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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

APPLICATION OF THE CHARTER IN GERMANY

2nd monitoring cycle

- A. Report of the Committee of Experts on the Charter**
- B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Germany**

The European Charter for Regional or Minority Languages provides for a control mechanism to evaluate how the Charter is applied in a State Party with a view to, where necessary, making Recommendations for improvements in its legislation, policy and practices. The central element of this procedure is the Committee of Experts, established in accordance with Article 17 of the Charter. Its principal purpose is to examine the real situation of the regional or minority languages in the State, to report to the Committee of Ministers on its evaluation of compliance by a Party with its undertakings, and, where appropriate, to encourage the Party to gradually reach a higher level of commitment.

To facilitate this task, the Committee of Ministers has adopted, in accordance with Article 15.1, an outline for the periodical reports that a Party is required to submit to the Secretary General. The report shall be made public by the government concerned. This outline requires the State to give an account of the concrete application of the Charter, the general policy for the languages protected under its Part II and in more precise terms all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee's first task is therefore to examine the information contained in the periodical report for all the relevant regional or minority languages on the territory of the State concerned.

The Committee's role is to evaluate the existing legal acts, regulations and real practice applied in each State for its regional or minority languages. It has established its working methods accordingly. The Committee gathers information from the respective authorities and from independent sources within the State, with a view to obtaining a just and fair overview of the real language situation. After a preliminary examination of a periodical report, the Committee submits, if necessary, a number of questions to the Party concerned on matters it considers unclear or insufficiently developed in the report itself. This written procedure is usually followed up by an "on-the-spot" visit of a delegation of the Committee to the respective State. During this visit the delegation meets bodies and associations whose work is closely related to the use of the relevant languages, and consults the authorities on matters that have been brought to its attention.

Having concluded this process, the Committee of Experts adopts its own report. This report is submitted to the Committee of Ministers together with suggestions for recommendations that the latter could decide to address to the Party concerned.

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A. Report of the Committee of Experts on the application of the Charter in Germany

adopted by the Committee of Experts on 16 June 2005
and presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

Chapter 1. Background Information

1.1. The ratification of the Charter by Germany

1. The Federal Republic of Germany signed the *European Charter for Regional or Minority Languages* (hereafter referred to as the Charter) on 5 November 1992. By the Federal Act (to implement the Charter) of 9 July 1998, the German *Bundestag*, with the consent of the Federal Council (Chamber of the *Länder*), approved the Charter. That Act was promulgated in the Federal Law Gazette on 16 July 1998, and the instrument of ratification was deposited with the Council of Europe on 16 September 1998. The Charter entered into force in Germany on 1 January 1999. Under the Federal Act ratifying the Charter, the latter ranks, in Germany, as a federal law, which takes precedence over subordinate law, including *Land* law, and in principle, is to be applied as the more specific law overriding other federal laws, according to the principle of *völkerrechtsfreundliche Auslegung*.

2. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers¹. The German authorities presented their second periodical report to the Secretary General of the Council of Europe on 7 April 2004.

3. In its previous evaluation report on Germany (ECRML (2002) 1), the Committee of Experts of the Charter (hereinafter referred to as “the Committee of Experts”) outlined particular areas where the legal framework, policy and practice could be improved. The Committee of Ministers took note of the report presented by the Committee of Experts and adopted recommendations (RecChL (2002) 1), which were addressed to the German authorities.

1.2. The work of the Committee of Experts

4. This second evaluation report is based on the information obtained by the Committee of Experts from the second periodical report of Germany and through interviews held with representatives of some of the regional or minority languages in Germany and the German authorities during the “on-the-spot” visit, which took place on 13-17 September 2004. The Committee of Experts received a number of comments from bodies and associations legally established in Germany, submitted pursuant to Article 16, paragraph 2 of the Charter.

5. In the present second evaluation report the Committee of Experts will focus on the provisions and issues under both Part II and Part III which were singled out in the first evaluation report as raising particular problems. It will evaluate in particular how the German authorities have reacted to the issues detected by the Committee of Experts and, where relevant, to the recommendations made by the Committee of Ministers. The report will firstly recall the key elements of each issue. It will then refer to the paragraphs in the first report which set out the Committee of Experts’ reasoning², before evaluating how the German authorities have reacted. The Committee of Experts will also look at the new issues detected during the second monitoring round.

6. The present report contains detailed observations that the German authorities are urged to take into account when developing their policy on regional or minority languages. On the basis of these detailed observations, the Committee of Experts has also established a list of general proposals for the preparation of a second set of recommendations to be addressed to Germany by the Committee of Ministers, as provided in Article 16, paragraph 4 of the charter (see Chapter 3.3 of this report).

¹ MIN-LANG (2002) 1 Outline for 3-yearly periodical reports as adopted by the Committee of Ministers of the Council of Europe.

² The boxes which featured in the first evaluation report appear as underlined sentences in the present second report.

7. This report is based on the political and legal situation prevailing at the time of the Committee of Experts' second "on-the-spot" visit to Germany (13-17 September 2004). The Committee of Experts is aware that changes in legislation and practice may have taken place since its visit. These changes will be taken into account in the next evaluation report of the Committee of Experts concerning Germany.

8. The present report was adopted by the Committee of Experts on 16 June 2005.

1.3. The presentation of the regional or minority language situation in Germany: up-date

9. The Committee of Experts refers to the relevant paragraphs of the first evaluation report (paragraphs 7-40) for the basic presentation of the situation of regional or minority languages in Germany. The regional or minority languages covered under the Charter in Germany are the Danish, Upper Sorbian, Lower Sorbian, North Frisian, Sater Frisian and Low German languages and the Romany language of the Sinti and Roma.

10. The Committee of Experts would welcome further information about the demographic development in the Sorbian language areas in Saxony and Brandenburg. It also encourages the *Länder* of northern Germany to take measures to collect more reliable and up-to-date data with respect to the situation of the Low German language.

11. During the second "on-the-spot" visit, the Committee of Experts met representatives of organisations for the promotion of the Prussian/Pruthenian language. The Committee of Experts has much sympathy for the concerns of these organisations, but according to information received, it considers that the Charter does not apply in this case.

1.4. General issues arising in the evaluation of the application of the Charter in Germany

12. The Committee of Experts notes with satisfaction the continued dialogue between the authorities and the regional or minority language speakers in relation to the implementation of the Charter. In particular, the first evaluation report of the Committee of Experts and the second periodical report of Germany were discussed with the representatives of the language groups at an implementation conference and the written comments of the language groups were enclosed in the second periodical report. The Committee of Experts strongly approves of this transparent approach, and encourages the authorities to pursue this dialogue with the regional or minority language speakers.

13. By a second declaration registered at the Secretariat General of the Council of Europe on 21 March 2003, Germany undertook to apply additional provisions of the Charter to the Romany language with respect to the territory of the *Land* of Hesse, thereby extending Part III protection to the Romany language in Hesse as the minimum number of 35 paragraphs or sub-paragraphs required by Article 2, paragraph 2 of the Charter for Part III protection had been reached. Germany also extended the scope of Part III protection for the North Frisian and Sater Frisian languages. The Committee of Experts commends the German authorities on their dynamic approach to the instrument of ratification.

14. The Committee of Experts recognises as a significant political gesture the protection of the Romany language under Part III. However, it noted during the "on-the-spot" visit that according to the two umbrella organisations recognised by the German authorities and the Hessian *Land* association of the Romany speakers, there was no wish among the Romany speakers to standardise or codify their language. Consequently no such efforts have been undertaken. However, the Committee of Experts observes that many of the undertakings entered into under Part III require the regional or minority language concerned to have a standard written form.

15. In its first evaluation report, the Committee of Experts observed that the lack of specific legislation or regulations in some areas (administration, judiciary, media, etc.) hampered the effective implementation of some provisions of the Charter in Germany. Therefore, it encouraged the authorities to adopt specific legislation and administrative measures in the various fields covered by the Charter, especially those of the administration and the judiciary. In the second periodical report, the German authorities reiterate their position that the status of the Charter as a federal law, which takes precedence over domestic legislation to the extent that the respective provisions of the Charter are self-executing, is sufficient to ensure full compliance with the Charter.

16. The Committee of Experts disagrees with this position. It reiterates its view that, in the absence of implementing measures, it is unrealistic to expect civil servants dealing with regional or minority language speakers on a daily basis to apply provisions of the Charter directly. The Committee of Experts refers to the explanatory memorandum annexed to the Draft Frisian Law of Schleswig-Holstein (*Drucksache* 15/3150), which argues that this law is necessary to avoid legal uncertainties and to fill legislative gaps which still exist despite the ratification of the Charter. The Committee of Experts also thinks that regional or minority language speakers are not likely to challenge possible unfavourable practices by invoking the Charter, in order not to be seen as “troublemakers” and on account of the legal costs they would incur.

Chapter 2. The Committee of Experts' evaluation in respect of Part II and Part III of the Charter

2.1. Evaluation in respect of Part II of the Charter

17. The German authorities declared at the moment of ratification that, as a result of German law and administrative practice, the requirements of a number of Part III provisions were met with regard to Romany for the whole territory of the Federal Republic of Germany and with regard to Low German in the *Länder* of Brandenburg, North Rhine-Westphalia and Saxony-Anhalt. The structure of the second periodical report corresponds to the specificity of the instrument of ratification presented by Germany.

18. These languages, in the respective territories specified, remain nevertheless only covered by Part II (except for Romany in the *Land* of Hesse), as the minimum of 35 paragraphs or sub-paragraphs required by Article 2.2 of the Charter has not been reached. In the present report, the Committee of Experts has preferred not to follow the structure of the initial periodical report, to avoid possible confusion as regards the languages covered by Part II and Part III. When evaluating compliance with Article 7 (Part II) in respect of these languages, the Committee of Experts has nevertheless taken into consideration the additional information at its disposal.

19. The Committee of Experts will focus on the provisions of Part II which were singled out in the first report as raising particular problems. It will therefore not comment in the present report on provisions where no major issues were raised in the first evaluation report and for which the Committee of Experts did not receive any new information requiring it to reassess their implementation. These provisions are as follows:

Article 7, paragraph 1.g (see paragraphs 67-68 of the first evaluation report)

Article 7, paragraph 1.i (see paragraphs 73-75 of the first evaluation report)

Article 7, paragraph 2 (see paragraph 76 of the first evaluation report)

Article 7, paragraph 3 (see paragraph 77-78 of the first evaluation report)

Article 7

Paragraph 1

“In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:

a the recognition of the regional or minority languages as an expression of cultural wealth;”

20. There are constitutional provisions devoted to Upper Sorbian in the Free State of Saxony, to Lower Sorbian in the *Land* of Brandenburg and to Danish and North Frisian in the *Land* of Schleswig-Holstein. The Committee of Experts interprets this as an explicit recognition of these languages as an expression of cultural wealth and as a symbol of the commitment of these *Länder* to their promotion. There is no equivalent constitutional provision, however, devoted to the Sater Frisian or Romany languages, and among the eight *Länder* on whose territory Low German is spoken, only the constitutions of the *Länder* of Mecklenburg-Vorpommern and Schleswig-Holstein contain provisions devoted to the protection and promotion of Low German.

“b the respect of the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;”

Low German

21. In its first evaluation report (see paragraph 52), the Committee of Experts emphasised the importance of co-operation between the eight *Länder* where Low German is spoken and pointed to the risk of these *Länder* acting in isolation. It expressed its view, therefore, that measures should be taken to ensure co-operation between the *Länder* with the aim of strengthening the impact of the measures taken to promote the use of Low

German. According to the information submitted by the German authorities in the second periodical report (paragraph 122), the *Länder* took up this suggestion and competent *Land* officials now meet for consultations to this end. The Committee of Experts has not been informed about the modalities and effects of these consultations, and would welcome further information in the next periodical report.

Lower Sorbian

22. In its first evaluation report (see paragraph 54), the Committee of Experts noted the dissolution of the administrative division of the municipality of the village of Horno, where the Lower Sorbian language had a strong presence, in order to allow lignite mining to occur. It emphasised the importance of weighing the interests of regional or minority language protection against economic considerations in taking decisions of this kind. Finally, it encouraged the authorities to take all appropriate measures aimed at remedying the adverse effects on the Lower Sorbian language in the case of Horno.

23. The Committee of Experts understands that the resettlement of the village of Horno within the traditional settlement area of the Sorbs (Wends) has been completed. It has not received any information, however, as to the practical measures aimed at remedying the adverse effects on the Lower Sorbian language in the case of Horno and requests further information in the next periodical report. The Committee of Experts has also received reports that other resettlements due to lignite mining are planned or being considered in the region. The Committee of Experts is deeply concerned about these reports and would like to receive further information on this issue in the next periodical report.

The Committee of Experts urges the German authorities to take due account of Germany's obligations under the Charter when taking decisions which affect the situation of regional or minority languages.

“c the need for resolute action to promote regional or minority languages in order to safeguard them;”

24. Resolute action to promote regional or minority languages in order to safeguard them covers several aspects. These include the creation of a legal framework for the promotion of regional or minority languages, the establishment of bodies which are responsible for the promotion of these languages, and provision of adequate financial resources.

25. The Committee of Experts understands that resolute action to promote regional or minority languages is primarily the responsibility of the *Länder*. It welcomes the fact that the Federal Government nonetheless provides funds with a view to assisting the *Länder* in promoting regional or minority languages. However, in the present monitoring cycle, the Committee of Experts observed that there is often considerable confusion among the speakers of regional or minority languages as to which authorities are responsible for the protection and promotion of their languages and for the implementation of the Charter, at both the *Land* and federal levels. This causes problems, in particular, with regard to financing. The Committee of Experts has noted that the criteria for federal funding are not very clear and there is often no guarantee of their continuation, which has a negative effect on the long-term planning of protection and promotion measures.

26. The constitutional provisions of the *Land* constitutions of Saxony, Brandenburg, Schleswig-Holstein and Mecklenburg-Western Pomerania mentioned under Article 7, paragraph 1.a are symbolic expressions of the will of these *Länder* to take resolute action to promote their regional or minority languages. In the case of North Frisian in Schleswig-Holstein, the political will to take resolute action found expression in the recent adoption of a statute on the Frisian language (*Friesengesetz*). The lack of constitutional and legislative provisions in other *Länder* indicates a lower level of commitment to take action in favour of regional or minority languages. The Committee of Experts observes that the promotion of Low German, Romany and Sater Frisian are particularly affected by the lack of a resolute and structured policy of language promotion.

