penalties for any person belonging to those organisations, associations, movements or groups or supporting their activities, and more severe penalties for those who run or encourage such organisations, associations, movements or groups.

The relevant measures are:

- Article 3 of the Constitution;
- Article 18 of the Constitution;
- Law No 205 of 25 June 1993 “transposing into law, and amending, Order No 122 of 26 April 1993 on urgent measures in relation to racial, ethnic or religious discrimination”;

- Order No 122 of 26 April 1993 laying down “urgent measures in relation to racial, ethnic and religious discrimination”.

## **ARTICLE 7**

**The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.**

### **General**

Freedom of assembly and association is a right guaranteed by the Constitution.

Article 17 of the Constitution provides that citizens have the right to assemble peaceably and unarmed; no prior notice need be given of these meetings, whether they are held in private or in a place to which the public has free access. Only where meetings are held in public places are the organisers required to give prior notice to the authorities, who may prohibit them only for proven reasons of security or public safety.

Such prohibition, the reason for which must be stated in a separate decision adopted in each case, must be based on very specific and objective circumstances.

The right of association is guaranteed in Article 18, which establishes that citizens have the right to form associations freely without authorisation for aims not forbidden by the criminal law; the formation of secret associations or those which pursue political aims, even indirectly, through organisations of a military character is forbidden.

The Italian Constitution thus distinguishes between the two rights, which are covered in two different articles: one concerning freedom of assembly and the other freedom of association.

Even where prior authorisation is given, a meeting is regarded as an occasional grouping for the purpose of discussing and expounding problems of common interest without any permanent organisation existing, whereas the right of association clearly requires the prior existence of an organisation.

Furthermore, Section 2 of Law No 40 of 6 March 1998 establishing the Charter of the Rights and Obligations of Aliens stipulates that, except as otherwise provided, aliens lawfully resident in Italy enjoy the same civic rights as nationals. The right to freedom of association and of assembly, exercised within the limits described above, is therefore enjoyed by aliens lawfully present in Italy in the same way as by nationals.

### **Legal measures**

The following measures are appended (Appendix No 5):

- Articles 17 and 18 of the Constitution;
- Law No 40 of 6 March 1998: “Regulation of immigration and provisions on the situation of aliens”.

## ARTICLE 8

**The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.**

### General

Freedom to manifest one's religion and belief is fully guaranteed by Article 19 of the Italian Constitution, which provides that "all shall be entitled to profess their religious beliefs freely in any form, individual or in association, and to celebrate their rites in public or in private, provided that they are not offensive to public morality".

Religious freedom has a plural nature and, with its many facets, forms part of the fundamental freedoms guaranteed by the Constitution and illustrated at many points in this Report. It encompasses not only the freedom to manifest religious opinions referred to in Article 8 of the Convention but also the freedom to exercise the right to profess one's religion, to assemble and move freely for reasons to do with religion or again to associate for religious purposes. These rights, which are guaranteed by the Constitution, help ensure that persons in Italy enjoy full religious freedom.

The members of a minority linguistic group therefore automatically enjoy freedom of conscience and religion and are able to manifest their religion or belief subject only to the limit laid down in the Constitution: namely, that these rites are not offensive to public morality. This right is also guaranteed by Law No 205 of 25 June 1993 laying down "Urgent measures relating to racial, ethnic and religious discrimination", and may be exercised in relation to military obligations (cf. Law No 230 of 8 July 1998 on conscientious objection).

Law No 230/98 provides that where their conscience so dictates citizens may, as an alternative to performing military service, perform civilian service, in pursuance of freedom of thought, freedom of conscience and freedom of religion recognised by the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights.

As regards the religious institutions referred to in Articles 7, 8 and 20 of the Constitution, it must be emphasised that the first paragraph of Article 8 of the Constitution guarantees that all faiths enjoy the same freedom before the law.

Furthermore, Article 20 lays down the additional guarantee that the fact that an association or institution may be religious in nature or pursue religious aims cannot give rise to either legal limitations or special taxes on its establishment, its legal capacity or any of its activities.

Relations between the State and the Catholic Church, each of which is independent and sovereign within its own order, are regulated by the Lateran Pacts and the amendments thereto (Article 7).

Non-Catholic religious denominations are entitled to organise themselves according to their own rules provided that they do not conflict with the Italian legal system. Their relations with the State are regulated by law on the basis of "agreements" with their respective representatives (Article 8 paragraphs 2 and 3).



These agreements, which govern the various activities of the denominations (teaching in schools, the establishment of schools and educational institutions, the procedures for the recognition of ecclesiastical seats etc.), may also define the proportion of tax revenue to be allocated to them.

The financial contribution granted to religious institutions is thus guaranteed by the allocation of 8‰ (0.8%) of the income tax payable by natural persons on the basis of the choice expressed by the taxpayers. This amount is shared between the various institutions which have subscribed to the “agreement”, on the basis of the choices expressed by the individual taxpayers in their tax returns.

Thus the Catholic Church receives a contribution equal to 8‰ (0.8%) of the income tax payable by natural persons, on the basis of the choices expressed by taxpayers in their tax returns.

### **Legal measures**

The following measures are appended (Appendix No 6):

- Articles 7, 8, 19 and 20 of the Constitution;
- Law No 230 of 8 July 1998 laying down “new provisions relating to conscientious objection” (Section 1).

### **Responsible departments or authorities**

Office of the Council of Ministers, Ministry of the Interior and Ministry of Finance.

## **ARTICLE 9**

**1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.**

**2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**

**3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**

**4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

## **General**

As regards the principles laid down in Article 9, it should first of all be recalled that freedom of opinion and expression is guaranteed in the Italian Constitution, which states in Article 21 that “all shall have the right to express their thoughts freely by speech, in writing, and by all other means of communication” and that “the press shall not be subjected to any authorisation or censorship”.

Article 9 has general force and applies to both nationals and aliens.

Freedom to manifest one’s ideas is therefore a fundamental principle of democracy in Italy; the Italian Constitution provides for the implementation of that principle, in particular as regards the dissemination of ideas through the press.

In that regard, Article 21 provides that the press shall not be subjected to any authorisation or censorship and that seizures are permissible only by court order, in accordance with the law on the press, or in the case of violation of legal requirements concerning the identification of the persons in charge.

In Italy there is a genuine right to information, which has three fundamental aspects: the right to inform, ie the right to impart information; the right to inform oneself, ie the right to obtain information for oneself; and the right to be informed.

Consequently, members of a minority linguistic group, like all other persons, are perfectly free to express their opinions and to receive and impart information freely in the chosen language and therefore also in the language of the minority.

This means that members of minorities suffer no discrimination in regard to access to the media: on the contrary, they are protected by specific laws in the sphere of information and radio and television programmes.

It is sufficient in that regard to mention the agreements between the Office of the Council of Ministers and the RAI, under which the RAI broadcasts programmes in French, German, Ladin and Slovenian, and also the legislation which makes provision for subsidies to publishing houses.

## **Legal measures**

The agreements between the Office of the Council of Ministers and the RAI are based on Sections 19 and 20 of Law No 103 of 14 April 1975; they apply to broadcasts in French in Valle d’Aosta, in German and Ladin in Alto Adige and in Slovenian in Friuli-Venezia Giulia.

The agreements make provision for a certain number of hours of radio and television programmes to be broadcast each day on the cultural life of the region and for the broadcasting of news bulletins on radio and television. In the three RAI studios in Aosta, Bolzano and Trieste, French-speaking, German-speaking and Slovenian-speaking editorial staff are responsible for making programmes directly in these languages.

In the Fassa Valley (Province of Trento) there are broadcasts in Ladin; these were made initially on an experimental basis and then on a permanent basis.

In the Region of Friuli-Venezia Giulia broadcasts have thus far concerned the territories of the two provinces of Trieste and Gorizia, pursuant to specific agreements.

In the past these agreements lasted for a number of years and were renewed each time they lapsed. Pursuant to recent legislation, which profoundly altered the relationship between the Government and the licensed broadcaster, RAI sa, these agreements are of the same duration as the General Agreement (20 years) and must be renegotiated every three years.

Law No 250 of 7 August 1990 made provision for subsidies to be granted to daily newspapers in French, Ladin, Slovenian and German in the autonomous regions of Valle d'Aosta, Friuli-Venezia Giulia and Trentino-Alto Adige.

As regards, in particular, the Slovenian-language newspapers, Law No 19 of 9 January 1991 provided in Section 14 for an increase of 50% in the subsidies previously determined by Law No 250/90; in addition, Law No 278 of 14 August 1991 made provision for a fund of ITL 2,000 million per annum for Slovenian-language newspapers (cf. Section 3 of Law No 250/90).

The following table shows the Government subsidies granted to the minority-language newspapers for the years 1995 to 1997:

**Table 19**

PRIMORSKI DNEVNIK (Slovenian)	Law No. 250/1990	Law No. 278/1991
1995	ITL 3 750 000 000	ITL 2 000 000 000
1996	ITL 3 750 000 000	ITL 2 000 000 000
1997	ITL 2 625 000 000	ITL 2 000 000 000
DOLOMITEN (5German)		
1995	ITL 3 100 000 000	
1996	ITL 3 100 000 000	
1997	ITL 2 170 000 000	
DIE NEUE SÜDTIROLER ZEITUNG (German)		
1995	-	
1996	ITL 187 366 196	
1997	ITL 855 358 190	

The region of Friuli-Venezia Giulia has made the following grants to Slovenian-language periodicals and publications:

1996	ITL 800 million
1997	ITL 1,500 million
1998	ITL 1,451 million
1999	ITL 1,406 million

It should also be pointed out that measures designed to facilitate access to the media have been included in the Bill “Rules for the protection of historic linguistic minorities” (A.S. No 3366), which has already been approved by the Chamber of Deputies and is currently being examined by the Senate. This Bill stipulates that:

- the agreement between the State and the public radio and television broadcasting company is to provide a form of protection for linguistic minorities in their respective areas;
- the regions concerned may also conclude specific agreements for the broadcasting of news programmes in the protected languages, within the framework of regional radio and television programmes, and also specific agreements with local broadcasters;
- the regions, provinces and municipalities in whose territory the linguistic groups referred to in the Bill are established may, where their budget permits and in accordance with objective criteria, allocate funds to press organs and private radio and television broadcasters which use one of the protected languages, and also to associations which are recognised and well established in the territory and whose aims are to protect the linguistic minorities.