27. The institutional framework and bodies responsible for the implementation of Germany's undertakings under the Charter also vary considerably between *Länder*. In this context, the Committee of Experts recalls that in the first evaluation report it commended the positive role played by the Minister-President's Commissioner for Minorities in Schleswig-Holstein for the implementation of the Charter and the protection of regional or minority languages in general. The Committee of Experts is pleased to note in the present monitoring cycle that a

Federal Government Commissioner for Matters relating to Repatriates and National Minorities has been appointed. It would welcome information in Germany's next periodical report regarding the Federal Government Commissioner's contribution to the co-ordination of efforts for the implementation of the Charter at the federal level.

28. With regard to the Upper and Lower Sorbian languages, there is a common promotion policy, involving the *Länder* of Saxony and Brandenburg as well as the Federation, which is embodied in the Foundation for the Sorbian People. On the basis of an Agreement on the Common Funding of the Foundation dating from 1998, the Federation was to reduce its yearly financial contribution to the Foundation to half its initial value (from €8.2 million to €4.1 million) by 2006. The Committee of Experts understands that despite this Agreement, the federal authorities have maintained their contribution at the initial level. While welcoming this, the Committee of Experts encourages the German authorities to revise this Agreement with a view to enshrining the Federation's continued support to the protection and promotion of the Sorbian languages.

“d the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life;”

29. As the Committee of Experts observed in its first evaluation report (see paragraph 59), in dealings with administrative and judicial authorities no distinction is made between regional or minority languages on the one hand and extra-territorial languages on the other. As there are no specific provisions regulating the use of regional or minority languages before administrative and judicial authorities, the civil servants and regional- or minority-language-speaking citizens are not always conscious of the authorities' obligations under the Charter. As a result, and as regional or minority language speakers also have a command of German, the use of regional or minority languages in this important domain of public life seems very limited in Germany.

30. With respect to the media, the Committee of Experts noted in its first evaluation report that the German authorities claimed not to be entitled to interfere with the media and that they did not, therefore, take any action likely to improve the presence of regional or minority languages in this field. It emphasised that freedom of expression in the media is not compromised by facilitating or promoting use of regional or minority languages in the media, and that it is necessary for the relative disadvantage of regional or minority languages by reason of their economic and political weakness to be redressed by positive measures in traditional and new media.

31. The Committee of Experts observes that despite a number of improvements, regional or minority languages remain largely absent from the media, due to the lack of positive measures to promote their visibility. It reiterates that such promotion can take several forms, and need not necessarily imply an interference with the freedom of the media. The Committee of Experts understands that there are mechanisms which are already being used to a limited extent for the promotion of regional or minority languages, notably financial assistance provided through broadcasting authorities of the *Länder*, such as the ULR in Schleswig-Holstein for North Frisian and Danish (see paragraphs 75 and 293 below), or the *Niedersächsische Landesmedienanstalt* in Lower Saxony for Sater Frisian (see paragraph 362 below). The Committee of Experts considers that there is potential for further development of this support.

“e the maintenance and development of links, in the fields covered by this Charter, between groups using a regional or minority language and other groups in the State employing a language used in identical or similar form, as well as the establishment of cultural relations with other groups in the State using different languages;”

32. The Committee of Experts welcomed in the first evaluation report the efforts made by the authorities of Schleswig-Holstein to provide a forum where the representatives of the languages spoken within the *Land* can co-operate, with a particular reference to the Minister-President's Commissioner for Minorities. It identified this as a particularly useful measure that might also be applied in other *Länder* as well as at the federal level.

33. The Committee of Experts notes that the Federal Government Commissioner for Matters relating to Repatriates and National Minorities in Germany (see paragraph 27 above) is also intended to function as a contact person for regional or minority language speakers at the federal level and represents the Federal Government at relevant contact bodies.

Low German

34. In its first evaluation report (see paragraph 61), the Committee of Experts noted the positive effect that the existence of umbrella organisations grouping together speakers of regional or minority languages can have by facilitating the development of links between such groups. It pointed out, however, that the absence of a comparable organisation for the Low German language hampered the promotion of this language. In this context, the Committee of Experts is pleased to note that a Federal Council for Low German (*Bundesrat für Nedderdütsch/Bundesrat für Niederdeutsch*), which represents the joint interests of organisations from eight *Länder*, was established in 2002. The Committee of Experts was informed by the representative of the Federal Council for Low German during the “on-the-spot” visit that for the time being the Institute for the Low German Language (INS - *Institut für Niederdeutsche Sprache*) covers the administrative and organisational costs of the Federal Council, which does not receive any direct financial support. The representative was of the view, however, that there is an ongoing constructive dialogue with the authorities, with a view to improving the situation. The Committee of Experts would welcome further information on this issue in the next periodical report.

“f the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages;”

35. Teaching and study of languages covered under Part III is examined in detail in the section dealing with Part III undertakings.

Low German

36. The Committee of Experts observes that there have not been noticeable changes in the situation regarding teaching and study of Low German in those *Länder* where Low German is only protected under Part II. Low German is taught mainly in primary schools, in the framework of German classes. The Committee of Experts observes that the fact that Low German is not systematically included in basic and further teacher training has an adverse effect on the quality and quantity of Low German teaching. The lack of a systematic approach to Low German teaching, as well as the lack of statistical data and adequate supervision, hampers the development of a structured education policy for Low German. The Committee of Experts is also of the view that increased co-operation in the field of education between the *Länder* where Low German is spoken is highly desirable.

Sater Frisian

37. The continuity of Sater Frisian education is a very crucial issue for the future of the Sater Frisian language. The Committee of Experts observed in its first evaluation report (see paragraph 66) that Germany’s instrument of ratification did not include the teaching of Sater Frisian in primary and secondary education under Part III. According to the information available to the Committee of Experts, there is some teaching of Sater Frisian available at primary schools, which is limited to one hour per week in extra-curricular working groups. Sater Frisian used to be taught also in the 5th and 6th forms (*Orientierungsstufe*), considered a separate stage of secondary education. The Committee of Experts understands that as the result of a reform this distinction has been abandoned. This reform also resulted in the abolishment of Sater Frisian teaching at the secondary level, despite the existence of the necessary teaching staff, as there is no provision for it in the timetable. Keeping in mind the endangered position of the Sater Frisian language, the Committee of Experts urges the authorities of Lower Saxony to find a solution to this problem in co-operation with the Sater Frisian speakers.

The Committee of Experts strongly encourages the German authorities to take the necessary measures to develop teaching of Sater Frisian at primary and secondary levels of education and to consider the possibility of extending the scope of Part III protection for Sater Frisian under Germany’s instrument of ratification to Article 8, paragraph 1.b and c.

Romany

38. As far as the Committee of Experts is aware, with the exception of the Free and Hanseatic City of Hamburg, no teaching of the language of the Sinti and Roma is taking place in practice in the *Länder* where this language is covered only by Part II. According to the information provided by the authorities of Hamburg,

Part II

Hamburg has been employing Roma and Sinti since 1992, in order to fill positions based on the separate job description "Roma and Sinti as Teachers and Social Workers". Romany is offered at one primary school and six secondary schools by four teachers and school social workers. Teaching in the mother tongue is integrated into regular instruction, and classes are taught by Romany-speaking teachers with the support of a "team partner". In addition, at the request of parents and children, small learning groups with mother-tongue teaching are organised. Parent-teacher talks and guidance talks are also conducted in Romany.

39. Although there is no university teaching in Romany, the education authorities of Hamburg have set up co-operation projects with Hamburg University in the field of further pedagogical training of the teachers. The teaching materials have been developed by the teachers themselves.

40. According to the Hamburg authorities, although some families are reticent, many others have gladly availed themselves of this opportunity. They consider that the progress made so far is very encouraging. The Committee of Experts commends the efforts made by the Hamburg authorities.

"h the promotion of study and research on regional or minority languages at universities or equivalent institutions;"

41. In its first evaluation report (see paragraph 72), the Committee of Experts already voiced its concern about the apparent decline in study and research on regional or minority languages at a time when there is a resurgence of linguistic consciousness. The Committee of Experts regrets to note in the present monitoring cycle that the provision of study and research opportunities with regard to regional or minority languages has further deteriorated. In a context of general budget cuts at universities, regional or minority languages, which by definition attract fewer students, have been adversely affected. The Committee of Experts is particularly concerned with the dramatic decline in the capacity for the study of and research into Low German which seriously hampers the possibility of fulfilling Germany's undertakings under the Charter with respect to this language. The Committee of Experts is of the view that increased inter-Land co-operation in this area would be particularly useful.

The Committee of Experts urges the German authorities to ensure that adequate facilities are provided for the study and research on Low German at universities or equivalent institutions.

Paragraph 4

"In determining their policy with regard to regional or minority languages, the Parties shall take into consideration the needs and wishes expressed by the groups which use such languages. They are encouraged to establish bodies, if necessary, for the purpose of advising the authorities on all matters pertaining to regional or minority languages."

42. In its first evaluation report, the Committee of Experts found that the competent authorities had regular contacts with the major organisations representing the interests of the speakers of the Danish, Frisian, Sorbian and Romany languages, but that the lack of a Low German umbrella organisation made it difficult for the federal authorities to maintain a dialogue with the speakers of this language. The Committee of Experts has been informed that such an umbrella organisation now exists (see also paragraph 34 above), and would welcome further information in the next periodical report about the ways in which this organisation is involved in policy-making regarding the *Low German* language.

43. Consultative Committees (*Beratende Ausschüsse*) for Issues concerning Danish and Sorbian speakers have been set up at the Federal Ministry of the Interior. According to the information provided by the Federal Commissioner for Matters relating to Repatriates and National Minorities during the "on-the-spot" visit, a similar consultative committee will be set up for the North Frisian speakers in the near future.

Paragraph 5

“ The Parties undertake to apply, mutatis mutandis, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned.”

44. As stated in the Committee of Experts' first evaluation report (see paragraph 82), the Romany language, with the exception of the *Land* of Hesse, is regarded as a non-territorial language although the German instrument of ratification identifies some territories where this language also benefits from the protection foreseen in some provisions of Part III. In considering the position of Romany vis-à-vis paragraphs 1 to 4 of Article 7, the Committee of Experts has kept in mind that those principles should be applied mutatis mutandis.

2.2. Evaluation in respect of Part III of the Charter

45. The Committee of Experts has examined in greater detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter.

46. Following the focused approach which was explained above (see paragraph 19), the Committee of Experts will concentrate on the provisions of Part III in relation to which a number of issues were raised in the first report. It will evaluate in particular how the German authorities have reacted to the observations made by the Committee of Experts in the first monitoring round. In the present report, the Committee of Experts will proceed by recalling each time the key elements of each issue, and by referring to the paragraphs of the first report containing the details of its reasoning, before evaluating how the German authorities have reacted.

47. Consequently, for the purposes of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. These provisions are listed below.

In the case of Danish in Schleswig-Holstein:

- Article 8, paragraph 1.a.iv; c.iii; d.iii; e.ii; f.ii/iii; g; h;
- Article 8, paragraph 2;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 5;
- Article 11, paragraph 1.e.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.c; d; e; f; g;
- Article 12, paragraph 2;
- Article 13, paragraph 1.a
- Article 14.a; b.

In the case of Upper Sorbian in the Free State of Saxony:

- Article 8, paragraph 1.e.ii; f.iii; g;
- Article 9, paragraph 1.d;
- Article 10, paragraph 2.g
- Article 10, paragraph 3.c;
- Article 10, paragraph 5;
- Article 11, paragraph 1.d; e.i;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; c; d; e; f; g; h;
- Article 13, paragraph 1.a.

In the case Lower Sorbian in Brandenburg:

- Article 8, paragraph 1. f.iii; g;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.g;
- Article 10, paragraph 5;
- Article 11, paragraph 1.d; e.i;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; c; d; e; f; g; h;
- Article 13, paragraph 1.a.

In the case of North Frisian in Schleswig-Holstein:

- Article 8, paragraph 1.f.iii; g;
- Article 8, paragraph 2;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 5;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; c; d; f; g; h;
- Article 12, paragraph 2.
- Article 13, paragraph 1.a; d.

In the case of Sater Frisian in Lower Saxony:

- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.a;
- Article 10, paragraph 4.a;
- Article 10, paragraph 5;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; c; e; f;
- Article 12, paragraph 2;
- Article 13, paragraph 1.a.

In the case of Low German in Bremen:

- Article 8, paragraph 1.f.ii;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.e; f;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; g;
- Article 13, paragraph 1.a.

In the case of Low German in Hamburg:

- Article 8, paragraph 1.e.ii; f.ii; g;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.e; f;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; g;
- Article 13, paragraph 1.a.

In the case of Low German in Mecklenburg-Western Pomerania:

- Article 8, paragraph 1.e.ii; h;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.e; f;
- Article 11, paragraph 1.d; f.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; d; e; f; h;
- Article 13, paragraph 1.a.

In the case of Low German in Lower Saxony:

- Article 8, paragraph 1.g;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 1.f;
- Article 10, paragraph 4.a;
- Article 11, paragraph 1.b.ii; e.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; d; e; g;
- Article 13, paragraph 1.a;
- Article 14.a; b.

In the case of Low German in Schleswig-Holstein:

- Article 8, paragraph 1.a.iv; e.ii; f.ii; g; h;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.a; f;
- Article 11, paragraph 1.e.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; g;
- Article 13, paragraph 1.a.

48. For these provisions, the Committee of Experts refers to the conclusions reached in its first report but reserves the right to evaluate the situation again at a later stage.

49. Finally, the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

2.2.1. Danish in the Danish language area in Land Schleswig-Holstein

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- “b i** to make available primary education in the relevant regional or minority languages; or
- ii** to make available a substantial part of primary education in the relevant regional or minority languages; or
- iii** to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv** to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”

50. In its first evaluation report (see paragraph 135), the Committee of Experts considered this undertaking fulfilled at the moment of the drafting of the report, but observed that the announced reduction of the budget would seriously affect the otherwise well-established network of Danish schools, because the cost per pupil is higher in the Danish schools, especially in rural areas where the number of pupils per class is lower.

51. According to the information provided in the second periodical report, a working group was set up in 2002 to study issues of financial support available to the schools of the Danish minority and to submit suggested solutions. This working group, which included representatives of the *Land* Government, the Danish Schools Association and the Minister-President’s Commissioner for Minorities, finished its work in December 2003. According to the information provided by the *Land* authorities during the “on-the-spot” visit, a consensus emerged regarding the main questions and it was decided that the Danish private schools should be treated on an equal footing with the public schools. After further talks within the government and consultation of the Danish-speakers, a compromise has been reached that should come into effect in the next legislative period.

52. The questions regarding full day-care and the status of building-related investments have also been resolved. The special treatment of the Danish private schools in comparison with other private schools will probably be enshrined in a future law.

53. The Committee of Experts considers this undertaking fulfilled.

- “i** to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

54. In its first evaluation report (see paragraph 142) the Committee of Experts concluded that this undertaking was not fulfilled. It observed in particular that there was no body specifically entrusted with the task of monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages. It further noted that the existing supervisory bodies do not draw up any periodical reports which are made public.

55. According to the Government of the *Land* of Schleswig-Holstein, the supervision in accordance with this undertaking is ensured through the school supervision carried out by the Ministry of Education, expert supervision and the respective supervisory school authorities of *Kreise* and *kreisfreie Städte*. The *Land* Government further drew the attention of the Committee of Experts to the Report on Minorities which it submits to the Schleswig-Holstein *Land* Parliament once per legislative period and which is made public. This report contains some statistical information, such as the number of children attending Danish-speaking day-care

centres and schools, as well as information about financial support measures. However, the report does not contain any evaluation of the measures taken and progress achieved with regard to regional or minority language education.

56. The Committee of Experts considers that the frequency and the contents of this report do not correspond to the requirements of this undertaking. However, during the “on-the-spot” visit, the authorities of Schleswig-Holstein informed the Committee of Experts that the monitoring carried out by the Ministry of Education takes account of these aspects of the teaching of Danish and affirmed that they will consider incorporating the relevant findings of the Ministry of Education in the Report on Minorities in order to fulfil this undertaking.

57. The Committee of Experts considers that this undertaking is not fulfilled at present and encourages the envisaged moves towards drawing up periodic reports and making them public.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

- a v to ensure that users of regional or minority languages may validly submit a document in these languages;”***

58. In its first evaluation report (see paragraph 148) the Committee of Experts concluded that this undertaking was only formally fulfilled. The Committee of Experts observed in particular that the use of Danish within the administration was very limited and few practical measures were taken to encourage the speakers to use Danish before administrative authorities. It also noted that the administrative authorities had full discretion as to who would bear the translation costs. The Committee of Experts encouraged the authorities to take the necessary measures in order to ensure that Danish can be used in practice in public matters and to provide for the necessary financial arrangements.

59. In its first evaluation report, the Committee of Experts referred to the fact that various administrations within the *Land* encouraged their employees to put signs on their doors announcing their command of minority languages as a positive promotional measure. According to the information submitted in the second periodical report, this practice has been generalised through a sticker campaign by which the *Land* Government sought to reduce inhibitions regarding the use of regional or minority languages. The Minister-President presented this campaign as part of the keynote theme “Sprache ist Vielfalt in Schleswig-Holstein” in May 2002 and around 650 stickers have been sent to agencies and other institutions of the Land. The Committee of Experts considers that this would have been a good contribution to the fulfilment of other options under this paragraph, but it points out that the present option concerns the submission of written documents. It notes in this respect that the present legislation only allows the submission of documents in a “foreign language” as an exception, and authorises the relevant authorities to require a translation at the expense of the applicant.

60. The Committee of Experts therefore revises its previous conclusion and considers that this undertaking is not fulfilled.

The Committee of Experts encourages the German authorities to ensure that documents in Danish can be submitted to administrative authorities in practice.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

- c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.***

61. In its first evaluation report (see paragraph 150), the Committee of Experts considered that it did not have sufficient information to conclude whether this undertaking was fulfilled. Despite the absence of discouraging practices, the Committee of Experts was not informed of a structural approach with regard to this undertaking.

62. The second periodical report states that an announcement to this effect was made in the *Personalreferentenkonferenz* (Conference of Personnel Officers) in 1999 and 2003. The Committee of Experts has also been informed that the Schleswig-Holstein *Landtag* unanimously adopted a resolution urging the *Land* Government and local authorities to ensure that skills in regional or minority languages be considered as a positive element for the employment of civil servants for fields of activity where these skills would be relevant. The Committee of Experts is aware that there are ongoing discussions regarding the application of this principle also to those federal authorities which have their seat in Schleswig-Holstein. According to the information provided by the Danish-speakers, the Federal Government has hitherto shown a positive approach as regards the (re)appointment of Danish-speakers in the Danish-speaking area.

63. The representatives of the *Land* Government have informed the Committee of Experts that the *Land* Government supports the initiative of the Parliament. The second periodical report also contains several examples of applicants' skills in Danish being taken into account by employers in the public sector.

64. The Committee of Experts considers this undertaking fulfilled.

Article 11 – Media

Paragraph 1

“The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

65. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in the private sector. In its first evaluation report (see paragraph 152), the Committee of Experts considered that it was not in a position to conclude whether this undertaking was fulfilled, since it had received no information as to whether *Radio Schleswig-Holstein*, which broadcasts news programmes in Danish, was public or private. In their second periodical report, the German authorities state that *Radio Schleswig-Holstein* is a private radio station.

66. The Committee of Experts observes however that the existing offer is particularly limited, and there is a need for the German authorities to take active measures to improve the existing offer. Although the Charter does not specify which form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support could be envisaged in this context.

67. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts encourages the German authorities to take measures to encourage and/or facilitate the broadcasting of radio programmes in Danish on a regular basis.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

68. In its first evaluation report (see paragraph 153), the Committee of Experts considered that it had received insufficient information to be able to conclude that this undertaking was fulfilled and encouraged the

German authorities to take positive measures aimed at promoting the regular broadcasting of television programmes in Danish.

69. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Danish in the private sector. Although the Charter does not specify which form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support could be envisaged in this context.

70. According to the information provided in the second periodical report, the Minister-President of Schleswig-Holstein addressed a letter to the directors and managers of public and private broadcasting companies, informing them of the Committee of Experts' findings and encouraging them to support the presence of regional or minority languages in their broadcasts. The Committee of Experts has also been informed that ULR (*Unabhängige Landesanstalt für das Rundfunkwesen*), an independent body supervising private broadcasters, provides funds for a project to develop the capacity of the Danish-speakers to create their own television programmes. To this end, a contract was signed with a private media office in 2002. The programmes are planned to be aired on *Offener Kanal Flensburg und Westküste*. While welcoming this development as a means of creating a reservoir of programmes in Danish, the Committee of Experts stresses that the present subparagraph requires the broadcasting of television programmes in Danish on a regular basis. The Committee of Experts has received no indication as to how such regular programming is to be achieved.

71. The Committee of Experts considers that this undertaking is not fulfilled at present.

The Committee of Experts encourages the German authorities to take measures to encourage and/or facilitate the broadcasting of television programmes in Danish on a regular basis.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

72. In its first evaluation report (see paragraphs 154-156), the Committee of Experts observed that under the general scheme of Schleswig-Holstein for financial support for audiovisual production there was no specific provision for productions in Danish. Furthermore, the Committee of Experts had not been informed of any audio or audiovisual work in Danish which had been supported through the general scheme. It concluded therefore that this undertaking was not fulfilled.

73. In their second periodical report, the German authorities contested the conclusion of the Committee of Experts. They consider, notably, that this undertaking does not necessitate specific provisions and that the letter of 9 January 2003 of the Minister-President was sufficient to satisfy the obligation “to encourage and/or to facilitate”.

74. The Committee of Experts observes that to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from the general promotion measures, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Danish). Consequently, this provision necessitates proactive measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc.

75. The Committee of Experts has been informed that ULR (*Unabhängige Landesanstalt für das Rundfunkwesen*), an independent body supervising private broadcasters, provides funds for a project to develop the capacity of the Danish-speakers to produce television programmes. To this end, a contract was signed with a private media office in 2002.

76. In the light of this development, the Committee of Experts considers this undertaking fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

77. In its first evaluation report (see paragraph 158), the Committee of Experts considered that despite the existence of the possibility, there was no indication that existing measures for financial assistance for audiovisual works were used to promote productions in Danish. It considered this undertaking formally fulfilled and requested the German authorities to provide examples of cases where financial assistance had been provided for works in Danish. The Committee of Experts has received no evidence that the existing measures of financial assistance, in particular through the Corporation for the Funding of Audiovisual Work in Schleswig-Holstein (*MSH*), are designed in such a way that programmes in Danish could qualify for them in practice. The Committee of Experts considers, therefore, that this undertaking is still only formally fulfilled at present.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

78. In its first evaluation report (see paragraph 166), the Committee of Experts observed that the *Land* authorities made provision for Danish in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

79. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany's cultural policy abroad. Moreover, no cultural activity involving the Danish language seems to have been included in any relevant federal scheme abroad.

80. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

81. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Schleswig-Holstein.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

82. In its first evaluation report (see paragraph 168), the Committee of Experts concluded that it had received no information which enabled it to judge whether or not this obligation was fulfilled.

83. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to

discourage the use of Danish in connection with economic and social activities was brought to the attention of the Committee of Experts by the Danish speakers, who pointed out that the situation of Danish in economic activities is improving and that the number of shops, businesses, etc. where Danish is spoken is increasing. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

84. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

“c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;”

85. In its first evaluation report (see paragraph 170), the Committee of Experts noted that direct nursing and care is provided mostly by private non-profit-making institutions. It observed that Danish-speaking staff members were available in specialised clinics of the *Land* and that private hospitals in Flensburg offered care facilities in Danish, whereas in other institutions this possibility was not always available. The Committee of Experts considered that a systematic approach was necessary for this undertaking to be fulfilled and encouraged the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Danish in social care facilities, which should include a bilingual human resources policy.

86. The second periodical report contains further information with regard to this undertaking, notably concerning the Danish Health Care Service for South Schleswig (*Dansk Sundhedstjeneste for Sydslesvig e.V.*) which attends to the social care needs of the Danish-speaking community. A nursing home, several residential homes for the elderly and a home healthcare service in Germany are affiliated to this organisation, which also offers holidays for children and elderly people in two institutions in Denmark. As a home help service active in the Schleswig region, the *Dansk Sundhedstjeneste for Sydslesvig e.V.* receives a subsidy from the *Land* authorities under Art. 13, para. 2, sub-para. c of the *Land Home Care/Nursing Act (Landespflegegesetz)*. The German authorities have further informed the Committee of Experts that Danish-speaking senior citizens are represented on the Advisory Committee for the Elderly of the City of Flensburg. At the four county hospitals in Nordfriesland, Danish-speaking patients can, at least in part, be received and treated in Danish.

87. In the light of this additional information, the Committee of Experts revises its previous assessment and considers that this undertaking is fulfilled.

2.2.2. Upper Sorbian in the Upper Sorbian language area in the Free State of Saxony

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i* to make available pre-school education in the relevant regional or minority languages; or
- ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii* **to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient;”**

88. In its first evaluation report (see paragraph 427-428), the Committee of Experts acknowledged the efforts made by the authorities to support pre-school education in Upper Sorbian, notably with reference to the Witaj project. It expressed its concern, however, over the lack of resources and of trained teachers which might jeopardise the fulfilment of this undertaking. Accordingly, the Committee of Experts encouraged the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

89. According to the information provided by the German authorities in the second periodical report, as of June 2003, pre-school education was offered by 12 day-care centres run under the Witaj project, 12 German-Sorbian day-care centres with one or several Witaj groups and about 54 day-care centres which maintain the Sorbian culture. By virtue of the Ordinance on Children’s Day-Care Centres in the German-Sorbian Region (*SorbKitaVO*), Sorbian-speaking or bilingual day-care centres receive additional funds from the authorities (€447 853 in 2002). The financing of the day-care centres seems assured for the moment.

90. The lack of qualified teachers continues to be a problem at certain pre-schools (see also paragraph 106 below). The Committee of Experts understands that the authorities are co-operating with the Upper Sorbian speakers to find solutions to this problem.

91. The Committee of Experts considers this undertaking fulfilled.

- “b** *i* to make available primary education in the relevant regional or minority languages; or
- ii* to make available a substantial part of primary education in the relevant regional or minority languages; or
- iii* to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv* **to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”**

92. In its first evaluation report (see paragraph 429), the Committee of Experts considered that the existing system functioned well in the core language area, but it noted that there was no guarantee to provide education in Upper Sorbian for families who so wish in the surrounding area, and that there was no systematic follow-up for children having completed pre-school education within the Witaj project. The Committee of Experts considered therefore that this undertaking was only partly fulfilled and encouraged the authorities to ensure that pupils who have completed their pre-school education within the Witaj project are given the possibility to have an education in Upper Sorbian.

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93. According to the information received in the second periodical report, the distinction between mother tongue Sorbian instruction and Sorbian as a secondary language has been abandoned in favour of an overarching model for all types of schools (*Schulartübergreifendes Konzept*). The Committee of Experts understands that the level of Sorbian education in the primary schools of the core area where bilingual education takes place is good, although there are concerns that the quality of Sorbian language education for children with Sorbian mother tongue might suffer from the change to bilingual classes. Outside the core area, where Sorbian is still the language of daily use of the majority, the teaching of Sorbian as a foreign language or a 'contact language' seems to vary considerably both in terms of quality and quantity.

94. According to the German authorities, laying down a common framework to ensure follow-up education for pupils who have completed a pre-school within the Witaj project would not seem expedient, or might even be harmful, as solutions are found currently on a case-by-case basis. The Committee of Experts understands that the absence of a strict legal framework has allowed higher flexibility, for example in terms of the minimum number of pupils required to obtain Upper Sorbian instruction. The representatives of the Upper Sorbian speakers are of the view, however, that the absence of a guideline for the minimum number of pupils per class creates confusion for parents, who do not know whether their children are entitled to receive Sorbian teaching in a separate class.