The relevant provisions, which are appended (Appendix No 7), are:

- Italian Constitution: Article 21;
- Law No 103 of 14 April 1975 laying down “new provisions in relation to radio and television broadcasting”;
- Decree of the President of the Republic of 31 July 1997 “adopting the agreement concluded on 11 June 1997 between the Office of the Council of Ministers (Department of Information and Publishing) and the RAI (Italian Radio and Television sa) on Slovenian-language radio and television broadcasts, and also on radio broadcasts in Italian for the Autonomous Region of Friuli-Venezia Giulia.
- Decree of the President of the Republic of 31 July 1997 “adopting the agreement concluded on 11 June 1997 between the Office of the Council of Ministers (Department of Information and Publishing) and the RAI (Italian Radio and Television sa) for German-language and Ladin-language radio and television broadcasts in the Autonomous Province of Bolzano”.
- Decree of the President of the Republic of 31 July 1997 “adopting the agreement concluded on 11 June 1997 between the Office of the Council of Ministers (Department of Information and Publishing) and the RAI (Italian Radio and Television sa) for French-language radio and television broadcasts in the Autonomous Region of Valle d’Aosta”.
- Law No 250 of 7 August 1990 introducing “subsidies for publishing houses and extending the deadline for renunciation of the benefits referred to in Section 9 paragraph 1 of Law No 67 of 25 February 1987, and access to the benefits referred to in Section 11 of that Law”.

- Law No 278 of 14 August 1991 “Amending and supplementing Law No 67 of 25 February 1987 and Law No 250 of 7 August 1990 on subsidies to publishing houses”.
- Law No 19 of 9 January 1991 enacting “provisions for the development of the economic activities and international co-operation of the Region of Friuli-Venezia Giulia, the Province of Belluno and the areas bordering on them”.

### **Measures being adopted**

The most recent agreements concluded within the framework of the new licensing system were approved on 31 July 1997 and were renegotiated for the first time at the end of the period 1995-97.

The consequence of the renegotiation was that the commitments given and resources allocated in 1997 were confirmed for 1998, while the Office of the Council of Ministers set up a joint working party to examine the increase in costs foreseen by the RAI for the programmes broadcast in Friuli-Venezia Giulia.

The working party – which is still meeting – confirmed for 1999 the commitments already assumed for 1998, apart from the agreement on Slovenian-language broadcasts in Friuli-Venezia Giulia, for which only the contractual commitments were renewed, and only for the first half of 1999; the working party may complete its work in time to arrange the second half of 1999.

In this context, the possibility of extending Slovenian-language broadcasts to the Province of Udine, when funds permit, is being examined.

The annual costs incurred in implementing the agreements are as follows:

- Agreement on German-language and Ladin-language broadcasts in the Autonomous Province of Bolzano: ITL 28,970,945,600 excluding VAT;
- Agreement on Slovenian-language broadcasts in the Region of Friuli-Venezia Giulia: ITL 6,698,752,000 excluding VAT (this figure is currently being examined by the Joint Working Party);
- Agreement on French-language broadcasts in the Region of Valle d’Aosta: ITL 3,782,722,000 excluding VAT.

### **Responsible departments or authorities**

The competent authorities are the Office of the Council of Ministers, plus the Regions and Autonomous Provinces.

## **ARTICLE 10**

**1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.**

**2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.**

**3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.**

### **General**

Under Italian law those belonging to national minorities are guaranteed the right freely to use their own language, both orally and in writing, as may be seen from all the provisions cited under the heading “Legal measures”.

This shows that this aspect has been expressly taken into account by Parliament, which was inspired by, inter alia, the principles referred to in the three paragraphs of Article 10 of the Convention.

The level of legislative achievement differs for each minority. The panorama of the minorities established in Italy is extremely varied.

The protection afforded to the frontier minorities is very specific.

Specific provisions concerning the use of the minority languages are also contained in the Consolidated Text laying down “Rules for the protection of the historic linguistic minorities” already approved by the Chamber of Deputies and currently being examined by the Senate (A.S. No 3366), which covers the linguistic groups which have long been settled in Italy.

### **Legal measures**

The guarantees laid down in Article 10 paragraphs 1 and 2 of the Convention apply in full to the German-language minority of Alto Adige and to the French-language minority in Valle d’Aosta, whose “Statutes of Autonomy” expressly provide that the German, French and Italian languages have equal status.

Article 99 of Decree No 670 of the President of the Republic of 31 August 1972 (Special Statute of Autonomy of Trentino-Alto Adige) provides that German and Italian shall enjoy equal status.

Article 100 contains specific provisions on the use of German in relations with public administrations. It stipulates that German-speaking citizens of the Province of Bolzano may use German in their relations with the judicial authorities, the bodies and departments of the public administrations established in the Province of Bolzano or having competence for the region, and with the providers of local public services.

Article 100 also provides that Italian and German may be used equally at meetings of the collegial bodies of the Province of Bolzano and within the local authorities. In their

correspondence and in oral relations, the departments, bodies and providers of public services use the language of the applicant and provide their replies in the language used by the body or department which draws up the file. If the correspondence is initiated on the public authority's own initiative, the language used is that of the person to whom it is addressed.

Article 100 also guarantees the possibility of using both languages equally, "except where there are express provisions to the contrary".

It also governs, by means of implementing rules, the simultaneous use of both languages in the drafting of public decisions, private decisions for public use or decisions addressed to more than one department".

Decree No 752 of the President of the Republic of 26 July 1976 restates the protection afforded to the German language by the public institutions of Alto Adige. Article 1 provides that a necessary condition for the administrations or public bodies of the Province of Bolzano for the recruitment of staff is knowledge of both languages. Article 3 provides that a committee, appointed in agreement with the provincial authorities, is to ascertain that candidates satisfy this condition, and issue a special certificate (bilingualism card) to candidates who pass the examination.

Other special conditions were subsequently adopted, for example Decree No 574 of the President of the Republic of 15 July 1988, which provides that "in the Region of Alto Adige, German and Italian (the official language of the Italian State) shall be equal in the following circumstances:

- (a) in relations with the administrations and public bodies situated in the Province of Bolzano or having regional competence, and with providers of public services operating at local level;
- (b) in relations with the judicial authorities and the ordinary, administrative and fiscal courts in the Province of Bolzano;
- (c) in relations with the Court of Appeal, the Assize Court, the Juvenile Section of the Court of Appeal, the Prosecution at the Court of Appeal, the Children's Court, the supervision court and office, the Regional Commissioner for the Settlement of Civic Obligations and with all other administrative, fiscal or ordinary judicial or court bodies in the Province of Trento whose jurisdiction also extends to the Province of Bolzano.
- (d) in the day-to-day work of the staff of the bodies, departments and service-providers referred to in paragraphs (a), (b) and (c);
- (e) in external relations with the military bodies, institutions or units in the province of Bolzano or the Province of Trento, provided that their competence also extends to the Province of Bolzano;
- (f) in notarised public documents or their equivalent.

The provisions of the decree also apply to the military police and to the personnel of the State Police governed by regulations of a military nature, when they are performing their police duties or carrying out activities which involve criminal prosecutions or penalties".

Legislative Decree No 446 of 24 July 1996 contains further provisions in that regard. It governs in greater detail the use of German by public service providers operating in the Province of Bolzano.

The Statute of Autonomy of Alto Adige contains a number of provisions which also protect the Ladin language. Part XI of the Statute provides for “the use of German and Ladin”. Article 102 provides, *inter alia*, for “the promotion of Ladin place-names and traditions. The Ladin language and culture shall be taught in the Ladin-speaking municipalities of the Province of Trento”.

A number of provisions designed to protect the Ladin language and to ensure that the Ladins of the Province of Bolzano enjoy the same level of protection as those of the Province of Trento are to be found in Legislative Decree No 592 of 16 December 1993 laying down “Rules for the implementation of the Special Statute of the Region of Trentino-Alto Adige containing rules for the protection of the Ladin-speaking populations of the Province of Trento”.

The Decree establishes, in particular, that “persons belonging to the Ladin communities of the Province of Trento may use their own language in their oral or written communications with the school, regional, provincial and local authorities established in the Ladin areas, and also with the regional and provincial offices which perform their duties in the exclusive interest of the Ladin populations even though they are situated outside the areas referred to above”.

“Where a claim, request or declaration is formulated in Ladin, the offices and authorities concerned are required to reply orally in Ladin or, in writing, in Italian (which is the official text) and subsequently to provide a Ladin translation. Furthermore, public documents issued by the public offices and authorities and addressed to the populations of the Ladin areas must be drafted in Italian and accompanied by a translation into Ladin”.

The Decree also establishes that at meetings of the local authorities of the Ladin areas of the Province of Trento, the participants may use the Ladin language. Where other members of the assembly do not understand Ladin, however, interpretation into Italian is provided. The records of the proceedings are drafted in Italian and in Ladin.

The protection of the Ladin language provided for in Decree No 592 of 16 December 1993 is reinforced by the provisions designed to ensure the presence of staff with knowledge of the Ladin language in public offices situated in the Ladin areas of the Province of Trento.

The appointment of staff, at their request, to those offices is conditional on their possessing the requisite qualities and a knowledge of Ladin and is made in accordance with the procedures governing transfers and temporary or permanent appointments laid down in the applicable rules.

An ad hoc committee ascertains that candidates have a knowledge of Ladin. Those having the requisite qualities and an adequate knowledge of Ladin are entitled to priority in the public competitions and selection procedures – in particular for temporary staff – organised by the local authorities in the Ladin areas.

Legislative Decree No 32 of 2 September 1997 laying down “Rules implementing the Special Statute of the Region of Trentino-Alto Adige and amending and supplementing Legislative Decree No 592 of 16 December 1993 on the protection of the linguistic minorities of the



Province of Trento” establishes forms of protection not only for the Ladins but also for the Cimbres and “Mocheni” living in the Province of Trento.

In the case of Valle d’Aosta the provisions establishing the equal status of French and Italian are set out in the Special Statute on Autonomy (Constitutional Law No 4 of 26 February 1948), Article 38 of which provides as follows:

- Valle d’Aosta accords the French and Italian languages equal status;
- public documents may be drafted in either French or Italian, with the exception of measures adopted by the judicial authorities, which are drafted only in Italian;
- the public authorities of Valle d’Aosta shall give preference in recruitment to officials from the Region or with a good knowledge of French.

Special provisions are also laid down for the Slovenian minority in the former Zone A of the Province of Trieste.

These provisions are to be found in the London Memorandum of 5 October 1954 and in the Special Statute annexed to that Memorandum, and are therefore international in nature.

Article 5 of the Special Statute provides that “members of the Yugoslav ethnic group in the area administered by Italy and members of the Italian ethnic group in the area administered by Yugoslavia shall be free to use their language in their personal and official relations with the administrative and judicial authorities of the two areas. They shall have the right to receive from the authorities a reply in the same language: in verbal replies, either directly or through an interpreter; in correspondence, a translation of the replies at least is to be provided by the authorities.

Public documents concerning members of these ethnic groups, including court sentences, shall be accompanied by a translation in the appropriate language. The same shall apply to official announcements, public proclamations and publications.”

Following the Treaty of Osimo signed by Italy and Yugoslavia on 10 November 1975 and ratified by Law No 73 of 14 March 1977, these provisions were transposed into domestic law. By the Treaty the Parties agreed to maintain in force, even after the Special Statute annexed to the Memorandum of London had ceased to be effective, the implementing measures already adopted at national level, and also to safeguard the level of protection afforded to members of both ethnic groups.

As concerns the use of Slovenian, it should be noted that a number of judgments of the Constitutional Court and the Regional Administrative Court of Friuli-Venezia Giulia have reasserted the right of the Slovenian minority to use their own language in their relations with the public authorities.

The Constitutional Court has held that “the Constitution, the Special Statute of Friuli-Venezia Giulia and the Treaty of Osimo require Parliament and the other authorities of the Republic, in the context of the ‘positive’ protection of linguistic minorities, to ensure that members of the Slovenian minority of Friuli-Venezia Giulia are able to use their mother tongue in their relations with the public authorities and, in particular, with the judicial authorities.” The provisions in question lay down “guidelines which must be applied gradually”, or purposive

rules the application of which is a matter for Parliament (cf. judgment no 28 of 1982, with reference to Article 6 of the Constitution). Parliament is required to adapt the procedures, the forms of protection and the time of implementation of these rules to social conditions and to the availability of adequate facilities and public financial resources.

In that regard, the Court has held that the right of members of the linguistic minorities to use their mother tongue in their relations with the (local) judicial authorities is guaranteed by Article 6 of the Constitution and also, so far as the Slovenian minority is concerned, by the tenth transitional provision of the Constitution and Article 3 of the Special Statute of Friuli-Venezia Giulia.

By virtue of this right, members of the recognised linguistic minorities may put forward claims, whose realisation nevertheless depends on the adoption of implementing rules and the existence of the appropriate organisational and institutional structures.

There is no need to adopt specific implementing rules, however, where general structures or legal instruments exist which are capable of guaranteeing the actual and effective exercise of a right afforded, in principle, by the Constitution.

It was on the basis of these principles that the Constitutional Court held in judgment no 28 of 1982 that Article 6 of the Constitution and Article 3 of the Special Statute of the Region of Friuli-Venezia Giulia provide a “minimum” protection which allows members of the Slovenian minority to use their mother tongue in their relations with the local judicial authorities and also to receive replies from these authorities in the same language, either directly or through an interpreter in the case of oral communications, or in the form of a document in Italian together with a translation into Slovenian in the case of written communications.

The protection of the linguistic minorities is also specifically covered in the Consolidated Text referred to above. The “Rules for the protection of the historic linguistic minorities” govern the written and oral use of the protected languages in the offices of the public authorities in municipalities in which the protected minorities are established and also the use of the minority language in the municipal council and the other collegial bodies of the municipal administration.

As regards the principle set forth in paragraph 3 of Article 10 of the Convention, namely the right of the person concerned to defend himself or herself in his or her own language in the proceedings, Article 109 of the New Code of Criminal Procedure establishes that the proceedings are to take place in Italian. It also provides that, if the proceedings are to be valid, “Italian nationals belonging to a recognised linguistic minority established in the territory over which the first-instance or appellate judicial authorities have jurisdiction may request that the hearing take place in their mother tongue; the record of the proceedings shall also be drawn up in that language”.

“The procedural documents sent to the persons concerned shall, at their request, be translated into that language.”

“The other rights provided for in special laws and international conventions shall remain unaltered.”

The provision referred to in Article 109 of the Code of Criminal Procedure also appears in the collected “Rules for the protection of the historic linguistic minorities” which will shortly be adopted and extended to all the languages of the protected minority groups which have long been established in Italy.

Finally, it should be noted that Article 143 of the Code of Criminal Procedure provides that an accused who does not speak Italian is in principle entitled to the assistance of an interpreter free of charge to enable him to understand the charges against him and to follow the proceedings.

Italian nationals are presumed to know the Italian language in the absence of proof to the contrary.

Article 143 also applies to police investigations and provides for the appointment of a translator to translate a document into a foreign language or an unknown dialect, or where a person required to make a statement does not know Italian. The statement may be made in writing and inserted in the translation made by the translator.

The following is a list of the rules of reference, which are appended (Appendix No 8):

- Article 6 of the Constitution of the Italian Republic;
- Articles 99, 100 and 102 of Decree No 670 of the President of the Republic of 31 August 1972 “approving the consolidation of constitutional laws concerning the Special Statute for Trentino-Alto Adige”;
- Articles 1 and 3 of Decree No 752 of the President of the Republic of 26 July 1976: “Rules implementing the Special Statute of Trentino-Alto Adige on proportional representation in public offices in the Province of Bolzano and knowledge of both languages by public officials”;
- Decree No 574 of the President of the Republic of 15 July 1988: rules implementing the Special Statute of Trentino-Alto Adige concerning the use of German and Ladin in relations between citizens and the civil and local government service and in court proceedings;
- Legislative Decree No 592 of 16 December 1993: “Rules implementing the Special Statute of Trentino-Alto Adige concerning the provisions protecting the Ladin-speaking populations of the Province of Trento”;
- Legislative Decree No 321 of 2 September 1997: “Rules implementing the Special Statute of Trentino-Alto Adige and amending and supplementing Legislative Decree No 592 of 16 December 1993 on the protection of the linguistic minorities in the Province of Trento”;
- Legislative Decree No 446 of 24 July 1996: “Rules implementing the Special Statute of Trentino-Alto Adige and amending and supplementing Decree No 574 of the President of the Republic of 15 July 1988 on the use of German and Ladin in relations between citizens and the civil and local government service and in court proceedings”;

- Section 38 of Constitutional Law No 4 of 26 February 1948 on the “Special Statute for Valle d’Aosta”;
- Article 5 of the Special Statute annexed to the Memorandum of Understanding signed in London in 1954;
- Law No 73 of 14 March 1977: “Ratifying and implementing the Treaty between the Italian Republic and the Socialist Federal Republic of Yugoslavia, including the annexes thereto, and the Agreement between Italy and Yugoslavia, including the annexes thereto, and the Final Act and the exchange of memoranda signed in Osimo (Ancona) on 10 November 1975”;
- Article 3 of Constitutional Law No 1 of 31 January 1963: “Special Statute for Friuli-Venezia Giulia”;
- Judgment No 28 of 1982 of the Constitutional Court;
- Articles 109 and 143 of the Code of Criminal Procedure.

### **Responsible departments or authorities**

Competence in this specific field lies with the various public authorities, the regions, the autonomous provinces and the municipalities.

The responsibilities incumbent on these authorities derive from the obligation to allow members of the linguistic minorities to use their mother tongue in the circumstances and according to the procedures provided by law just illustrated.

## **ARTICLE 11**

**1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.**

**2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.**

**3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.**

### **General**

The provisions which govern the protection of linguistic minorities in Italy also deal with place-names and the right to use one’s own surname and forename in the minority language.

The provisions in question are to be found in various types of laws (constitutional laws, ordinary laws and regional laws).

### **Legal measures**

From a general point of view it should be noted that under national legislation a person has the right to retain or change his or her surname and forename.

This matter is regulated by Article 153 et seq. of Royal Decree No 1238 of 9 July 1939 laying down a special procedure whereby a person may change or amend his or her surname or forename after submitting a request to that effect to the Principal State Counsel's Office at the competent Court of Appeal, when a decision will be taken.

Law No 935 of 31 October 1966, amending in part Article 72 of the above-mentioned Royal Decree, established inter alia that "foreign forenames given to children of Italian nationality must be written in the letters of the Italian alphabet, including the letters J, K, X, Y and W. In the case of children belonging to the recognised linguistic minorities, the forenames may be written using the above-mentioned letters together with the diacritical signs of the alphabet of the language of the minority in question".

As regards the right to use one's own surname and forename in the minority language, Law No 114 of 28 March 1991 contains a number of important provisions designed to restore the original spelling of surnames and forenames which were altered during the Fascist regime in the territories annexed to Italy by the Peace Treaty of St Germain between Italy and Austria and the Treaty concluded in 1920 between the Kingdom of Italy and the Kingdom of Serbs, Croats and Slovenians.

In practice the law applies to both the German-language minority and the Slovenian-language minority and establishes the right to restore the original spelling of the Italian name taken or given on the basis of the Fascist provisions.

It should none the less be observed that, as regards the populations of Alto Adige, Law No 118 of 11 March 1972 already contained, in Sections 32, 33 and 34, provisions to restore the original German spelling of surnames and forenames.

The problem is also addressed in a Bill approved by the Chamber of Deputies and currently being examined by the Senate, laying down "Rules for the protection of the historic linguistic minorities"; Section 11 of this Bill provides that where the surnames and forenames of members of a recognised linguistic minority living in municipalities in whose territory protected minorities are present were altered before the entry into force of the law, or where such persons were unable in the past to choose the forename in the minority language, such persons are entitled to have the original spelling restored and to obtain documents certifying this restoration.

As regards place names, Article 99 of the Special Statute of Alto Adige provides that German is considered an official language of the State on the same basis as Italian; Articles 8 and 101 of the Special Statute empower the Autonomous Province of Bolzano to issue laws on place names, subject to the obligation to use both German and Italian (Article 8) and require government departments in the Province of Bolzano also to use German place names where

the provincial law has ascertained the existence and approved the spelling of such names (Article 101).

In the Province of Bolzano it is therefore mandatory to use both languages for place names in order to protect the German minority.