95. The Committee of Experts considers this undertaking only partly fulfilled and encourages the authorities to find solutions to the problems mentioned above in co-operation with the Upper Sorbian speakers.

- “c
- i to make available secondary education in the relevant regional or minority languages; or*
 - ii to make available a substantial part of secondary education in the relevant regional or minority languages; or*
 - iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
 - iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;”***

96. In its first evaluation report (see paragraphs 430-432), the Committee of Experts considered this undertaking fulfilled under the existing circumstances. It voiced its concern, however, about the closing of a class at the secondary school (*Mittelschule*) in Crostwitz, one of the six Sorbian secondary technical schools, on the grounds that the required minimum number of twenty pupils was not reached.

97. The Committee of Experts regrets to observe that the public authorities have in the meantime entirely withdrawn their co-funding for the school on the same grounds. As a result, the school was closed down and the remaining classes were transferred to the secondary school in Ralbitz, so that only five Sorbian secondary technical schools remain as of the 2003/2004 school year.

98. The Committee of Experts observed already in its first evaluation report that, contrary to the situation regarding primary education, there is no flexibility with respect to the minimum number of pupils to open an Upper Sorbian class within secondary education in Saxony. As a result, and in view of the demographic trend in the Upper Sorbian language area, the Upper Sorbian speakers fear that the future of the secondary schools which were considered an alternative to the school in Crostwitz by the administration and the courts is also not certain. Having regard to the Charter and its Explanatory Report³, the Committee of Experts reiterates its view that the required number of 20 pupils is excessively high for the purposes of the present undertaking.

99. In addition to the secondary technical schools, Upper Sorbian education continues to be available in the *Sorbisches Gymnasium* in Bautzen. Upper Sorbian is also taught in two additional grammar schools in Saxony. According to the information provided in the second periodical report, 33 secondary schools offered Sorbian

³ Paragraph 82 of the Charter's Explanatory Report provides that "given the particular circumstances of regional or minority languages, it is suggested that the normal quota required to constitute a class may be applied flexibly and a lower number of pupils may be 'considered sufficient'".

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instruction to 2 500 pupils in the 2002/2003 school year, of whom about 850 speak Sorbian as their mother tongue.

100. The Committee of Experts revises its previous conclusion and considers this undertaking only partly fulfilled, as the required minimum number of pupils to open a class in secondary education is very high.

The Committee of Experts encourages the German authorities to reduce the minimum number of pupils required to open and maintain an Upper Sorbian class within secondary education.

- “d i to make available technical and vocational education in the relevant regional or minority languages; or***
- ii to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or***
- iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or***
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;”***

101. In its first evaluation report (see paragraph 433), the Committee of Experts concluded that this undertaking was only partly fulfilled, as there was only one institution where technical and vocational education in Upper Sorbian was offered.

102. According to the information received in the second periodical report, a special Sorbian course of study is only offered at the *Fachschule für Sozialwesen* of the Bautzen *Berufliches Schulzentrum für Wissenschaft*. The authorities argue that there is neither a demand for instruction in the Sorbian language nor a sufficient number of students having a command of the Sorbian language to establish classes or groups. The Committee of Experts wishes to emphasise that the present undertaking should be understood as implying that technical and vocational education in regional or minority languages should be organised in such a way that it would meet requests by a sufficient number of pupils or their families for education in or of Sorbian.

103. The Upper Sorbian speakers view technical and vocational education as an area of priority, given the general demographic development and high rates of outward migration by young persons from the Upper Sorbian language area. According to the representatives of the speakers, there are a number of Sorbian-speaking companies who expressed their wish to take on Sorbian-speaking apprentices, which indicates that there is indeed a demand for education in or of Upper Sorbian at this level.

104. The Committee of Experts therefore maintains its previous assessment that this undertaking is only partly fulfilled.

- “h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”***

105. In its first evaluation report (see paragraph 437), the Committee of Experts considered this undertaking fulfilled with respect to basic training. It identified shortcomings regarding further training of teachers, and encouraged the authorities to take the necessary measures in order to provide the further training of teachers.

106. The Committee of Experts notes that there is a shortage of qualified pre-school teachers. The German authorities state in the second periodical report that an intensive course of Sorbian for pre-school teachers, funded by the Foundation for the Sorbian People, was organised in Hoyerswerda between 1 October 2002 and 31 July 2003. The Free State of Saxony accepted to subsidise the temporary employment of four replacement teachers in order to allow existing teachers to participate in this course.

107. With respect to primary and secondary school teachers, teaching staff in schools offering education in Upper Sorbian are often not native speakers and the level of language competence among teachers is highly

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variable, which has a negative impact on the bilingual atmosphere in schools. The authorities of the Free State of Saxony informed the Committee of Experts that they are aware of this problem and seek to remedy this situation by encouraging the students of the Sorbian grammar school to pursue a teaching career, notably by guaranteeing employment upon completion of their studies. They also support further training measures to improve the language skills of existing teachers. To this end, 10 primary school teachers were released from their teaching duties in the 2003/2004 school year in order to follow a one-year intensive language course organised by the Sorbian Institute in Bautzen in co-operation with the *Institut für Sorabistik* of Leipzig University. Similarly in the 2004/2005 school year, the authorities allowed ten secondary school teachers to devote 18 hours of the prescribed 26-hour teaching week to improving their Upper Sorbian skills.

108. The Upper Sorbian speakers expressed their concern that the limited admissions policy (*Numerus clausus*) at Leipzig University for certain subjects could make it more difficult for native speakers to combine their Sorbian studies with other teaching subjects. Although the university has autonomy in this context, the Committee of Experts understands that the Minister of Education of the Free State of Saxony agreed to become involved in this issue in order to find a solution acceptable both for the university and the Upper Sorbian speakers.

109. In the light of all this information, the Committee of Experts considers this undertaking fulfilled.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

110. In its first evaluation report (see paragraph 438), the Committee of Experts observed that there was no supervisory body specifically entrusted with the task of monitoring the measures taken and the progress achieved in developing the teaching of Upper Sorbian and that there were no public reports of the findings of such a body. As a result, the Committee of Experts concluded that this undertaking was not fulfilled and encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Upper Sorbian and to draw up periodic reports.

111. According to the information provided in the second periodical report, the Bautzen Regional Schools Office assigned this supervisory function to staff members responsible for schools who are native Upper Sorbian speakers. Even though some supervisory function is exercised by the Bautzen Regional Schools Office, this undertaking requires a supervisory body entrusted with the specific task of monitoring the measures taken with regard to regional or minority language education. The bodies responsible for the development of a new model for bilingual Sorbian-German schooling and for the supervision of schools submit reports to the Saxon Ministry of Education and Culture. However, these reports, which are made available on the Internet, are not periodic and mainly concern the development and evaluation of this model.

112. The authorities have also drawn the attention of the Committee of Experts to the reports presented by the Government of the Free State of Saxony to the Saxon *Landtag*, at least once per legislative period. These reports are made public and deal, *inter alia*, with teaching in and of Sorbian. However, the Committee of Experts considers that the content of these reports does not correspond to the requirements of this undertaking.

113. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

Paragraph 2

“ With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.”

114. In its first evaluation report (see paragraph 439), the Committee of Experts noted that despite the high internal migration of Upper Sorbian speakers to large cities outside the area where the language is traditionally

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spoken, no teaching in or of Upper Sorbian was provided in these cities. It considered that it did not have sufficient information to conclude that this undertaking was fulfilled.

115. The authorities state in the second periodical report that there is no information indicating any demand for Upper Sorbian instruction outside the Sorbian settlement area. The Committee of Experts is aware that the *Sorbisches Kultur- und Informationszentrum* in Berlin, which is subsidised by the Foundation for the Sorbian People, offers Sorbian instruction outside the traditional language area. Accommodation is offered to Sorbian-speaking students in Sorbian student hostels in Dresden, Leipzig and Berlin.

116. The Committee of Experts encourages the authorities to examine whether the number of users of Upper Sorbian in Dresden justifies the offer of education in/of this language. The Committee of Experts nevertheless considers this undertaking fulfilled under the present circumstances.

Article 9 – Judicial authorities

Paragraph 1

“ The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

a in criminal proceedings:

ii to guarantee the accused the right to use his/her regional or minority language; and/or

iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;”

“b in civil proceedings:

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

if necessary by the use of interpreters and translations;”

“c in proceedings before courts concerning administrative matters:

ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or

if necessary by the use of interpreters and translations;”

117. In its first evaluation report (see paragraphs 440-444), the Committee of Experts observed that the legislation of the Free State of Saxony allowed the use of Upper Sorbian before courts, but that there were too many implementation obstacles dissuading speakers from exercising this right in practice. The Committee of Experts noted in particular the lack of Upper Sorbian-speaking staff in courts and the absence of a dictionary of legal terms in Upper Sorbian. It also mentioned that the authorities did not take any measures to encourage Upper Sorbian speakers to use their language before courts or civil servants to improve their Upper Sorbian skills. Consequently, the Committee of Experts considered these undertakings only formally fulfilled and

encouraged the authorities to take positive measures aimed at encouraging and facilitating the use of Upper Sorbian in court procedures.

118. The German authorities maintain that the existing legal framework ensures complete fulfilment of the undertakings entered into and that these provisions do not call for active encouragement of the individual's use of the Sorbian language (see paragraph 425 of the second periodical report).

119. The Committee of Experts cannot agree with this point of view. It acknowledges that the present legal framework suggests that the right to use Upper Sorbian before judicial authorities is as such guaranteed. It recalls, however, that the fulfilment of this undertaking requires that the formal provisions in the law are followed by some degree of practical implementation. In this context, the inherent disadvantage of regional or minority languages should be counterbalanced with positive measures, in the sense of organisational measures enabling the judicial authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities.

120. The Committee of Experts maintains its assessment that these undertakings are only formally fulfilled.

The Committee of Experts encourages the German authorities to take the necessary measures to ensure that the possibility to use Upper Sorbian in court proceedings is guaranteed in practice.

“b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

“c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

121. In its first evaluation report (see paragraphs 440-444), the Committee of Experts considered these undertakings formally fulfilled. The Committee of Experts observes that the German legal framework, by virtue of the Unification Treaty of 31 August 1990, allows documents and evidence to be produced in Upper Sorbian in court proceedings in the Upper Sorbian language area. According to the information received in the second periodical report and provided during the “on-the-spot” visit, this right is made use of in practice. The Committee of Experts revises its previous conclusion, therefore, and considers that these undertakings are fulfilled.

Paragraph 2

“ The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;”

122. The Committee of Experts has not received any information regarding the denial of the validity of legal documents drawn up in Upper Sorbian and there seems to be evidence of some such documents in practice. The Committee of Experts therefore considers this undertaking fulfilled.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

- a iv to ensure that users of regional or minority languages may submit oral or written applications in these languages;“**

123. In its first evaluation report (see paragraphs 447-449), the Committee of Experts considered this undertaking only formally fulfilled. It observed, in particular, that although the legal framework provided for the general possibility to use Upper Sorbian in dealings with administrative authorities, there were too many obstacles for this possibility to be operational. The Committee of Experts identified the lack of Upper-Sorbian-speaking civil servants and the lack of encouragement to use Upper Sorbian before administrative authorities as the main obstacles in this respect.

124. The representatives of the Upper Sorbian speakers informed the Committee of Experts during the “on-the-spot” visit that the oral or written use of Upper Sorbian with Saxon administrative authorities takes place in practice, albeit very infrequently, without this causing tensions. However, the lack of Sorbian-speaking staff members discourages many speakers from using Upper Sorbian in dealings with the administration. Similarly, although it is a legal right to write to and receive an answer from federal authorities (such as the fiscal authorities) in Upper Sorbian, this right is hardly ever exercised.

125. The Saxon authorities inform the Committee of Experts in the second periodical report that they are aware of the shortcomings regarding Sorbian-speaking civil servants in the administrative authorities of the Free State of Saxony and that they plan to take a number of steps to remedy this situation. For example, the State Ministry of the Interior states that it envisages measures in order to ensure that there are sufficient numbers of Upper-Sorbian-speaking civil servants available, as well as to guarantee training opportunities for civil servants to improve their Upper Sorbian skills (see paragraphs 438-441 of the second periodical report). The Committee of Experts welcomes this constructive approach and is looking forward to receiving further information about the implementation of the envisaged measures in the next periodical report.

126. The Committee of Experts considers this undertaking formally fulfilled at present, and encourages the authorities to implement positive measures, such as those mentioned in the second periodical report.

- “v to ensure that users of regional or minority languages may validly submit a document in these languages;“**

127. The Committee of Experts observes that this undertaking is included in sub-paragraph a.iv and that the Charter provides that it may be chosen as an alternative to the other options of Article 10, paragraph 1.a but not in addition to them. It is therefore redundant to the undertakings of Germany.

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

- a the use of regional or minority languages within the framework of the regional or local authority;“**

128. The Committee of Experts observes that this undertaking concerns the internal organisation of the local and regional authorities and indicates that a regional or minority language may be used as a working language by the authority concerned, excluding relations with the central authorities (see paragraph 106 of the Charter’s Explanatory Report). According to the information provided in the second periodical report, Upper Sorbian is used in administrative authorities and meetings of local/municipal councils in municipalities with a Sorbian majority. The Committee of Experts considers this undertaking fulfilled.

“b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

129. In its first evaluation report (see paragraph 450), the Committee of Experts considered that this undertaking was fulfilled in the core area, but was not in a position to conclude whether it was fulfilled outside the core area.

130. The second periodical report states that in the areas where Upper Sorbian speakers do not constitute a majority, the existing statutory entitlement to use Upper Sorbian in dealings with the administration is very rarely used. The Committee of Experts considers that the inherent disadvantage of Upper Sorbian in these areas should be counterbalanced with positive measures, in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities.

131. The Committee of Experts considers this undertaking fulfilled in the core area, and only formally fulfilled in other parts of the Upper Sorbian language area.

Paragraph 3

“ With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

b to allow users of regional or minority languages to submit a request and receive a reply in these languages;”

132. The Committee of Experts observes that this undertaking concerns the use of regional or minority languages in relations with bodies providing public services, whether under public or private law, where they remain under public control (see paragraph 102 of the Charter’s Explanatory Report). These services could include, for example, postal services, telecommunication services, electricity, public transport, hospitals, etc.