The use of two languages for place names is also guaranteed by Article 5 of the London Memorandum, which provides that the names of streets and inscriptions on public buildings in those electoral districts of Trieste and the other municipalities where the minority represents more than a quarter of the total population are to be indicated in the languages of both the Yugoslav and the Italian minority groups.

Parliament has paid particular attention to the matter in question by voting Constitutional Law No 2 of 23 September 1993 “amending and supplementing the Special Statutes for Valle d’Aosta, Sardinia, Friuli-Venezia Giulia and Trentino-Alto Adige”; by this law the matter was entrusted to the regions, within the limits of the international obligations borne by the State.

In relation to Valle d’Aosta, reference should be made to Article 2 of Constitutional Law No 4 of 26 February 1948 on the “Special Statute for Valle d’Aosta”, which confers competence for place names on the region, and to Article 38 of the Special Statute, which provides that “in Valle d’Aosta French shall have the same status as Italian”.

The question of place names has already been addressed in the consolidated law concerning the historic linguistic minorities; Section 10 of this law provides that in the communes in whose territories linguistic minorities recognised by law are present the Municipal Councils may decide to use place names which conform to local traditions and uses as well as the official place names.

This issue was also dealt with by the regional legislation on linguistic minorities already referred to in Part I of the Report, which took into consideration the possibility of reinstating local place names, for example by means of subsidies in favour of cultural initiatives in this field.

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The following provisions have been referred to and are appended (Appendix No 9):

- Sections 32, 33 and 34 of Law No 118 of 11 March 1972: “Measures in favour of the populations of Alto Adige”;
- Law No 114 of 28 March 1991: “Provisions for the reinstatement of surnames and forenames altered during the Fascist regime in the territories annexed by Italy by Law No 1322 of 26 September 1920 and Law No 1778 of 19 December 1920”;
- Article 38 of Constitutional Law No 4 of 26 February 1948: “Special Statute for Valle d’Aosta”;

- Constitutional Law No 2 of 23 September 1993: “Amending and supplementing the Special Statutes for Valle d’Aosta, Sardinia, Friuli-Venezia Giulia and Trentino-Alto Adige”;
- Articles 8, 99 and 101 of Decree No 670 of the President of the Republic of 31 August 1982: “approving the consolidation of constitutional laws concerning the Special Statute for Trentino-Alto Adige”;
- Royal Decree No 1238 of 9 July 1939 (Articles 72, 153 and 158);
- Law No 935 of 31 October 1966: “Amending Article 72 of Royal Decree No 1238 of 9 July 1939 on the organisation of civil status”.

## ARTICLE 12

**1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.**

**2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**

**3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

### General

As regards the provisions adopted in the field of education for the learning of the minority language and education in general, detailed information is provided in the section dealing with Article 14 of the Convention.

In this context, reference is made to all the provisions which, in the field of education in general, favour knowledge of the entire cultural heritage of the minorities and also the presence in schools of teachers whose mother tongue is a minority language and of representatives of the minorities.

In that regard, in the education system of the Province of Bolzano, as we shall see when we deal with Article 14 of the Convention, the teaching of the minority language and also teaching in the minority language must be provided by teachers whose mother tongue is one of those languages.

Quite apart from that question, however, which will be dealt with below, certain provisions are laid down for the main minority groups.

For example, Legislative Decree No 321 of 2 September 1997 provides that within the framework of the procedures for recruitment (on indefinite-duration or fixed-term contracts), transfers, change of posting and employment of staff (both teaching staff and administrative staff) in the Province of Trento, in all schools in Ladin areas vacant and available posts are to be reserved for those who fulfil the relevant conditions and have been examined in Ladin

language and culture before a selection board including at least one person who is a Ladin teacher in those schools. The selection board is appointed by the education superintendency in collaboration with the Ladin Cultural Institute.

As regards Valle d'Aosta, the Regional Education Department and the IRRSAE (Regional Institute for Educational Research and Improvement) systematically organise training courses for teachers in French and in the theory of bilingual teaching.

Exchanges of experiences with schools and cultural institutions in the neighbouring French-speaking regions are very widespread and well organised, in particular with the Universities of Chambéry and Grenoble.

A French Language Office based in Aosta is available to the Administration and citizens; it prepares documents in French and translates texts into and from French.

A number of important provisions concerning teachers of the Slovenian language have also been adopted. Law No 932 of 22 December 1973 provides for the establishment of two education districts, in Trieste and Gorizia, with two posts of School Inspector, and seven teaching centres, five in the Province of Trieste and two in the Province of Gorizia.

The Law also fixes the eligibility criteria for admission to the competition for the School Inspector posts, and also the rules governing the issue of teachers' certificates. It provides for the establishment in the Academic Directorates in Gorizia and Trieste of two administrative units and an Advisory Committee responsible for assisting the "Schools Superintendent" of the Region of Friuli-Venezia Giulia in the administration of the Slovenian-language schools. The Committee is composed of representatives appointed by the staff of the "Slovenian Schools" and by five Slovenian-speaking Italian nationals appointed by the Provincial Councils of Trieste and Gorizia.

The Law also addresses the problem of Slovenian-language textbooks by requiring the Ministry of Education to set up a school fund which the "Superintendent" of Friuli-Venezia Giulia may use for the preparation and translation of textbooks for Slovenian-language primary and secondary schools.

The above-mentioned law also governs the organisation of courses leading to the certificate of competence to teach in Slovenian-language nursery schools.

Decree No 417 of the President of the Republic of 31 May 1974 abolished the educational districts and the role of school inspector and replaced them by provincial school councils and the local technical inspector.

Other relevant provisions are laid down in Decree No 416 of the President of the Republic of 31 May 1974 on the teaching staff in State schools, Article 34 of which provides that one quarter of the representatives of the teaching staff in State schools and one fifth of the representatives of pupils' parents in the district and provincial school councils in Trieste and Gorizia are to be Slovenian-speaking teachers and parents.

Law No 1 of 4 January 1975 supplements the provisions referred to above. Section 8 provides that "one fifth of pupils' representatives in the school councils of the provinces of Trieste and Gorizia shall consist of teachers and parents of pupils in the Slovenian-language State schools".



It also provides that the district and provincial school councils in these provinces must seek the opinion of the Advisory Committee created by Law No 932/1973 when considering questions concerning the functioning of Slovenian-language schools, provincial plans for adult education courses and continuing education for Slovenian-speaking adults.

As regards the recruitment of teachers in Slovenian-language schools, candidates must be of Slovenian mother tongue, except in the case of competitions held to fill posts as teachers of Italian or of Italian language and literature.

“An adequate knowledge of the Slovenian language is none the less required, both for admission to competitions based on qualifications and tests and for admission to competitions based on qualifications alone.” Candidates’ knowledge of Slovenian must be verified by a Committee composed of three members appointed by the “Superintendent” of Friuli-Venezia Giulia.

The tests in competitions for teaching posts in nursery schools, primary schools and secondary schools, in art schools and art schools at upper secondary level are held in Slovenian.

Proficiency courses in Slovenian for teachers in Slovenian-language schools are arranged by those schools, at provincial or inter-provincial level, and financed by the Ministry of Education.

Training courses for established teachers are organised by the schools concerned on the basis of general guidelines issued by the Ministry.

Decree No 419 of the President of the Republic of 31 May 1974 provided for the establishment, in all principal regional towns in which a regional or inter-regional education service is based, of Regional Institutes for Educational Research (IRRSAE). Their staff are drawn from administrative and teaching backgrounds, including the universities.

Article 12 of the Statute of the IRRSAE of Friuli-Venezia Giulia, which was approved by Decree No 957 of the President of the Republic of 5 April 1985, provides that “notices of competitions held for the purpose of appointing staff to the IRRSAE — the number of such staff being laid down by Decree of the Ministry of Education in consultation with the Ministry of the Treasury — must provide for a certain number of posts to be reserved for candidates whose language is not Italian and who, pursuant to the legislation in force, shall enjoy specific forms of protection”.

In particular, teachers whose language is Slovenian “must be represented within the sections and departments of that Institute”.

Within the framework of the principles referred to in Article 12 of the Convention, reference is made to the following regional laws, whose purpose is to encourage the creation of bodies and institutions to protect the language and culture of the minorities:

- Walsers: Permanent Council for the Protection of the Walser Language and Culture (Section 4 of Regional Law No 47/98);
- Ladins: Regional Institute of Ladin Culture (Section 6 of Regional Law No 73/94);

- Croats and Albanians: Committee for Cultural Development and the Planning of Activities (Section 5 of Regional Law No 15/97);
- Sardinians and Catalans: Regional Institution for the Sardinian Language and Culture (Section 5 of Regional Law No 26/97);
- Friulians: Regional Institution for Friulian Language and Culture (Section 15 of Regional Law No 15/96).

A specific provision on these matters is also contained in the Bill, already approved by the Chamber of Deputies and now before the Senate, laying down “Rules for the protection of the Historic Linguistic Minorities”: the regions and provinces may set up bodies to protect the linguistic and cultural traditions of the minorities, or encourage the formation of separate sections within existing cultural institutions.

In addition, there are a number of experimental educational initiatives promoted by local cultural associations:

### **Albanians**

#### Province of Campobasso

Institute of Portocannone:

“Experimental project in bilingualism, Year II — comparative study: Arbereshe and Albanian languages. Revival of the song traditions of the Arbereshe community in Portocannone”.

Institute of Ururi:

“Project for the restoration and development of the Arbereshe ethnic and linguistic tradition of Ururi”.

Institute of Palata:

“Further course in Albanian”.

#### Province of Catanzaro

Lower secondary school, Caraffa:

Three-year project (academic years 1996-1999) on “ethnic identity and interculture”, providing for a (travelling) cultural and folk display, one seminar and one research competition.

Academic year 1999-2000:

Project on the “development of ethnic minorities and interculture”.

These projects are open to all the linguistic minorities established in Calabria, namely the minorities of Albanian origin living in the municipality of Caraffa and the Greek and Occitan minorities (municipality of Guardia Piemontese in the Province of Cosenza).

## **Croats**

### Province of Campobasso

Current experimental projects:

“Teaching of Croat language and culture” at the Institute of Monfalcone;

“Further course in Croat” at the Institute of Palata.

## **Franco-Provençals and Occitans**

### Region of Valle d’Aosta

Numerous initiatives, in particular of a cultural nature, have been implemented in order to protect Franco-Provençal.

These initiatives include the “Abbé Jean-Baptiste Cerlogne Patois Competition for Schools” for pupils in schools in Valle d’Aosta involved in research into Franco-Provençal popular culture. The following figures illustrate this event over the last three years:

- May 1996: 700 participants in the event, held at Pré Saint-Didier; the region’s financial contribution came to approximately ITL 186,000,000;
- May 1997: 900 participants in the event, held in Issogne; the region’s financial contribution came to approximately ITL 210,000,000;
- May 1998: approximately 1,000 participants in the event, held in Gressan; the region’s financial commitment came to approximately ITL 232,000,000.

In 1999 it is planned to hold the “Cerlogne Competition” in Courmayeur between 17 and 19 May. The budget is approximately ITL 180,000,000.

### Province of Cuneo

The primary school in Monteroso Grana is currently conducting an experiment in the teaching of the Provençal language spoken in the Coumboscuro Valley.

Other schools in the Province of Cuneo, in the Alpine valleys of Casteldelfino, Sampeyre, Accoglio, Vernante and Vinadio, are currently conducting experiments with teaching models aimed at encouraging the restoration of the Occitan tradition.

## **Friulians**

### Province of Pordenone

Throughout this year the Friulian Philological Association has organised an optional course in Friulian language and culture at the “Kennedy” technical school in Pordenone.

### Province of Udine

During the last two years a number of lower secondary schools have introduced initiatives for the protection and development of Friulian language and culture.

The Friulian Philological Society holds proficiency courses for teachers.

### Province of Venice

Friulian-language minorities are established in the municipalities of San Michele al Tagliamento, San Giorgio and Portogruaro. The cultural association/publishing house “La Bassa” (Latisana-UD) organises historical and linguistic studies aimed at ensuring the protection of Friulian language and culture at local level.

### **German-speaking minorities**

#### Province of Trento

As regards the “Mocheni” and Cimbri minorities — which are established in the municipalities of Fierozzo, Frassilongo, Palù del Fersina (Mocheni) and Luserna (Cimbres), the “Educational Superintendent”, following the adoption by the Autonomous Province of Trento of measures designed to develop the languages of these communities, helped prepare a programme of experimental linguistic projects in the primary schools in Lerna and Fierozzo (1997-98 academic year),

The IRRSAE of Trentino was given the task of evaluating the results of those projects.

#### Province of Udine

In the Tarvisio area, where Carinthian and Slovenian minorities are established, a “multi-ethnic” teaching project has been drawn up and implemented; it provides for the teaching and development not only of Italian but also of German and Slovenian. Booklets are produced and theatre performances are also organised.

There are also two associations (Kandtaler Kultur Verein and Stella Alpina) which protect and develop the German and Slovenian languages.

#### Province of Vercelli

A number of Walser communities are established in the municipality of Alagna Val Sesia. The protection of the Walser language and culture is ensured by cultural associations such as the Walser Museum, Walser Gmai and the Union of Alagna, which organise adult training courses, theatre and folk displays, the publication of booklets and pamphlets, exhibitions etc.

Furthermore, the primary school of the Alagna Val Sesia has set up a “Children’s Museum” which aims to develop the historical and cultural aspects of the Walser minority and carries out comparative linguistic studies between Walser and English.

#### Province of Vicenza

The Institute for Cimbri Culture in Roana is active in the protection and dissemination of the culture and history of the Cimbri linguistic minority established solely in the municipality of Roana. It has published the first dictionary of the Cimbri language, stories, historical works

etc., and also held seminars and arranged twinnings between a number of Italian and German municipalities and schools.

Several teachers working at the Institute for Cimbre Culture have obtained positive results in the field of research into Cimbre history and culture and have organised training courses for young people and adults. The teachers had participated in a training course which proved very useful from the educational point of view and which led to the production of an illustrated textbook of local history.

In addition, a Museum of Cimbre Tradition has also been set up.

## **Greeks**

### Province of Lecce

“Grecanico” (or “Griko”), the ancient Greek language with elements of Dorian which dates from the time of Homer, has been introduced into the cultural programmes of the European Union, which at present finances a number of projects submitted by schools, municipalities and cultural centres of Salentine Greece.

Some teachers of “Grecanico”, together with teachers from Athens and Kalamata whose mother tongue is Greek, are carrying out experimental projects in primary and secondary schools with a view to identifying similarities with modern Greek.

The Association of Salentine Greece was recently set up; it brings together the cultural centres, experts and researchers working at local level.

In May 1995 the IRRSAE of Apulia held a proficiency course for teachers and head teachers of schools concerning the Greek-speaking minority in Salento and, at the request of the Ministry of Education, promoted research into the Greek-speaking minority in Salento, the results of which were published in booklets presented at an international seminar held in Lecce on 14 October 1996.

The following initiatives should also be noted:

- primary schools in Castrignano dei Greci and Calimera: introduction of Griko on an experimental basis into the traditional school curricula;
- upper secondary schools in Calimera and Martignano: introduction of Comparative Griko and Neo-Greek into the traditional school curricula, with the collaboration of teachers of Greek mother tongue;
- the organisation, for the third consecutive year, by the educational district of Martano in conjunction with the Consulate-General of Greece, of a specialist course in “Neo-Greek language and culture in comparison with Griko-Salentine language and culture”.

The above-mentioned schools maintain regular relations with Greek schools and universities and the Chair in Neo-Greek and Popular Traditions in the University of Lecce. In addition, the Educational Directorate in Castrignano has been twinned with a Greek primary school (Fourth District of Kalamata).

### Province of Reggio Calabria

For ten years comparative “Grecanico” has been taught on an experimental basis in the schools in Bova and Condofuri. A number of Associations of Calabrians of Greek Origin have been set up with the aim of protecting and promoting the Greek culture and language. In Bova training courses have been held for several years for teachers of “Grecanico” culture.

In 1996, in the Province of Reggio Calabria, the IRRSAE of Calabria initiated research at the invitation of the Council of Europe and the Ministry of Education.

### **Ladins**

#### Province of Belluno

The Academic Directorate of the Province of Belluno has drawn up a European project aimed at introducing Ladin into the curriculum and at disseminating the culture of the Ladin minority.

It will not be possible to implement this project until next year, when finance will be provided by the European Union.

### **Slovenians**

#### Province of Udine

Slovenian-speaking pupils in the Cividale area, where Slovenian minorities are established, are provided with an approved nursery school and a primary school recognised by the State. Also active in this area is an association called “LIPA”, which, together with the schools, organises schemes to develop a multicultural reality for pupils.

One bilingual nursery school and one bilingual primary school (the one approved and the other recognised by the State), in which teaching is provided in Italian and in Slovenian, are in operation in the municipality of San Pietro al Natisone. Also active in the Province of Udine is also a separate department of the “Glasbena Matica” private music college, which has more than one hundred pupils and hopes to achieve “public conservatoire” status.

In November 1998 a detailed report was published (on the recommendation of the Council of Europe) on the ethnic and linguistic minorities of the Province of Udine, under the aegis of the Ministry of Education and the IRRSAE of the Region of Friuli-Venezia Giulia.

Schemes for the development of Slovenian and German in the Tarvisio area, where a Carinthian community is established, have been described in the foregoing paragraphs.

### **Sardinians, Catalans**

#### Province of Sassari

Experimental projects for the development of Sardinian:  
primary school in Nulvi Oschiri;  
lower secondary no. 2 in Sassari.

Experimental project for the development of Sardinian and Catalan:  
Upper secondary school of science, Alghero.

It should be noted that the plan for study and research into the historic ethno-linguistic minorities in Italy drawn up by the Ministry of Education, on the recommendation of the Council of Europe, includes the Sardinian language and the cultural heritage of the Sardinians.

### **Legal measures**

The following provisions are referred to and are appended (Appendix No 10):

- Legislative Decree No 321 of 2 September 1997: “rules implementing the Special Statute of the Region of Trentino-Alto Adige and amending and supplementing Legislative Decree No 592 of 16 December 1993 on the protection of the linguistic minorities of the Province of Trento”;
- Law No 932 of 22 December 1972: “amending and supplementing Law No 1012 of 19 July 1961 on the establishment of Slovenian-language schools in the Provinces of Trieste and Gorizia”;
- Decree No 417 of the President of the Republic of 31 May 1974: “rules on the legal status of teachers, head teachers and inspectors of nursery schools, primary schools, secondary schools and public art institutions”;
- Section 8 of Law No 1 of 14 January 1975: “amending Decree No 416 of the President of the Republic of 31 May 1974 on the establishment and reorganisation of the collegial bodies of nursery schools, primary schools, secondary schools and art institutions”;
- Decree No 419 of the President of the Republic of 31 May 1974: “educational experimentation and educational research, cultural and occupational development and setting-up of ad hoc structures”;
- Article 12 of Decree No 957 of the President of the Republic of 5 April 1985: “adopting the new Statute of the Regional Institution for Research and Development in Education in Trieste-Friuli-Venezia Giulia”.

### **Responsible departments or authorities**

Competence for these matters lies with the Ministry of Education. Certain powers have also been conferred on the regions, provinces and municipalities.

## **ARTICLE 13**

**1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**

**2. The exercise of this right shall not entail any financial obligation for the Parties.**

**General**

The principle referred to in Article 13 of the Convention is enshrined in Article 33 of the Constitution, which provides for freedom of arts, science and teaching and confers on the Italian Republic the right to lay down general rules for education and to establish public (state) schools. Article 33 provides that “public and private bodies shall be entitled to establish schools and educational institutions without financial burdens on the State. The law, in laying down the rights and obligations of private schools which request parity, shall guarantee full liberty to them, and to their pupils equality of treatment with the pupils of public schools.”

In short, article 33 of the Constitution recognises cultural pluralism in general, and the protection of the culture of minorities in particular, by excluding the existence of rigid doctrines and official guidelines.

This freedom of education therefore takes specific form in the possibility of setting up and running private schools, a possibility which is also open to those who belong to minorities.

It should further be noted in this regard that a number of regional laws provide for the allocation of funds or grants to institutions whose activities essentially concern the study of, research into and the dissemination of the historical, linguistic and cultural heritage of the minorities.

**Legal measures**

- Article 33 of the Constitution
- The regional laws referred to above, which have already been enclosed as appendices to other documents.

**Responsible departments or authorities**

Ministry of Education, local authorities.