133. Although the Committee of Experts is aware that there is a clear legal entitlement to use Upper Sorbian in dealings with public service providers, it did not receive any information that would allow it to evaluate the way in which bodies offering such services in the Upper Sorbian language area make provision for the use of Upper Sorbian in practice.

134. The Committee of Experts considers this undertaking formally fulfilled, and invites the German authorities to provide further information on its practical implementation in the next periodical report.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”

135. In its first evaluation report (see paragraph 454), the Committee of Experts noted that there was no pertinent legislation ensuring compliance with this undertaking, and considered that it did not have sufficient information to conclude that this undertaking was fulfilled. According to the information provided by the Free State of Saxony in the second periodical report, no request within the meaning of this provision has so far been made. The Committee of Experts has not received any information on positive practice or a structured approach with regard to this undertaking. It considers that the measures envisaged by the Saxon State Ministry of the Interior (see paragraphs 439-441 of the second periodical report) could be a possible way of complying with this

undertaking. However, at present the Committee of Experts is not in a position to conclude that this undertaking is fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

136. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Upper Sorbian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

137. In the first evaluation report (see paragraph 456), the Committee of Experts considered that a commendable effort was made in the public sector, but did not have any information as to the measures of encouragement for the broadcasting of radio programmes in Upper Sorbian by private radio stations.

138. The Committee of Experts observes that there is a good public service radio provision in Upper Sorbian. However, it understands that there are no programmes in Upper Sorbian on private radios and it has not been informed of any measures taken to encourage and/or to facilitate the broadcasting of Upper Sorbian programmes by private broadcasters.

139. In view of the fact that this undertaking concerns private radio broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

140. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Upper Sorbian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

141. In its first evaluation report (see paragraph 457), the Committee of Experts considered that it had received insufficient information to be able to conclude that the undertaking was fulfilled with regard to private television programmes.

142. The information received by the Committee of Experts with regard to television programmes in Upper Sorbian exclusively concerns public service broadcasting. The Committee of Experts understands that there are no programmes in Upper Sorbian on private channels and it has not been informed of any measures taken to encourage and/or to facilitate the broadcasting of Upper Sorbian programmes by private broadcasters.

143. In view of the fact that this undertaking concerns private television broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

144. At the moment of the first evaluation report (see paragraph 460), it was not clear to the Committee of Experts whether the existing scheme for financial assistance was also applied to audiovisual productions in

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Upper Sorbian in practice. Consequently, it considered this undertaking formally fulfilled and requested examples of cases where such assistance had been provided to audiovisual productions in Upper Sorbian.

145. According to the information provided in the second periodical report, the majority of audiovisual works in the Upper Sorbian language are subsidised by the Foundation for the Sorbian People, by the publishing house *Domowina Verlag GmbH* and the *WITAJ-Sprachzentrum*. A number of audiovisual productions have been supported by these organisations, which are publicly funded. In addition, the Committee of Experts notes that *Mitteldeutscher Rundfunk (mdr)*, the public broadcaster in Saxony, also produces audiovisual works in Upper Sorbian. The Committee of Experts observes, however, that this information concerns the undertaking under paragraph 1.d. The Committee of Experts has received no evidence that the existing measures of financial assistance, administered by the *Land* media authorities, are designed in such a way that programmes in Upper Sorbian could qualify for them in practice.

146. The Committee of Experts considers that this undertaking is still only formally fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 2

“ In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.”

147. In its first evaluation report (see paragraph 463), the Committee of Experts considered that it had not received sufficient information to be able to conclude that this undertaking was fulfilled.

148. The second periodical report contains information about cultural activities making provision for Upper Sorbian which took place outside the Sorbian language area. For example, the Representation of the Free State of Saxony to the Federation in Berlin hosted a presentation within the framework of a Sorbian Culture Week. The Sorbian National Ensemble, the publishing house *Domowina-Verlag GmbH* and the Foundation for the Sorbian People participated in cultural events or organised exhibitions and presentations outside the traditional language area.

149. The Committee of Experts considers therefore that this undertaking is fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

150. In its first evaluation report (see paragraph 464), the Committee of Experts observed that the *Land* authorities made provision for Upper Sorbian in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

151. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the Upper Sorbian language seems to have been included in any relevant federal scheme abroad.

152. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this

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undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

153. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of the Free State of Saxony.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

154. In its first evaluation report (see paragraph 466), the Committee of Experts considered that it could not conclude that this undertaking was fulfilled.

155. During the “on-the-spot” visit, representatives of the Upper Sorbian speakers drew the attention of the Committee of Experts to the prohibition of the use of the Sorbian language in a private ecclesiastical establishment which provides social services. The Committee of Experts would welcome further information on this as, in the opinion of the speakers, it could have repercussions on the use of Upper Sorbian at the workplace in general.

156. The Committee of Experts is not in a position to conclude that this undertaking is fulfilled at present, and encourages the authorities to inform the Committee about measures taken to oppose any practices discouraging the use of Upper Sorbian in connection with economic and social activities.

“d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”

157. In its first evaluation report (see paragraph 467), the Committee of Experts considered that the information at its disposal was not sufficient to allow it to conclude that this undertaking was fulfilled.

158. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use of regional or minority languages can be facilitated and encouraged with regard to economic and social activities.

159. In their second periodical report, the German authorities draw the attention of the Committee of Experts to the activities of Krabat e.V., an association which aims, *Inter alia*, to develop the economic capacities of the Krabat region in Upper Lusatia, with an emphasis on the bilingual identity of the region. Projects of this association are partly subsidised by the Free State of Saxony.

160. The Committee of Experts considers this undertaking fulfilled.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or

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minority language who are in need of care on grounds of ill-health, old age or for other reasons;”

161. In its first evaluation report (see paragraph 468), the Committee of Experts observed that there was no special policy for the provision of social care services in Upper Sorbian in the Sorbian language area. Although it was possible to be treated in Upper Sorbian in social care facilities run by traditional “Sorbian” institutions, other institutions did not make provision for the recruitment of bilingual staff, which rendered them effectively monolingual. The Committee of Experts concluded therefore that this undertaking was only partly fulfilled, and encouraged the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Upper Sorbian in social care facilities, possibly by including a bilingual human resources policy.

162. According to the view expressed by the Free State of Saxony, “general compliance with the stipulations of this provision with regard to hospitals is, in terms of material and organisational requirement, neither expedient nor feasible” (see paragraph 514 of the second periodical report). The authorities also do not envisage a bilingual human resources policy, notably on the grounds that the Upper Sorbian speakers have a command of the German language.

163. The Committee of Experts considers that a bilingual human resources policy for hospitals is essential for the fulfilment of this undertaking. It therefore maintains its previous assessment that the present undertaking is only partly fulfilled.

The Committee of Experts urges the German authorities to take measures to ensure that social care facilities can receive and treat the persons concerned in Upper Sorbian.

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2.2.3. *Lower Sorbian in the Lower Sorbian language area in Land Brandenburg*

164. The Committee of Experts observes that the statutory protection of the Lower Sorbian language in Brandenburg exclusively applies to the traditional settlement area as defined by statutory law (*Sorben(Wenden)-Gesetz*) and established administrative practice in Brandenburg. In administrative practice, this protection is limited to municipalities contained in an official list drawn up by the Ministry of Science and Culture. The Ministry only includes municipalities in this list if they so request. It was brought to the attention of the Committee of Experts that this mechanism in practice excludes certain areas where Lower Sorbian has been traditionally used. It appears that municipalities have the possibility to avoid being included in the category of “municipality within the traditional settlement area” in practice. There seem to be incentives to do so, as the municipalities have to bear the costs of the protective measures themselves.

165. On the other hand, the Committee of Experts was informed during the “on-the-spot” visit by the speakers and the Brandenburg authorities that the City of Lübben wants to be recognised as part of the traditional settlement area, but that to this end it would be necessary to amend Section 3, paragraph 2 of the *Sorben(Wenden)-Gesetz*.

166. The Committee of Experts notes that the definition of the traditional settlement area has an impact on the implementation of many undertakings under Part III, in particular under Articles 8, 9 and 10. The Committee of Experts urges the German authorities to ensure that legal and administrative obstacles do not hamper the implementation of the following undertakings in areas where Lower Sorbian is traditionally used.

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i to make available pre-school education in the relevant regional or minority languages; or*
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or*
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or*
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;”**

167. In its first evaluation report (see paragraph 469), the Committee of Experts considered that this undertaking was partly fulfilled. It noted, in particular, that despite the success of the Witaj programme and the increasing demand for Lower Sorbian pre-school education, financial constraints and the lack of a common budgetary framework for all pre-schools were creating difficulties. Thus, while acknowledging the efforts made to make available pre-school education in Lower Sorbian, the Committee of Experts observed that more financial support was needed for this obligation to be completely fulfilled. Therefore, the Committee of Experts encouraged the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

168. The second periodical report states that the necessary statutory and financial framework is already provided by the Children’s Day-Care Centres Act of Brandenburg *Land* of 10 June 1992. Pre-school education is the responsibility of local authorities, with the financial support of the *Land*. The *Land* authorities affirm that the decision to provide Lower Sorbian pre-school education is taken by the provider responsible for the educational district concerned (mainly municipalities), which are not obliged to provide staff in addition to the statutory minimum staffing levels. The second periodical report also refers to the funds at the disposal of the Foundation

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for the Sorbian People and additional *Land* financial support provided under the *Land* Youth Plan (*Landesjugendplan*).

169. According to the Lower Sorbian speakers, the fact that the financial support for Lower Sorbian pre-school education is not centralised, as is the case for Upper Sorbian in the Free State of Saxony, creates problems as it is more difficult to deal with and to convince individual municipalities to support Lower Sorbian pre-school education. They also stated that they were not aware of the additional funds made available under the *Land* Youth Plan. The Committee of Experts would welcome further information about this issue in the next periodical report.

170. The Committee of Experts understands that the existing budgetary framework for pre-schools does not cover the additional costs arising from bilingual education. The lack of qualified bilingual pre-school teachers is also a problem with respect to the fulfilment of this undertaking (see also paragraph 189 below). As a result of these problems, it is increasingly difficult to meet the growing demand for Lower Sorbian pre-school education.

171. While acknowledging that pre-school education in Lower Sorbian continues to be available in Brandenburg, the Committee of Experts reiterates its view that a more structured policy and the corresponding budgetary framework, taking due account of the specific needs of bilingual education, is necessary in order to take advantage of the increasing interest in the Lower Sorbian language. It therefore considers this undertaking partly fulfilled and encourages the authorities to find solutions to the problems mentioned above, in co-operation with the Lower Sorbian speakers.

The Committee of Experts encourages the German authorities to adopt a more structured policy and to allocate the necessary resources for the provision of pre-school education in Lower Sorbian.

- “b i to make available primary education in the relevant regional or minority languages; or***
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or***
- iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or***
- iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”***

172. In its first evaluation report (see paragraphs 470-473), the Committee of Experts considered that this undertaking was only partly fulfilled. In particular, the Committee of Experts observed that while Lower Sorbian was taught as a regular subject in a number of schools in those municipalities which are officially qualified as “municipalities in the traditional settlement area”, the statutory framework did not accord a subjective right to teaching in Lower Sorbian in other municipalities. The Committee of Experts therefore encouraged the *Land* authorities to create clear legal entitlements to receive teaching in or of Lower Sorbian in all places where there were sufficient numbers of children, with a particular view to ensuring that pupils having completed their pre-school education within the Witaj project were given the possibility to continue to have an education in Lower Sorbian. The Committee of Experts also acknowledged the efforts made to further strengthen the profile of Lower Sorbian in primary schools and encouraged the authorities to include teaching of Lower Sorbian as an integral part of the curriculum.

173. The German authorities affirm in the second periodical report that Lower Sorbian is included as an integral part of the curriculum in the traditional settlement area. The authorities also express the view that they did not have the obligation under the Charter to offer Lower Sorbian education outside the traditional settlement area, as defined by the Act to regulate the substance of the Sorbs’ (Wends’) rights in the *Land* of Brandenburg (*Sorben(Wenden)-Gesetz*).

174. According to the Sorbian speakers, the traditional settlement area as defined by law excludes certain territories where Lower Sorbian has been traditionally used. The Committee of Experts recalls that this undertaking requires the German authorities to provide primary education in or of Lower Sorbian within the

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territory in which it is actually used, and not to exclude by administrative measures municipalities where the statutory criteria are fulfilled in principle (see also paragraphs 164-166 above).

175. The Committee of Experts is aware that there is a shortage of bilingual teachers at the primary school level, and there are concerns that the continuity of the Lower-Sorbian-speaking teaching staff is not assured (see paragraph 190 below).

176. The Committee of Experts maintains its previous assessment that this undertaking is only partly fulfilled, and encourages the German authorities to address the problems mentioned above, in co-operation with the Lower Sorbian speakers.

The Committee of Experts encourages the German authorities to provide for teaching in or of Lower Sorbian in the areas where there is a sufficient demand for this, with a particular view to ensuring continuity with pre-school education.

- “c i to make available secondary education in the relevant regional or minority languages; or***
- ii to make available a substantial part of secondary education in the relevant regional or minority languages; or***
- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or***
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;”***

177. In its first evaluation report (see paragraphs 474-477), the Committee of Experts considered this undertaking partly fulfilled. It noted that the *Land* legislation established the right to receive teaching of Lower Sorbian in those municipalities officially qualified as “municipalities in the traditional settlement area”, but that problems arose in other municipalities. Therefore, the Committee of Experts encouraged the *Land* authorities to create clear legal entitlements to receive education in Lower Sorbian in all places, whether or not officially classified as Sorbian municipalities, where there were sufficient numbers of pupils. Acknowledging the efforts made to further strengthen the Lower Sorbian profile in secondary schools, the Committee of Experts also encouraged the authorities to include teaching of Lower Sorbian in the ordinary curriculum in all cases.