**ARTICLE 14**

**1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.**

**2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**

**3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.**



## **General**

As regards the minorities' right to learn their own language, a large number of measures exist concerning the protection of teaching, particularly in favour of the minorities in border areas. This right is exercised in the context of the education system.

## **Legal measures**

Article 19 of Decree No 670 of the President of the Republic of 31 August 1972 (Special Statute for Trentino-Alto Adige) provides that, in the case of the German-language and Ladin-language minorities in the Province of Bolzano, teaching in nursery schools, primary schools and lower secondary schools is to be provided in the pupil's mother tongue by teachers having the same mother tongue. Pursuant to the provincial law, and on a binding proposal from the linguistic groups concerned, teaching of the second language is mandatory in primary schools (from the second and third years) and in secondary schools from the second year. The teachers responsible for those courses must have the relevant language as their mother tongue. Ladin is used in nursery schools and taught in primary schools in Ladin areas.

German is also taught in all schools in Ladin areas. Teaching hours are divided evenly between Italian and German.

The rules on education in force in the Province of Bolzano are accompanied by specific rules dictated by the above-mentioned Article 19 and amended by subsequent laws on the organisation of schools. The Province of Bolzano's wide autonomy in this field has just been extended by Legislative Decree No 434 of 24 July 1996 introducing "rules implementing the Special Statute for the Region of Trentino-Alto Adige and amending and supplementing Decree No 89 of the President of the Republic of 10 February 1983 on the rules on education in the Province of Bolzano". Under this decree the powers normally exercised by the State in relation to the legal and economic treatment of schoolteachers, inspectors and head teachers, whether established or non-established, are conferred on the Province of Bolzano, although the staff in question continue to depend directly on the Italian State.

Similar provisions on the protection of teaching in schools have been laid down in favour of the Ladin minorities in the Province of Trento.

Legislative Decree No 321 of 2 September 1997 makes provision not only for the compulsory teaching of Ladin language and culture in the schools in the Ladin areas of the Province of Trento but also for the use of Ladin as the language of instruction, according to the procedures laid down by the competent education authorities.

As regards the French-speaking minority in Valle d'Aosta, a number of provisions on education exist. In that regard, Articles 39 and 40 of the Special Statute of Autonomy (Constitutional Law No 4 of 26 February 1948) provide for the same number of hours' teaching of Italian and French, the adaptation to local needs of the public education curricula and the use of French in the teaching of certain specific subjects.

Law No 196 of 16 May 1978 enacting "provisions implementing the Special Statute of Valle d'Aosta" provides that the adaptation of the curricula and the choice of the subjects to be taught in French must be approved and implemented by the Region, after the Ministry of National Education has expressed its views, on the basis of proposals formulated by the regional Education Committee and having regard to the opinion of a Joint Committee

composed of representatives of the Ministry of Education and the Regional Council and schoolteachers' representatives.

Law No 196 also provided for the setting up, by means of a regional law, of a Regional Institute for Educational Research and Development (IRRSAE). Finally, it guarantees that the French linguistic minority will be represented in the public administrations.

In short, in all the schools in Valle d'Aosta the teaching of French is recognised by the State on the same basis as the teaching of Italian. During the period of compulsory education certain subjects are taught only in French.

A number of specific rules in favour of the Slovenian-language minority were enacted in Law No 1012 of 19 July 1961 governing the education system in the Province of Gorizia and the territory of Trieste. The law provides that "in nursery schools, primary schools and secondary schools in the Province of Gorizia and the territory of Trieste, pupils shall be taught in their mother tongue".

In short, the Law provides for the establishment, alongside the Italian schools, of Slovenian-language schools for "those belonging to the Slovenian linguistic group, whether they are Italian nationals or are lawfully resident in that area"; it requires that Italian be taught as a second language; it lays down rules governing the allocation of teaching posts, whether established or non-established; it determines timetables and curricula and governs the validity of certificates and diplomas.

A "perfect knowledge of the Slovenian mother tongue" is the essential condition required of staff in the schools in which teaching is provided in Slovenian.

The Slovenian-language schools in the Provinces of Trieste and Gorizia include all levels, from nursery school to upper secondary school.

Analytical rules concerning education are also to be found in the Consolidated Text laying down "rules for the protection of the historic linguistic minorities", which has already been approved by the Chamber of Deputies and is currently before the Senate.

This Text provides that in nursery schools the minority language is to be used, alongside Italian, for teaching activities and that in primary schools and middle schools the minority language is to be employed as a teaching medium. The primary schools and lower secondary schools, which enjoy a considerable degree of autonomy as regards their organisation and teaching, determine the procedures for teaching the language and cultural traditions of the local communities, in order to ensure that pupils learn the minority language; the wishes of pupils' parents are also taken into account. The schools also establish the most appropriate times and methods, the criteria for evaluating pupils and the procedures for recruiting qualified teachers. They may, acting individually or together, also engage in adult education, carry out joint initiatives for the study of languages and cultural traditions for the benefit of members of the recognised linguistic minorities, and organise training and in-service courses for teachers.

The Ministry of Education is responsible for promoting and implementing national and local projects for the study of the minority language or the cultural traditions of those belonging to the recognised linguistic minorities. In addition, the universities in the regions concerned are required to take every possible step to encourage scientific research and cultural and training

activities, in particular by organising courses in the language and culture of the protected minority.

The above-mentioned rules, whose progress through Parliament is due to be completed, provide for the establishment of a system which, owing to the direct participation of all those concerned, in particular pupils' parents, is designed to encourage the learning and teaching of the minority language by training activities, and also to develop knowledge of the cultural traditions of those who belong to the linguistic minorities.

The matter is also governed by regional laws covering a number of fields: the allocation of funds to schools, the preparation of syllabuses for language teaching and so forth. In that regard, mention should be made of Law No 47 of 19 August 1998 on the Walser minority in the Region of Valle d'Aosta, Section 3 of which provides that "the teaching of the German language in schools in the municipalities of Valle d'Aosta is in keeping with the policy of encouraging close links between teaching and the economic and social needs of the community, and also the development of its culture and language".

Still in the interest of clarity, it is appropriate to refer of Law No 15 of the Region of Molise of 14 May 1997, which asserts that the Region of Molise encourages and supports, by means of specific programmes, the "organisation of information and in-service courses for teachers, competitions for pupils and other extra-curricular activities aimed at improving knowledge of the history, culture, language and traditions of Croatia and Albania".

The following is a list of the measures referred to, which are also appended (Appendix No 11):

- Article 19 of Decree No 670 of the President of the Republic of 31 August 1972 "adopting the consolidation of constitutional laws on the Special Statute for Trentino-Alto Adige";
- Legislative Decree No 434 of 24 July 1996: "rules implementing the Special Statute of the Region of Trentino-Alto Adige and amending and supplementing Decree No 89 of the President of the Republic of 10 February 1983 concerning the education system in the Province of Bolzano";
- Decree No 89 of the President of the Republic of 10 February 1983 "adopting the Collection of Decrees of the President of the Republic No 116 of 20 January 1973 and No 761 of 4 December 1981 on the rules for implementing the provisions of the Special Statute for Trentino-Alto Adige concerning the education system in the Province of Bolzano";
- Sections 39 and 40 of Constitutional Law No 4 of 26 February 1948: "Special Statute of Valle d'Aosta";
- Law No 196 of 16 May 1978: "rules implementing the Special Statute of Valle d'Aosta";
- Law No 1012 of 19 July 1961: "rules governing schools in the Provinces of Gorizia and Trieste";

- Law No 477 of 30 July 1973: “delegating to the Government the power to promulgate rules on the legal status of head teachers, inspectors, teachers and administrative staff in nursery schools, primary schools, secondary schools and public art institutions”;
- Article 34 of Decree No 416 of the President of the Republic of 31 May 1974: “instituting and reorganising the collegial bodies of nursery schools, primary schools, secondary schools and institutions of art”;
- Section 9 of Law No 932 of 22 December 1973: “amending and supplementing Law No 1012 of 19 July 1971 concerning the establishment of Slovenian-language schools in the Provinces of Trieste and Gorizia”;
- Regional Law No 15 of 14 May 1997: “protection and development of the cultural heritage of the linguistic minorities in Molise”;
- Regional Law No 47 of 19 August 1998: “protection of the characteristics and linguistic and cultural traditions of the Walser populations of the Lys Valley”.

### **Responsible departments or authorities**

The Ministry of Education, the Regions, the Autonomous Provinces and the municipalities are the competent government authorities, depending on the level of the schools concerned and the matters in respect of which powers have been conferred.

In that regard, it should be pointed out that the Autonomous Provinces of Trento and Bolzano have wider powers in the field of education, as provided for in Article 19 of the Statute and by the subsequent implementing measures concerning the legal status of the teaching staff.

## **ARTICLE 15**

**The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.**

### **General**

Members of the linguistic minorities have the opportunity to participate in the cultural, social and economic life of the country, in the same way as other citizens, in accordance with the Constitution and, in particular, Article 3, which provides that all individuals are equal in theory and in fact.

Other factors of particular importance in this field are the institutional solutions adopted for the purpose of protecting linguistic minorities, in consequence of which special autonomy was conferred on, inter alia, Trentino-Alto Adige.

Special autonomy was also granted to Valle d’Aosta and Friuli-Venezia Giulia, regions which also have frontier linguistic minorities.

The Special Statute for Trentino-Alto Adige provided an original solution based on the establishment of two autonomous provinces, Trento and Bolzano, which have been given

legislative power and the same prerogatives as the region of which they form part, Trentino-Alto Adige, on which legislative and administrative powers are conferred for matters other than those which fall within the competence of the two autonomous provinces.

In order to ensure co-ordination between provincial level and the regional level, it was decided that the regional councillors elected in the two provinces would also be members of the provincial council.

This principle corresponds to the Constituent Assembly's desire to protect minorities; the representatives of the German-language minority are thus certain of being able to participate in the decision-making process within the institutional and territorial framework of the region to which they belong.

The ultimate objective of Italy's policy in relation to the protection of minorities is thus the recognition of adequate autonomy.

It is in this sense that Parliament and the Government intervene. Furthermore, when presenting the Government's programme to both Chambers of Parliament, the President of the Council of Ministers recently emphasised that in the name of the principle of equality, of the equality of citizens before the law, particular attention would be paid to ethnic minorities by taking a dynamic approach the special autonomies, while protecting their special features.

In that regard, there is no doubt that the situation in the Alto Adige is at the forefront of the current projects for developing general measures for the protection of the minority linguistic groups.

In this context, the Autonomous Region of Trentino-Alto Adige has legislative power, the distinguishing feature of which is that it has its own power at municipal level, while the autonomous provinces have a very wide range of legislative and administrative powers, which are also enhanced by the numerous implementing decrees adopted by the Government.

As in the case of the regions, the Government is represented at provincial level by the Government Commissioner, who, in addition to carrying out the tasks attaching to that function (with the exception of presiding over the Supervisory Committee), acts as Prefect.

The Region and each of the two Provinces are empowered to refer to the Constitutional Court legislation adopted at national or regional level or by the other Province, while the Presidents of the Region and/or the Province(s) participate in meetings of the Council of Ministers where they concern problems which affect the Region or their Province.

The wide autonomy of the Autonomous Province of Bolzano is also reflected in its specific competence in numerous fields: it is able to promulgate legislation and adopt its own regulations, provided that they are consistent with the Constitution, the legal principles laid down by the State, national interests — including the protection of the local linguistic minorities — and with the content of the economic and social reforms of the Republic.

The Province of Bolzano has in practice administrative and legislative powers which enable it to ensure the widest possible protection of the German-speaking minority.

## Legal measures

Among the legal measures of relevance to this field, Article 4 of the Statute, which includes the protection of local linguistic minorities in the list of “national interests”, is of considerable importance.

This, in particular, has enabled the linguistic groups in Trentino-Alto Adige to play a full part in the procedure leading to the adoption of decisions in matters concerning them.

This participation is made possible by the Statute, which provides that the elected representatives are chosen by means of a system guaranteeing the representation of the linguistic groups.

In this connection, special mention should be made of Article 30 of the Statute, which provides that during the first 30 months of the Regional Council the President is to be elected from among the Councillors belonging to the Italian-language group and the Vice-President from among the Councillors representing the German-language group; during the following 30-month period, on the other hand, the President is to be elected from among the German-speaking councillors and the Vice-President from among the Italian-speaking councillors.

Article 49 of the Statute contains similar provisions for the offices of President and Vice-President of the Provincial Council of Bolzano.

The minorities are guaranteed the right to participate in public life by virtue of the very important Article 50 of the Statute which provides that “in the Province of Bolzano the composition of the Provincial Giunta<sup>1</sup> must be consistent with the size of the linguistic groups as represented within the Provincial Council; furthermore, one of the two Vice-Presidents must belong to the German linguistic group and the other to the Italian linguistic group”.

Article 56 of the Statute also empowers the minorities to take part in the decision-making process; it provides that where a draft law is regarded as prejudicial to the equal rights of citizens belonging to different linguistic groups or to the ethnic and cultural characteristics of these groups, a majority of the councillors from one linguistic group in the Regional Council or the Provincial Council of Bolzano may request that a vote be taken by linguistic group. If this request is not granted, or if the draft law is approved despite being opposed by two-thirds of the members of the linguistic group which submitted the request, a majority of the group concerned may contest the law before the Constitutional Court within 30 days of its publication.

This guarantee of representation is also ensured within other bodies by Article 61 of the Statute and, in the case of the Ladin minority, by Article 62. These two articles provide that the statutes of the local authorities must contain provisions which ensure that the linguistic groups are proportionally represented in their organs, and that in the municipalities of the Province of Bolzano each linguistic group is entitled to be represented in the municipal Giunta where at least two councillors belonging to the same group sit on the Municipal Council (Article 61); furthermore, the “laws on elections to the Regional council and to the Provincial Council of Bolzano, and the provisions governing the composition of the collegial

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<sup>1</sup>Executive of the municipality, the province and the region.

organs of the local authorities in the Province of Bolzano, shall ensure that the Ladin linguistic group is represented” (Article 62).

In order to guarantee access for a representative of the Ladin linguistic group to the Office of the President of the Regional Council and the Provincial Council of Bolzano, Parliament is currently examining a number of draft constitutional laws collected in a Consolidated Text “amending the Special Statute of the Region of Trentino-Alto Adige for the development of the Ladin-language and German-language minorities”.

The participation of these minorities in public affairs is fully ensured by the system of “equitable ethnic apportionment” laid down in Article 89 of the Statute. This article provides that in the Province of Bolzano posts in the local offices of central government departments are to be shared among the Italian, German and Ladin linguistic groups according to their numbers as determined in the general census, with the creation of a specific table of posts and security of place of appointment (Decree No 571 of the President of the Republic of 31 July 1978).

In so far as the regional or provincial laws have adopted it, this principle applies equally to the local government service.

In order to accede to posts in the civil service and pursue certain occupations, it is necessary to have a knowledge of Italian and German, certified by a diploma obtained after passing tests held at provincial level.

As well as the autonomy which it enjoys in application of this principle, the Province of Bolzano also has a significant degree of financial autonomy.

As regards revenue, the system is based on the Special Statute of Autonomy and the implementing measures approved by Legislative Decree No 268 of 16 March 1992. The relevant provisions of the Statute are no longer constitutional by nature and may be amended by an ordinary law; this was decided jointly by the State and the Province, as provided for in Article 104 of the Statute (amendment applied by Law No 386 of 30 November 1989 following the fiscal reform of the 1970s). It is for this reason that the Autonomous Province of Bolzano receives practically all the tax revenue levied in the Province.

The tax revenue is of two types: the taxes levied by the Province and a proportion of the tax revenue of the Treasury. The provincial taxes are those which were previously levied by the Region (residence tax, tax on medical treatment, tourism tax) and collected by the municipalities. Since the reform of the Statute in 1989 the provinces are now empowered to levy taxes.

In this field, too, it has been ensured that participation in democratic life takes account of the linguistic factor.

The budgets of the Region and of the Province of Bolzano are adopted at the request of a linguistic group sitting on the Regional Council or the Provincial Council. The different groups vote each section separately. If the budget is not passed by each group a special procedure is initiated whereby the problem is referred to an ad hoc committee of regional councillors and, where appropriate, to the Bolzano Section of the Administrative Court (which delivers an arbitral judgment).

Revenue from Community sources is also very important. The Province administers or adds to its own resources, as the case may be: the EAGGF and the European Social Fund, structural funds and, in particular, the European Regional Development Fund.

Thus a context is created which encompasses the full and active participation of the linguistic groups in local life, at all levels, in their own interest.

Owing to its very special ethnic and linguistic composition, the Region of Valle d'Aosta also has wide and special powers under which it enjoys its own power to legislate in the areas indicated in the statutory Charter, which, as we have already seen in the section of Part II devoted to Article 10, provides for the joint public use of French and the allocation of strictly State (central government) functions to a local elected body (the President of the Giunta).

The President of the Giunta also takes part in the sittings of the Council of Ministers where matters relating to the Region of Valle d'Aosta are being discussed.

As regards the Region of Friuli-Venezia Giulia, which also has special autonomy, the guarantee of the protection of minorities is enshrined in Article 3 of the Special Statute (Constitutional Law No 1 of 31 January 1963), which provides that the same rights, the same treatment and the same protection of their ethnic and cultural characteristics are to be afforded to all citizens within the region, irrespective of the linguistic group to which they belong.

The Region is naturally empowered to legislate in the fields covered by the Statute, and the President of the Giunta is able to participate in the Council of Ministers when matters relating to the Region of Friuli-Venezia Giulia are being discussed.

The Slovenian minority in Friuli-Venezia Giulia is protected not only by the measures described above, which generally follow from international agreements (the London Memorandum and the Treaty of Osimo), but also by numerous measures designed to ensure the participation of its members in the cultural, social and economic life of the district and in the public affairs which concern them. These measures are collected in the Consolidated Text laying down "rules for the protection of the Slovenian linguistic minority in the Region of Friuli-Venezia Giulia" (A.C. No 229) which Parliament is currently examining with a view to finalising a set of general rules on the protection of the minority concerned, taking account of the various aspects of life in society and providing for the setting-up of the "Joint Institutional Committee of the Slovenian Minority" with an important advisory role.

As regards participation in political life, since Article 51 of the Constitution provides that "all citizens of either sex shall be eligible for public office and for elective positions on conditions of equality, according to the rules established by law", other measures currently in force are designed to encourage the participation of the recognised linguistic minorities.

The most important measures are the following:

- Section 7 of Law No 277 of 4 August 1993 establishes that the fixing of the single-member constituencies for the election of Deputies in the areas in which recognised linguistic minorities exist must facilitate their inclusion in the smallest possible number of constituencies. Section 7 of Law No 276 of 4 August 1993 makes the same provision in respect of the election of Senators.



- The representation of the French linguistic minority in Valle d'Aosta, of the German linguistic minority in the Province of Bolzano and of the Slovenian linguistic minority in Friuli-Venezia Giulia is guaranteed by Section 12 of Law No 18 of 24 January 1979 on the "Election of the representatives of Italy to the European Parliament". Section 12 provides that it is possible to form unions between the various lists of candidates submitted by parties or political coalitions which represent those minorities. In addition, Section 22 contains special rules on the allocation of seats between candidates from the linguistic minority's list.
- Section 9 paragraph 3 of Law No 515 of 10 December 1993 also provides, with regard to the reimbursement of the election expenditure incurred by political parties, that parties and movements which only present candidates in constituencies in regions having a special statute which makes provision for the protection of linguistic minorities are to be reimbursed up to the amount of the average reimbursement per Deputy according to the ordinary allocation, independently of the general conditions giving rise to the right to reimbursement of election expenses. Section 9 also provides that these parties and movements are to obtain at least one seat in the single-member constituencies and at least 3% of the valid votes expressed at national level.

Italian law also provides that the right to vote is restricted to Italian nationals (Article 48 of the Constitution).