178. The second periodical report states that the teaching of the history and culture of the Sorbian people is included in a number of framework curricula for lower secondary grades and the “plan for the respective stages of school education” (*Stufenplan*). While acknowledging the inclusion of the history and culture of the Sorbian people for classroom instruction in general, the Committee of Experts was not informed of measures to include the teaching of the Lower Sorbian language in the ordinary curriculum. It observes, in this connection, that there are very few pupils learning Lower Sorbian in secondary schools other than the Lower Sorbian Grammar School in Cottbus (only 89 according to the numbers provided by the Lower Sorbian speakers).

179. According to the Sorbian speakers, the traditional settlement area as defined by law excludes certain territories where Lower Sorbian has been traditionally used. The Committee of Experts recalls that this undertaking requires the German authorities to provide secondary education in or of Lower Sorbian within the territory in which it is actually used and not to exclude by administrative measures municipalities where the statutory criteria are fulfilled in principle (see also paragraphs 164-166 above).

180. The vast majority of pupils receiving Lower Sorbian secondary education are enrolled in the Lower Sorbian Grammar School in Cottbus. The Committee of Experts was informed that the responsibility for the financial upkeep of this grammar school would be handed over from the *Land* authorities to the authorities of the City of Cottbus. The Committee of Experts noted during the “on-the-spot” visit that there are concerns among the Lower Sorbian speakers that this change could lead to a deterioration of the existing provision. It understands, however, that the *Land* authorities will continue to pay the salaries of the teachers and provide the extra funds needed for the upkeep of the school to the municipal authorities. The Committee of Experts encourages the

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authorities of Brandenburg to ensure that changes to the status of this school do not negatively affect the secondary education provision in Lower Sorbian in Brandenburg.

181. The Committee of Experts considers this undertaking still only partly fulfilled.

- “e i to make available university and other higher education in regional or minority languages; or**
- ii to provide facilities for the study of these languages as university and higher education subjects; or**
- iii if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;”**

182. In its first evaluation report (see paragraph 478), the Committee of Experts did not consider this undertaking fulfilled. The Committee of Experts took into consideration the termination of the programme for the study of Lower Sorbian at the Institute of Slavonic Studies of the University of Potsdam, in particular, and considered that the Sorbian studies programme at Leipzig University in Saxony did not secure an adequate level of university education in Lower Sorbian, particularly as far as the training of teachers is concerned.

183. In the second evaluation report, the German authorities point out that Brandenburg *Land* and the Free State of Saxony have agreed to share their resources by offering opportunities to study Sorbian only at Leipzig University. Brandenburg *Land* will provide material support to Leipzig University, which will also cover the Lower Sorbian language. The *Land* Government is of the view that higher education in the Lower Sorbian language is adequately ensured by this arrangement.

184. According to the Lower Sorbian speakers, the *Institut für Sorabistik* of Leipzig University cannot ensure an adequate level of Lower Sorbian higher education, due to an important shortage of lecturers and professors specialised in Lower Sorbian, with particular reference to practical language use. The representative of the speakers stated during the “on-the-spot” visit that there was only one temporary post devoted to Lower Sorbian at this Institute. The speakers are also of the view that the offer in Leipzig is not attractive for Lower Sorbian-speaking teacher candidates and that an outsourcing of the teacher training to Cottbus could be desirable.

185. The Committee of Experts acknowledges that it is possible for the Brandenburg authorities to fulfil this obligation in the framework of their collaboration with the Free State of Saxony. However, the present higher education provision for Lower Sorbian at Leipzig University does not seem to be adequate, due to the lack of staff specialised in Lower Sorbian. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

The Committee of Experts urges the German authorities to increase the number of university teachers specialised in Lower Sorbian, in order to guarantee an adequate provision of university education in Lower Sorbian.

- “h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”**

186. In its first evaluation report (see paragraphs 481-485), the Committee of Experts considered this undertaking only partly fulfilled, due to a number of obstacles with regard to its implementation. These obstacles included the absence of a structured *Land* policy for the financial support required in order to allow teachers to follow Lower Sorbian training programmes and the lack of appropriate provision by the federal authorities to ensure that attainment of a qualification in Sorbian becomes eligible for funding by the employment administration. Therefore, the Committee of Experts encouraged the authorities to ensure that appropriate facilities for teacher training were in place to meet the needs for education in Lower Sorbian.

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187. The German authorities informed the Committee of Experts in the second periodical report that the leader of an expertise seminar for Sorbian (Wendish) at the Cottbus *Studienseminar* was responsible for the training of trainee teachers during the second phase of teacher training.

188. The Committee of Experts examined the difficulties in relation to the possibility to study Lower Sorbian at university level under the provision concerning university education (see paragraphs 182-185 above). It understands that there are also problems with respect to the availability of further training opportunities to teachers at all levels of education. Although further training courses are organised in Cottbus in practice, according to the information available to the Committee of Experts, these courses are very general in scope and do not take account of the teaching level.

189. With respect to pre-school teachers, the Committee of Experts observes that although there is some *Land* support for the organisation of further training opportunities, the decision to authorise the teachers to follow such courses lies with the nursery schools themselves without further *Land* support for replacement. The Committee of Experts was informed during the “on-the-spot” visit about certain incentives to promote training of pre-school teachers. The Committee of Experts would welcome further information regarding these incentives in the next report.

190. Regarding the primary education level, the *Land* authorities admit that there is a clear shortage of teaching staff. Although the Lower Sorbian Grammar School in Cottbus offers prospects for satisfying this need in the future, the Committee of Experts considers that stronger incentives could be provided to graduates of this school to become teachers.

191. In the light of these considerations and bearing in mind the importance of this undertaking for the future of the Lower Sorbian language, the Committee of Experts considers this undertaking only partly fulfilled and encourages the German authorities to pursue their co-operation with the Lower Sorbian speakers with a view to finding satisfactory solutions to these problems.

The Committee of Experts urges the German authorities to take measures to tackle the present shortage of Lower Sorbian teachers at all levels of education, notably by providing incentives for basic and further training of Lower Sorbian teachers.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

192. In its first evaluation report (see paragraph 486), the Committee of Experts concluded that this obligation was not fulfilled, as the information at its disposal suggested that there was no supervisory body specifically entrusted with the monitoring tasks required by this undertaking and that there were no corresponding public reports. The Committee of Experts encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Lower Sorbian and to draw up periodic reports.

193. In the second periodical report, the *Land* authorities reiterate their view that an Assistant Head of Section and an executive officer at the Ministry of Education, Youth and Sports, as well as supervisory officers at the four Education Offices in the language area ensure the monitoring required for this undertaking. Even though some supervisory function is exercised by these staff members, this undertaking requires a supervisory body entrusted with the specific task of monitoring the measures taken with regard to regional or minority language education. The Committee of Experts has furthermore not been made aware of any periodic reports drawn up and made public by the bodies mentioned by the authorities. The representatives of the Lower Sorbian speakers further pointed out that the absence of a Lower Sorbian-speaking staff member at the Ministry of Education, Youth and Sports of Brandenburg hampers the efficiency of the existing supervision.

194. The Committee of Experts considers that this undertaking is not fulfilled.

Article 9 – Judicial authorities

Paragraph 1

“ The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

a in criminal proceedings:

ii to guarantee the accused the right to use his/her regional or minority language; and/or

iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or

if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;”

195. In its first evaluation report (see paragraphs 487-489), the Committee of Experts observed that the use of Lower Sorbian in criminal proceedings was allowed, but that there were too many implementation obstacles dissuading speakers from exercising this right in practice. The Committee of Experts noted in particular the lack of Lower-Sorbian-speaking staff at courts and the absence of a dictionary of legal terms in Lower Sorbian. It also mentioned that the authorities did not take any measures to encourage Lower Sorbian speakers to use their language before courts or civil servants to improve their Lower Sorbian skills. Thus, the Committee of Experts considered these undertakings only formally fulfilled.

196. The German authorities maintain that the existing legal framework ensures complete fulfilment of the undertakings entered into and that these provisions do not call for active encouragement of the individual's use of the Sorbian language (see paragraph 425 of the second periodical report).

197. The Committee of Experts cannot agree with this point of view. It acknowledges that the present legal framework suggests that the right to use Lower Sorbian before judicial authorities is as such guaranteed. It recalls, however, that the fulfilment of this undertaking requires that the formal provisions in the law are followed by some degree of practical implementation. In this context, the inherent disadvantage of regional or minority languages should be counterbalanced with positive measures, in the sense of organisational measures enabling the judicial authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities.

198. The Committee of Experts maintains its assessment that these undertakings are only formally fulfilled.

“b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

“c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

199. In its first evaluation report (see paragraphs 490-492), the Committee of Experts considered these undertakings formally fulfilled. The Committee of Experts observes that the German legal framework, by virtue of the Unification Treaty of 31 August 1990 and the Constitution of the *Land* of Brandenburg, allows documents and evidence to be produced in Lower Sorbian in court proceedings in the Lower Sorbian language area. Based on the information received in the second periodical report and provided during the “on-the-spot” visit, the Committee of Experts revises its previous conclusion and considers that these undertakings are fulfilled.

Article 10 – Administrative authorities and public services

200. The Committee of Experts notes that the Lower Sorbian speakers are of the view that the traditional settlement area, as defined by statutory provisions and administrative practice, does not coincide with the Lower Sorbian language area (see also paragraphs 164-166 above). As the right to use Sorbian in dealings with administrative authorities is limited to the traditional settlement area, the Committee of Experts urges the German authorities to ensure that legal and administrative obstacles do not hamper the implementation of the undertakings under this Article in the areas where Lower Sorbian is traditionally used.

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a iv to ensure that users of regional or minority languages may submit oral or written applications in these languages;”

201. In its first evaluation report (see paragraph 494), the Committee of Experts considered this undertaking formally fulfilled regarding written applications, but not fulfilled in practice regarding oral applications. It observed, in particular, that although there was a clear legal basis providing for the general possibility to use Lower Sorbian in dealings with administrative authorities, there were many obstacles for this possibility to be operational. The Committee of Experts identified the lack of Lower-Sorbian-speaking civil servants and the lack of encouragement to use Lower Sorbian before administrative authorities as the main obstacles in this respect.

202. The authorities of Brandenburg argue in the second periodical report that this undertaking is fulfilled because no case has become known of a user of the Sorbian language having been hindered from using it. They further claimed that this provision does not call for active encouragement of the individuals’ use of the Sorbian language.

203. The Committee of Experts is of the opinion that, for this undertaking to be effectively fulfilled, a legal framework allowing the use of regional or minority languages in dealings with the administrative authorities should be accompanied by arrangements in administrative organisation designed to counterbalance practical obstacles (see, for example, the first evaluation report in respect of Hungary, ECRML(2001)4, paragraph 54), in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities. In this

connection, the Committee of Experts also draws the authorities' attention to the relevant paragraphs of the Charter's Explanatory Report⁴.

204. According to the information available to the Committee of Experts, the oral or written use of Lower Sorbian with the administrative authorities of the *Land* of Brandenburg remains exceptional, although the authorities comply with their legal obligations when there is demand. The Committee of Experts observes that the lack of Lower-Sorbian-speaking staff members discourages many speakers from using Lower Sorbian in dealings with the administration. Similarly, although it is a legal right to write to and receive an answer from federal authorities (such as the fiscal authorities) in Lower Sorbian, this right is hardly exercised. Furthermore, the authorities do not envisage any practical measures in relation to this undertaking, such as ensuring that there are sufficient numbers of Lower-Sorbian-speaking civil servants available in the administrative authorities concerned, or offering language training opportunities to existing civil servants.

205. The Committee of Experts considers, therefore, that this undertaking continues to be only formally fulfilled.

The Committee of Experts encourages the German authorities to take the necessary steps to ensure that the possibility to submit oral and written applications in Lower Sorbian is guaranteed in practice.

Paragraph 2

“In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

206. In its first evaluation report (see paragraph 496), the Committee of Experts observed that the right to submit oral and written applications in Lower Sorbian to regional and local administrations was secured by the legislation of the *Land* of Brandenburg, but noted a strong need to take positive measures in order to encourage the use of Lower Sorbian in local and regional authorities. It concluded that this undertaking was only formally fulfilled.

207. The German authorities did not provide any additional information in the second periodical report, confining themselves to stating that this provision does not call for active encouragement of the individual's use of the Sorbian language.

208. The Committee of Experts is of the opinion that for this undertaking to be effectively fulfilled, a legal framework allowing the use of regional or minority languages in dealings with the administrative authorities should be accompanied by arrangements in administrative organisation designed to counterbalance practical obstacles (see, for example, the first evaluation report in respect of Hungary, ECRML(2001)4, paragraph 54), in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities. In this connection, the Committee of Experts also draws the authorities' attention to the relevant paragraphs of the Charter's Explanatory Report.

209. In the light of these considerations and the question referred to in paragraphs 164-166 above, the Committee of Experts revises its previous conclusion and considers this undertaking only partly fulfilled.

⁴ The Explanatory Report (see paragraph 104) provides that “some of the measures provided for [under Article 10] have significant implications in terms of finance, staffing or training. An acceptance of a particular provision with respect to a given language necessarily entails a commitment to provide the resources and make the administrative arrangements required to render it effective”.

Paragraph 3

“ With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

“b to allow users of regional or minority languages to submit a request and receive a reply in these languages;”

210. The Committee of Experts observes that this undertaking concerns the use of regional or minority languages in relations with bodies providing public services, whether under public or private law, where they remain under public control (see paragraph 102 of the Charter’s Explanatory Report). These services could include, for example, postal services, telecommunication services, electricity, public transport, hospitals, etc.

211. The Committee of Experts did not receive any information that would allow it to evaluate the way in which bodies offering such services in the Lower Sorbian language area make provision for the use of Lower Sorbian. It is not in a position, therefore, to conclude whether this undertaking is or is not fulfilled and invites the German authorities to provide further information and practical examples in the next periodical report.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

a translation or interpretation as may be required;”

212. In its first evaluation report (see paragraph 501), the Committee of Experts considered this undertaking only partly fulfilled, as it had only received information in connection with Article 10, paragraph 1.a.iv of the Charter. Therefore, it requested further information concerning the way in which translation and interpretation is made available with respect to other undertakings under Article 10.

213. No new information with respect to this undertaking is contained in the second periodical report. The German authorities recall that Section 23, paragraph 5 of the Administrative Procedure Act of the *Land* of Brandenburg provides that translation and interpretation costs regarding requests submitted in the Sorbian language in the Sorbian settlement area are to be borne by the local, regional or *Land* authorities concerned.

214. The Committee of Experts considers this undertaking fulfilled.

“c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”

215. In its first evaluation report (see paragraph 454), the Committee of Experts noted that there was no pertinent legislation ensuring compliance with this undertaking, and considered that it did not have sufficient information to conclude that this undertaking was fulfilled. According to the information provided by the *Land* of Brandenburg in the second periodical report, no request within the meaning of this provision has so far been made. The Committee of Experts has not received any information on positive practice or a structured approach with regard to this undertaking. The Committee of Experts is therefore not in a position to conclude that this undertaking is fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

216. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Lower Sorbian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

217. In its first evaluation report (see paragraph 504), the Committee of Experts considered that a commendable effort was made in the public sector, but did not have any information as to the measures of encouragement for the broadcasting of radio programmes in Lower Sorbian by private radio stations.

218. The *Land* Government states in the second periodical report that “this undertaking must be fulfilled essentially by public service broadcasting”, as the *Land* has little scope for both direct intervention and indirect influence as regards private broadcasters. The Committee of Experts observes that a good public radio service in Lower Sorbian continues to be available, but that there are no programmes in Lower Sorbian on private radios.

219. In view of the fact that this undertaking concerns private radio broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

220. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Lower Sorbian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

221. In its first evaluation report (see paragraph 505), the Committee of Experts considered that it had received insufficient information to be able to conclude that the undertaking was fulfilled with regard to private television programmes.

222. The *Land* Government states in the second periodical report that “this undertaking must be fulfilled essentially by public service broadcasting”, as the *Land* has little scope for both direct intervention and indirect influence as regards private broadcasters. Indeed, the information received by the Committee of Experts with regard to television programmes in Lower Sorbian exclusively concerns public service broadcasting. The Committee of Experts understands that there are no programmes in Lower Sorbian on private channels and it was not informed of any measures taken to encourage and/or to facilitate the broadcasting of Lower Sorbian programmes by private broadcasters.

223. In view of the fact that this undertaking concerns private television broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 2

“ In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.”

224. In its first evaluation report (see paragraph 510), the Committee of Experts considered that it had not received sufficient information to be able to conclude that this undertaking was fulfilled.

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225. In their second periodical report, the German authorities provided additional information about a number of cultural activities in the Sorbian languages which took place outside the Sorbian language area.

226. Based on this information, the Committee of Experts considers that this undertaking is fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

227. In its first evaluation report (see paragraph 511), the Committee of Experts observed that the *Land* authorities made provision for Lower Sorbian in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

228. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the Lower Sorbian language seems to have been included in any relevant federal scheme abroad.

229. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aimed at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or monocultural country.

230. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Brandenburg.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

- c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;***

231. In its first evaluation report (see paragraph 513), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that this undertaking was fulfilled.

232. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Lower Sorbian in connection with economic and social activities was brought to the attention of the Committee of Experts by the Lower Sorbian speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

233. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.

234. In its first evaluation report (see paragraph 514), the Committee of Experts considered that it did not have sufficient information to allow it to conclude that this undertaking was fulfilled.

235. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use of regional or minority languages can be facilitated and encouraged with regard to economic and social activities. The measures envisaged should be positive, and not concern only the elimination or discouragement of negative practice. These measures could for example be to facilitate and/or encourage the use of the regional or minority language on buildings, the oral use of the language in public areas, such as in railway stations or airports, use of bilingual brochures in tourism, giving rewards to companies that are actually using the regional or minority language, initiating a campaign of bilingualism etc.

236. The additional information provided by the *Land* authorities in the second periodical report mainly concerns judicial and administrative authorities, dealt with under Articles 9 and 10 of the Charter respectively. The Committee of Experts was not informed of any measures of encouragement within the meaning of this undertaking.

237. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

2.2.4. North Frisian in the North Frisian language area in Land Schleswig-Holstein

Article 8 – Education

238. A special model for teaching in and of North Frisian has been developed by the North Frisian speakers. The Committee of Experts welcomes the fact that the Minister-President of Schleswig-Holstein pledged support to develop solutions along the lines of the model proposed in co-operation with the Frisian Council.

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a *I to make available pre-school education in the relevant regional or minority languages; or*
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or*
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or***
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;”***

239. In its first evaluation report (see paragraph 173), the Committee of Experts noted that the authorities favoured and encouraged the availability of North Frisian in pre-school but that they had not instituted any legal schemes that guaranteed the implementation of this provision. As a result, the Committee of Experts considered this undertaking only partly fulfilled and encouraged the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

240. The Committee of Experts observes that this provision (Article 8, paragraph 1.a.iii) requires the State Party to make available pre-school education, or a substantial part of it, in the relevant regional or minority language at least to those pupils whose families so request. The Committee of Experts wishes to emphasise that the present undertaking should be understood as implying that pre-school education in regional or minority languages should be organised in such a way that it would meet requests by a sufficient number of families for education in North Frisian.

241. The authorities state in the second periodical report that pertinent offers are made even in those places where parents do not request pre-school Frisian instruction. The North Frisian speakers are of the view, however, that the existing pre-school education provision in North Frisian mainly depends on local initiatives by municipalities or churches. This points to the problem that there is no mechanism systematically ensuring the provision of pre-school education in North Frisian in all places where there is a need.

242. The local initiatives are mainly financed by the *Land* Government. However, the Committee of Experts understands that the rules regarding the financing of nursery schools are being revised, with a view to transferring the funding to the local level. The Frisian-speakers expressed their concern with respect to the planned changes. The Committee of Experts urges the Schleswig-Holstein authorities to ensure that these changes do not have a negative impact on the current provision of pre-school education in North Frisian.

243. The German authorities recognise the lack of Frisian-speaking teaching staff as a problem. This issue is dealt with by the Committee of Experts under Article 8, paragraph 1.h (see paragraphs 261-263 below).

244. During the “on-the-spot” visit, the Schleswig-Holstein authorities informed the Committee of Experts that a new law on day-care centres (*Kindertagesstättengesetz*), which would make special provision for North Frisian teaching, is planned. If adopted, this law should make the provision of North Frisian teaching at pre-school level more systematic. However, the authorities stated that a long time-span is needed before this law is finalised and

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adopted. The Committee of Experts would welcome further information concerning developments with regard to this initiative in the next periodical report.

245. At present, the Committee of Experts is obliged to maintain its previous assessment, therefore, and considers this undertaking partly fulfilled.

The Committee of Experts urges the German authorities to make available, systematically and through adequate institutional and financial support, at least a substantial part of pre-school education in North Frisian to those pupils whose families so request.

- “b i to make available primary education in the relevant regional or minority languages; or***
- ii to make available a substantial part of primary education in the relevant regional or minority languages; or***
- iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or***
- iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”***

246. In its first evaluation report (see paragraph 174), the Committee of Experts noted that North Frisian was taught in some primary schools, mainly as a voluntary subject and as a second foreign language. The Committee of Experts asserted its impression that the teaching of Frisian was not an integral part of the curriculum. Consequently, it considered that this undertaking could not be considered as fulfilled and encouraged the authorities to make the teaching of North Frisian an integral part of the curriculum at least for those pupils whose families so wish.

247. The Committee of Experts stresses that this undertaking does not require North Frisian to be made a compulsory subject, but that it must at least be made available as an optional subject in the normal curriculum (*Wahlpflichtfach*). A mere offer to receive education in North Frisian in addition to regular school hours is not sufficient to meet the requirements of this paragraph.

248. During the “on-the-spot” visit, the representative of North Frisian speakers stated that provision of North Frisian teaching at primary schools was still patchy but there had been improvements. At present, the decision to offer North Frisian lies with the head teachers, although parents have an influence on the offer of Frisian courses through the school boards, despite the lack of a legal entitlement.

249. According to the information provided in the second periodical report, a total number of 1 473 pupils had North Frisian instruction at 25 schools of all types in the 2002/03 school year. However, the Committee of Experts understands that with the exception of the Risum Skole/Risem Schölj, where North-Frisian-medium education takes place, teaching of North Frisian in primary education is generally limited to one to two hours per week, often only in the 3rd and 4th school years. The Committee of Experts particularly wishes to stress the importance of offering North Frisian from the 1st school year onwards to those pupils whose families so request, in order to ensure the continuity from pre-school education.

250. While acknowledging the improvements made in the field of primary school education in North Frisian, the Committee of Experts considers this undertaking only partly fulfilled.

The Committee of Experts encourages the German authorities to make available North Frisian teaching at least as an optional subject in the normal curriculum.

- “c i to make available secondary education in the relevant regional or minority languages; or***
- ii to make available a substantial part of secondary education in the relevant regional or minority languages; or***

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- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;"

251. In its first evaluation report (see paragraph 175), the Committee of Experts concluded that this undertaking was not fulfilled. It observed, notably, that the secondary technical schools (*Realschulen*) in the North Frisian language area did not offer any Frisian instruction at all and that the grammar schools (*Gymnasien*) provided Frisian instruction only in their upper grades. The Committee of Experts also noted that there were no regulations ensuring that education in or of North Frisian would be available to those families who so wished. Therefore, it encouraged the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

252. The Committee of Experts observes that the implementation of this undertaking requires at least provision for the teaching of North Frisian as an integral part of the curriculum to those pupils who so wish in a number considered sufficient.

253. According to the information provided in the second periodical report, North Frisian is offered as a subject at a number of *Realschulen*, *Gymnasien*, and secondary modern schools. It is also a mandatory subject at the *Risum Skole/Risem Schölj*.

254. According to the North Frisian speakers, the situation concerning secondary schools is not satisfactory. They have informed the Committee of Experts that in the secondary schools where it is offered, North Frisian is an additional subject (*Zusatzfach*), generally offered outside the core curriculum and with very limited weight in the assessment of the general school performance. Consequently, there is little incentive for pupils to avail themselves of this possibility.

255. The Schleswig-Holstein authorities informed the Committee of Experts during the "on-the-spot" visit that there is a plan to make North Frisian a *Wahlgrundkurs* (an optional core subject) and to give it the same status as other optional languages, such as Danish. The Committee of Experts is pleased to note this initiative, which it considers as being a possible way of ensuring that this undertaking is fulfilled, and would welcome further information about it in the next periodical report.

256. In the meantime, in the Committee of Experts' view, with the exception of the *Risum Skole*, the existing provision for the teaching of North Frisian cannot be considered as being an integral part of the curriculum. It considers therefore that this undertaking is only partly fulfilled at present.

The Committee of Experts encourages the German authorities to pursue their efforts to make North Frisian an optional core subject (Wahlgrundkurs) within secondary education.

- "e ii to provide facilities for the study of these languages as university and higher education subjects;"

257. In its first evaluation report (see paragraphs 176-177), the Committee of Experts considered this undertaking fulfilled at the moment of the report, but pointed to the risk of loss of the existing facilities. It therefore encouraged the authorities to ensure that sufficient university-level study of Frisian was preserved.

258. The Committee of Experts is pleased to note that the problem regarding the teaching posts at the universities has been solved with the support of the Schleswig-Holstein Government. It continues to be possible to study North Frisian at undergraduate and postgraduate levels. The Committee of Experts has also been informed that the Minority Commission of the *Land* Parliament asked for the reinforcement of the existing co-operation between the Universities of Kiel and Flensburg and the North Frisian Institute. The Committee understands, however, that a general reform of the university education system is in progress and that there are concerns that this reform could have a negative impact on the study of North Frisian at university level. During

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the “on-the-spot” visit, the representatives of the *Land* Government affirmed that it is a priority for the authorities to prevent such negative repercussions for the North Frisian language in this context.

259. The Committee of Experts considers that this undertaking continues to be fulfilled. Nevertheless, it urges the German authorities to ensure that an adequate provision with respect to this undertaking is maintained.

“h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”

260. In its first evaluation report (see paragraph 180), the Committee of Experts observed that there was a lack of qualified teachers at all levels of education, especially at pre-school and primary school levels, despite steps taken by the authorities. It concluded therefore that this undertaking was only partly fulfilled and encouraged the authorities to ensure that appropriate facilities for teacher training were in place to meet the needs for education in North Frisian.

Pre-school education:

261. Acknowledging the lack of Frisian-speaking nursery school teachers, the *Land* Government affirmed in the second periodical report that the providing bodies concerned were striving to include such persons during the recruitment process. In addition, a working panel of nursery school teachers has been set up.

262. The Committee of Experts observes that the lack of qualified nursery school teachers renders the quality and quantity of North Frisian pre-school education highly variable. According to the information available to the Committee of Experts, there is no systematic basic and further training for nursery school teachers.

263. In reaction to this situation, the Frisian-speakers initiated a project in 2001, in the framework of which nursery school teachers receive multilingual teacher training in a vocational school. However, there are concerns about the continuation of financial support for this project, which is funded by the Frisian associations from the general federal financial support. This project has no legal or institutional basis, and the qualification is not recognised by the authorities.

Primary and secondary education:

264. According to the information provided in the second periodical report, the *Land* Government provided the legal framework for the professional and further training of teachers. According to the *Land* Government, the existing teaching staff shortage is linked to the demographic structure and problems caused by the existence of several dialects of North Frisian. In particular, the authorities have drawn the attention of the Committee of Experts to the fact that the Institute for Quality Development at Schools, which is responsible for the second and third stages of teacher training, set up a training group for Frisian at the *Regionalseminar Nord* (Northern Region Teacher Training College).

265. The Committee of Experts is pleased to note that it continues to be possible to study North Frisian at university level and to receive further training in North Frisian at the Institute for Quality Development at Schools. Difficulties have been reported to the Committee of Experts regarding the appointment of teacher candidates for the second stage of their training, as it is not always possible to appoint them to schools in areas where North-Frisian-speaking teachers are needed. However, the *Land* Government helped on an informal basis, for example, to ensure the appointment of a teacher candidate to the island of Sylt.

266. While acknowledging the efforts of the German authorities with respect to this undertaking, in view of the continued shortage of North Frisian-speaking teachers at all levels of education, the Committee of Experts considers that this undertaking is still only partly fulfilled. The Committee of Experts encourages the authorities to create incentives for students in teacher training to opt for North Frisian and to create mechanisms which secure their assignment in areas where there is a need for their skills.