The following measures cited in the Report are appended (Appendix No 12):

- Decree No 670 of the President of the Republic of 31 August 1972 "adopting the consolidation of constitutional laws concerning the Special Statute for Trentino-Alto Adige", Articles 4, 30, 49, 50, 56, 61, 62, 89 and 104;
- Decree No 571 of the President of the Republic of 31 July 1978: "Measures implementing the Special Statute for the Region of Trentino-Alto Adige concerning the equitable allocation of posts in the local offices of central government departments in the Province of Bolzano and bilingualism in the civil service";
- Legislative Decree No 268 of 16 March 1992: "Measures implementing the Special Statute of Trentino-Alto Adige in relation to regional and provincial finances";
- Law No 386 of 30 November 1989: "Measures for the co-ordination of the finances of the Region of Trentino-Alto Adige and the Autonomous Provinces of Trento and Bolzano with the fiscal reform";
- Articles 48 and 51 of the Constitution;
- Section 7 of Law No 277 of 4 August 1993: "New measures applicable to the election of Deputies";
- Section 7 of Law No 276 of 4 August 1993: "Measures applicable to the election of Senators";
- Section 12 of Law No 18 of 24 January 1979: "Election of Italy's representatives to the European Parliament";

- Section 9 paragraph 3 of Law No 515 of 10 December 1993: “rules governing election campaigns for the election of Deputies and Senators”;
- Section 3 of Constitutional Law No 1 of 31 January 1963: “Special Statute for the Region of Friuli-Venezia Giulia”.

### **Responsible departments or authorities**

In this field, the principal powers are attributed to the Office of the Council of Ministers, the Ministry of the Interior, the regions, the autonomous provinces and the local authorities.

## **ARTICLE 16**

**The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.**

Italy has adopted no measure which alters the proportions of the populations in areas in which the national minorities have settled.

## **ARTICLE 17**

**1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**

**2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.**

### **General**

The principle referred to in paragraph 1 of Article 17 is guaranteed in Article 16 of the Italian Constitution, which provides in paragraph 2 that “every citizen shall be free to leave the territory of the Republic and re-enter it, save for such obligations as are laid down by law”.

Freedom to leave the country, which is one aspect of freedom of movement, can only be limited by obligations arising in connection with national service or a pending judicial investigation.

Consequently, the competent administrative authorities cannot exercise discretion over the issue of passports, for which the sole criterion is compliance with the obligations laid down by law.

Persons belonging to national minorities may, like other citizens, establish and maintain contacts with persons residing outside the frontiers. Article 18 of the Convention encourages

cultural exchanges and socio-economic relations by measures aimed at promoting co-operation across borders and close links between Italy and neighbouring countries.

No limit is placed on the right to participate in the work of non-governmental organisations; this right is exercised freely and in practice at both national and international levels.

## ARTICLE 18

**1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.**

**2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.**

### General

It may be seen from Part I of the Report that Italy has a keen interest in the protection of the minority groups present in its territory, an interest which has gradually been given concrete form in specific legislation.

Italy has frequently made use of bilateral treaties to determine the basic principles relating to the protection of minorities: the De Gasperi-Gruber Treaty at the end of the Second World War and the London Memorandum, with the Special Statute annexed thereto, to which reference has already been made in Part I of the Report.

The Treaty between Italy and Austria fixes an initial degree of protection for the minority in Alto Adige and makes provision for special measures designed to protect the ethnic character and economic and cultural development of that minority.

These measures include:

- the establishment of German-language schools, equal status for the German and Italian languages, equality of rights as regards recruitment to public offices, the revision of the Options of 1939, the recognition of academic qualifications, more rapid trade in goods between North Tyrol and South Tyrol, the right to reinstate German forenames which had been Italianised and, in particular, the grant of autonomy to the population of the Province of Bolzano.

The Treaty also provides that “[the] German-speaking inhabitants of the Province of Bolzano and those of the adjoining bilingual municipalities in the Province of Trento are to enjoy complete equality of rights with the Italian-speaking inhabitants, in the framework of the special provisions designed to protect the ethnic character and cultural and economic development of the German-speaking group”.

The London Memorandum, on the other hand, which was ratified in October 1954 by the United Kingdom, the United States, Yugoslavia and Italy, had laid down measures for the protection of the Slovenian-language and Italian-language minorities in the areas in which they were established.

The Special Statute annexed to the Memorandum guaranteed the minorities of the two zones equal rights and opportunities with the other inhabitants and the protection of their linguistic, cultural and economic rights.

Other annexes relate to the Free Port of Trieste, cultural centres for the Slovenian minority in Trieste and for Italian cultural organisations in the territory administered by Yugoslavia, the opening of consular offices in Trieste and Capodostria and the transfer of powers from the military governments to the new civilian administrations in both zones of the territory.

The London Memorandum is an historic instrument whose purpose is to ensure, in a spirit of international collaboration, the protection of national characteristics and the free cultural and economic development of the minority ethnic groups in the two zones of influence.

Under the Special Statute the Italian Government was committed to ensuring that the Slovenian ethnic group in the Province of Trieste enjoyed the same rights and conditions as the other inhabitants of the Province. A similar commitment was entered into by the Yugoslav Government in relation to the Italian ethnic group in the territory which it administered.

The provisions of the Special Statute guaranteed both minorities equality with other citizens in relation to political and civil rights; equal opportunity in access to public posts; fair representation within the administrations; the option to use their mother tongue freely in their relations with the authorities; the right to place inscriptions and plaques in both languages provided that the minority represents at least one quarter of the total population; and the right to unhindered cultural development.

A number of ad hoc provisions governed the education system and provided that teaching would be dispensed in the mother tongue, which both Governments had undertaken to protect irrespective of the number of pupils.

Among the bilateral agreements designed to ensure that persons belonging to national minorities enjoyed adequate protection, mention should be made of the Osimo Agreement signed on 10 November 1975 and ratified by Law No 73 of 14 March 1977, pursuant to which the Italian and Yugoslav Governments envisaged several forms of economic co-operation, settled certain unresolved questions of lesser importance, established the demarcation lines between Zones A and B (and made certain adjustments thereto) and decided that the Memorandum and the annexes thereto were to cease to be effective, without prejudice to the national measures which had already been adopted in favour of the Slovenian and Italian minorities. However, each party was obliged to maintain the same level of protection that had previously been afforded to the members of the minorities.

In this connection, it should be emphasised that negotiations for the revision of the Osimo Agreements were initiated with Croatia and Slovenia following the dramatic events which have marked the history of the former Yugoslavia.

In this context, Croatia, Italy and Slovenia signed a Memorandum of Agreement in Rome on 15 January 1992 on the protection of the Italian minority.

The negotiations between Italy and Croatia led to Treaty No 129 between Italy and Croatia on the rights of minorities, which was signed in Zagreb on 23 April 1998.

Although this Agreement, the preamble to which makes frequent reference to the Framework Convention for the Protection of National Minorities and to the numerous Treaties on the protection of human rights and the rights of minorities, refers principally to the Italian minority in Croatia, it also contains, in Article 8, rules for the protection of the Croat-language minority which has long been established in the Region of Molise. The Agreement also enshrines the commitment of the Italian Republic to guaranteeing the Croat native minority the right to preserve and freely to express its own identity and cultural heritage, to use its mother tongue in its public and private relations and to establish and develop its own cultural institutions or associations.

Under the Agreement a small linguistic group numbering approximately 2,600 enjoys international protection.

Italy has also signed the European Charter of Local Self-Government, adopted in Strasbourg on 15 October 1985.

As regards the frontier minorities, efforts have been made to facilitate relations between the neighbouring populations who speak the same language.

In this connection, Italy has acceded to, and ratified by Law No 948 of 19 November 1984, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, adopted in Madrid on 21 March 1980.

In this field, other framework agreements on transfrontier co-operation have been signed with Austria, France and Switzerland in order to promote economic and cultural exchanges, while activities in the field of transfrontier co-operation have been effected not only with those countries but also with Slovenia, under the INTERREG II Programmes co-financed by the European Union.

The above-mentioned countries offer a cultural and linguistic reference model to the frontier minorities in Italy.

It was for the specific purpose of contributing to a better knowledge of the phenomenon that the Central Office for the Problems of Frontier Zones and Ethnic Minorities in the Ministry of the Interior, in collaboration with the Swiss Department of Foreign Affairs, published the Italian edition of the Manual on Transfrontier Co-operation in Europe.

This work, which has been disseminated at all institutional and non-institutional levels, is aimed at local and regional authorities.

It should be pointed out that the protection of national minorities within the framework of international co-operation is the subject of a Bill introducing “rules for the protection of the historic linguistic minorities”, in accordance with the principles referred to in Article 18 of the Constitution. The Bill provides that the Republic is to favour, by means of ad hoc agreements, the development abroad of the languages and cultures of the protected national minorities. It also envisages that the Republic will reinforce transfrontier and inter-regional co-operation, in particular under the programmes of the European Union.

## **Legal measures**

The following reference rules have been appended to this document (Appendix No 13):

Treaty between the Italian Republic and the Republic of Croatia on the rights of minorities, concluded in Zagreb on 5 November 1996 and ratified by Law No 129 of 23 April 1998;

- Treaty between Italy and the Socialist Federal Republic of Yugoslavia, including the annexes thereto, and Agreement between Italy and the Socialist Federal Republic of Yugoslavia, including the annexes thereto, Final Act and exchange of memoranda, signed in Osimo on 10 November 1975 and ratified by Law No 73 of 14 March 1977;
- Agreement concluded in Paris on 5 September 1946 between the Italian Government and the Austrian Government (De Gasperi-Gruber Agreement);
- Memorandum of Understanding on the Free Territory of Trieste, concluded in London on 5 October 1954 between the Governments of Italy, the United Kingdom, the United States and Yugoslavia.

## **Responsible departments or authorities**

Competence in these matters lies with the Office of the Council of Ministers, the Ministry of Foreign Affairs and the Ministry of the Interior.

As regards the INTERREG II Programmes and transfrontier co-operation, a very important role is played by the Office of the Council of Ministers, the Ministry of Public Works and the Regions.

## **ARTICLE 19**

**The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.**

Italy has not introduced any limitation on, restriction on or derogation from the principles enshrined in the Framework Convention.

## **ARTICLE 20**

**In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.**

The Government have no specific information in relation to this matter, since those belonging to national minorities are required to respect the laws of the Italian State and the rights of others in the same way as other Italian nationals.

#### ARTICLE 21

**Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.**

The minorities established in Italy do not prejudice the sovereignty, territorial integrity or political independence of the State.

#### ARTICLE 22

**Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.**

None of the provisions of the Framework Convention is interpreted restrictively in such a way as to limit or prejudice human rights or fundamental freedoms.

#### ARTICLE 23

**The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.**

Observance of the rights and principles referred to in this article is guaranteed.

#### ARTICLE 30

**1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.**

**2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.**

**3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.**

The Italian Government have made no declaration concerning the territorial application of the Framework Convention.