The Committee of Experts encourages the German authorities to ensure that appropriate facilities for teacher training are in place to meet the needs for education in North Frisian and to provide incentives aimed at increasing the number of North Frisian teachers at all levels of education.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

267. In its first evaluation report (see paragraph 181), the Committee of Experts observed that there was no body specifically responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of North Frisian and that no relevant periodic reports were made public. The Committee of Experts considered therefore that this undertaking was not fulfilled and encouraged the authorities to improve and better co-ordinate the supervision of the measures taken and progress achieved in the field of teaching and to take the necessary steps to provide for the drafting and publication of periodic reports.

268. According to the Government of the *Land* of Schleswig-Holstein, the supervision in accordance with this undertaking is ensured through the school supervision carried out by the Ministry of Education, which has a section responsible for classroom promotion of North Frisian at schools of all types, expert supervision and the respective supervisory school authorities of *Kreise* and *kreisfreie Städte*. The *Land* Government has also pointed to the Report on Minorities which they submit to the Schleswig-Holstein *Land* Parliament once per legislative period and which is made public. This report contains limited information about North Frisian education.

269. The Committee of Experts considers that the frequency and the contents of this report do not correspond to the requirements of this undertaking. During the “on-the-spot” visit, the authorities of Schleswig-Holstein informed the Committee of Experts that they are considering appointing a staff member of the North Frisian Institute to monitor and report on the relevant developments. The Committee of Experts thinks that this could be a possible solution for the implementation of this undertaking, and would welcome further information about developments in this respect in the next periodical report.

270. The Committee of Experts considers that this undertaking is not fulfilled at present and encourages the envisaged moves towards drawing up periodic reports and making them public.

Paragraph 2

“ With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.”

271. In its first evaluation report (see paragraph 182), the Committee of Experts noted that North Frisian was taught at university level outside the traditional area of its use, but it had received no information indicating that it was taught at other levels of education outside this area. It concluded therefore that this undertaking was partly fulfilled.

272. In their second periodical report, the German authorities state that North Frisian teaching takes place at Klaus-Groth-Schule in Husum, which is a *Hauptschule* in Nordfriesland outside the traditional language area.

273. The Committee of Experts considers this undertaking partly fulfilled, and encourages the competent authorities to look into the possibility of offering education in North Frisian in other areas where a sufficient number of North Frisian speakers live, such as Kiel.

Article 10 – Administrative authorities and public services

274. In November 2004, the Schleswig-Holstein *Land* Parliament adopted a new law for the promotion of the North Frisian language in public life (the Frisian Law). This Law contains provisions concerning, *inter alia*, the use of North Frisian in relations with administrative authorities, the employment of Frisian-speaking civil servants, the use of bilingual signposts in public buildings, bilingual stamps and letterheads, and bilingual place names.

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275. The Committee of Experts commends the authorities of Schleswig-Holstein for the adoption of the Frisian Law, which in its view will contribute to the fulfilment of Germany's undertakings under the Charter with respect to the North Frisian language. It looks forward to receiving further information about its implementation in the next periodical report.

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

276. In its first evaluation report (see paragraphs 195-196), the Committee of Experts concluded that this undertaking was only formally fulfilled. The Committee of Experts observed in particular that despite the fact that Schleswig-Holstein legislation provided for a general possibility to submit documents in a “foreign language”, the use of North Frisian in administration was virtually non-existent. It also noted that the administrative authorities had full discretion as to who would bear the costs of translation. Accordingly, the Committee of Experts expressed its view that efforts should be made to encourage users of North Frisian to use their language before administrative authorities.

277. According to the Schleswig-Holstein authorities, the scant use made of the possibility to submit documents in North Frisian is due to the extremely small number of such documents. The *Land* Government also pointed to the information brochure “*Sprache ist Vielfalt*”, which was distributed to all *Land* authorities and local authorities, as well as the organisations of the North Frisian speakers. During the “on-the-spot” visit, the *Land* authorities informed the Committee of Experts that North Frisian is not used in official documents, but that communication with the administration in North Frisian takes place on a more informal level. For example, the Commissioner of the Minister-President for Minority Affairs regularly receives e-mails in North Frisian, which are answered in the same language.

278. Section 1 of the new Frisian Law provides that citizens can address administrative authorities in the Nordfriesland *Kreis* and on the Island of Heligoland in Frisian, as well as submit documents in this language. The authorities can also prepare bilingual forms and make bilingual announcements. The Law also allows the local authorities of Nordfriesland and Heligoland, as well as the *Land* authorities, to take account of applicants' knowledge of the North Frisian language for public service employment. With a view to the specific construction of Section 1, paragraph 2 of the Frisian Law referring explicitly to paragraph 82.a of the *Landesverwaltungsgesetz*, which in practice makes the submission of documents in North Frisian dependent upon the availability of Frisian-speaking administrative staff, it is all the more important to ensure that all relevant administrative authorities in the Frisian-speaking area have the capacity to deal with documents submitted in North Frisian. The Committee of Experts would welcome further information about the practical implementation of this new law in the next periodical report.

279. The Committee of Experts welcomes the efforts made by the Schleswig-Holstein authorities and hopes that this new legal arrangement will secure the fulfilment of this undertaking in the future.

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

- g the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.”**

280. Pursuant to Article 3, paragraph 2 of the Charter, Germany accepted this additional undertaking with respect to the North Frisian language in the *Land* of Schleswig-Holstein, by a second declaration registered at the Secretariat General of the Council of Europe on 21 March 2003.

281. According to the information provided in the second periodical report, the legal basis for the use of bilingual place name signs is provided by a Decree of the Schleswig-Holstein *Land* Ministry of Economics, Labour and Transport of 20 August 1997. Municipalities in the Nordfriesland *Kreis* can submit applications to this effect, and ten local authorities had done so by 31 December 2002.

282. The representative of the North Frisian speakers informed the Committee of Experts during the “on-the-spot” visit that the municipalities’ attitude towards bilingual signs has been improving, and that the number of bilingual signs is on the increase.

283. The Committee of Experts is also aware that Section 6 of the Frisian Law provides that the use of bilingual signs in the Nordfriesland *Kreis* should be promoted by the *Land* authorities and hopes that this Law will lead to a more systematic use of bilingual place-name signs.

284. The Committee of Experts considers this undertaking fulfilled.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

- c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”**

285. In its first evaluation report (see paragraphs 187-188), while acknowledging the positive approach of the authorities, the Committee of Experts stated that it had not received any information on positive practice or a structural approach with regard to this undertaking, which did not make it possible to conclude that this undertaking was fulfilled.

286. In the second periodical report, the German authorities provide the information that the Schleswig-Holstein *Landtag* unanimously adopted a resolution urging the *Land* Government and local authorities to ensure that skills in regional or minority languages be considered a positive element for the employment of civil servants for fields of activity where these skills would be relevant. The *Land* Government supported this initiative. The Committee of Experts has also been made aware of examples of applicants’ skills in North Frisian being taken into account by employers in the public sector.

287. Section 2 of the Frisian Law provides that the local authorities of Nordfriesland and Heligoland, as well as the *Land* authorities, take account of applicants’ knowledge of the North Frisian language for public service employment, when North Frisian skills are relevant for the position concerned.

288. The Committee of Experts considers this undertaking fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

289. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in North Frisian in the private sector. Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or private broadcasting regulations making specific provision for regional or minority languages, could be envisaged in this context.

290. In its first evaluation report (see paragraphs 190-192), the Committee of Experts considered that this undertaking was not yet fulfilled, as very little broadcasting time was available in North Frisian and the existing offer could not be considered as regular. The Committee of Experts noted that the authorities were conscious of the situation and that they intended to facilitate broadcasting in North Frisian.

291. According to the information provided in the second periodical report, the Minister-President of Schleswig-Holstein addressed letters to public and private broadcasting companies and the print media in 1999 and 2003, encouraging them to explore further avenues “for integrating contributions in the minority languages and in the regional language Low German into their programmes as a service for the citizens and in support of this element of the culture of Schleswig-Holstein”. While recognising the symbolic value of this gesture, the Committee of Experts considers that this measure is not effective enough to be considered as encouragement and/or facilitation within the meaning of this undertaking.

292. The Committee of Experts understands that the broadcasting of a monthly 30-minute programme of Radio Friislon on *Offener Kanal Westküste*, which it took into account during the first monitoring cycle, came to an end in 2000. R.SH, a private broadcaster, broadcasts programmes in North Frisian, but at irregular intervals. According to the information available to the Committee of Experts, the only existing regular radio programme in North Frisian is “Frasch von enarken”, a three minute programme broadcast by NDR 1 Welle Nord every Wednesday. This, however, is a public service provision, which is covered under Article 11, paragraph a.iii of the Charter.

293. The Committee of Experts has been informed that ULR (*Unabhängige Landesanstalt für das Rundfunkwesen*), an independent body supervising private broadcasters, provides funds for a project to develop the capacity of the North Frisian speakers to create their own radio programmes. To this end, a contract was signed with a private media office in 2002. The programmes are planned to be aired on *Offener Kanal Flensburg und Westküste*. While welcoming this development as a means of creating a reservoir of radio programmes in North Frisian, it stresses that the present sub-paragraph requires the broadcasting of radio programmes in North Frisian on a regular basis. The Committee of Experts has received no evidence as to how such regular programming is to be achieved. The Committee of Experts was also informed that this *Offener Kanal* cannot be received in most of the North Frisian language area.

294. The Committee of Experts is not aware of any regular programme in North Frisian. It considers therefore that this undertaking is not fulfilled at present.

The Committee of Experts encourages the German authorities to take measures to encourage and/or facilitate the broadcasting of radio programmes in North Frisian on a regular basis.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

295. In its first evaluation report (see paragraph 193), the Committee of Experts observed that there were no television programmes in North Frisian on a regular basis and considered that this undertaking was not fulfilled. It encouraged the authorities to take measures in order to facilitate the broadcasting of television programmes in North Frisian.

296. The Committee of Experts is pleased to note that the Minister-President of Schleswig-Holstein addressed a letter to the directors and managers of public and private broadcasters, informing them of the Committee of Experts' findings and encouraging them to support the presence of regional or minority languages in their broadcasts. While recognising the symbolic value of this gesture, the Committee of Experts considers that this measure is not effective enough to be considered as encouragement and/or facilitation within the meaning of this undertaking.

297. The Committee of Experts has been informed that the *Offener Kanal Flensburg* broadcasts documentaries in North Frisian, produced by the Association for a North Frisian Radio Station (*ferian för en nuurdfresk radio – ffnr*). These broadcasts take place on an irregular basis, however, and are only available through cable in the North Frisian language area.

298. In the light of this information, the Committee of Experts maintains its previous conclusion that this undertaking is not fulfilled.

The Committee of Experts urges the German authorities to take measures to encourage and/or facilitate the broadcasting of television programmes in North Frisian on a regular basis.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

299. In its first evaluation report (see paragraph 194), the Committee of Experts noted that three radio-broadcasting projects had received support from the general support schemes of the *Land of Schleswig-Holstein*, which are not specifically directed toward productions in North Frisian. It considered this undertaking partly fulfilled and encouraged the authorities to take measures to facilitate the production and distribution of audio-visual works in North Frisian.

300. According to the new information submitted in the second periodical report, a studio was set up in 2001, with project funds provided by the Federation and under the sponsorship of the *Nordfriisk Instituut*, for the production of video films in North Frisian. This project was concluded in 2002.

301. Since summer 2002, documentaries in North Frisian are produced every two months by *Medienbüro Riecken*, in the framework of a project of the Association for a North Frisian Radio Station (*ferian för en nuurdfresk radio – ffnr*). This project is sponsored by the Frisian Council, through funds made available by the Federal Commissioner for Cultural and Media Affairs. Short versions of these films are available on the web site of *ffnr*, and full length versions are broadcast by *Offener Kanal Flensburg*.

302. The Committee of Experts considers this undertaking fulfilled, and encourages the authorities to maintain the existing support.

“e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”

303. In its first evaluation report (see paragraph 195), the Committee of Experts observed that there were a number of newspapers and periodicals which included articles in North Frisian either on a monthly basis or at irregular intervals. It was not aware, however, of the way in which the German authorities were encouraging or facilitating the publication of such articles and consequently could not conclude that this undertaking was fulfilled.

304. Except for the letters addressed by the Minister-President of Schleswig-Holstein, *inter alia*, to the Schleswig-Holstein Association of Newspaper Publishers in 1999 and 2003, the Committee of Experts has not been informed of any concrete measures taken to encourage and/or to facilitate the publication of newspaper articles in North Frisian on a regular basis. The existing publication of newspaper articles is either irregular or monthly, which does not allow for reporting on current events.

305. The Committee of Experts considers this undertaking not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

306. In its first evaluation report (see paragraph 195), the Committee of Experts considered this undertaking formally fulfilled. It asked for examples of cases where financial assistance has been provided to works in North Frisian in the framework of existing financial assistance measures, as provided for under *Land* law.

307. In their second periodical report, the German authorities state that these measures have not been applied to any audiovisual production in North Frisian since 2000. The Committee of Experts has received no evidence that the existing measures of financial assistance, in particular through the Corporation for the Funding of Audiovisual Work in Schleswig-Holstein (*MSH*), are designed in such a way that programmes in North Frisian could qualify for them in practice.

308. The Committee of Experts considers that this undertaking is still only formally fulfilled at present.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

“e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;”

309. In its first evaluation report (see paragraphs 202-204), the Committee of Experts considered this undertaking partly fulfilled, as it had no evidence that bodies, other than North Frisian cultural organisations, had North-Frisian-speaking staff at their disposal. The German authorities do not comment on this issue in the second periodical report. Therefore, the Committee of Experts is not in a position to revise its previous conclusion that this undertaking is only partly fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

310. In its first evaluation report (see paragraph 209), the Committee of Experts observed that the *Land* authorities made provision for North Frisian in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

311. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the North Frisian language seems to have been included in any relevant federal scheme abroad.

312. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

313. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Schleswig-Holstein.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

314. In its first evaluation report (see paragraph 168), the Committee of Experts concluded that it had received no information which enabled it to judge whether or not this obligation was fulfilled.

315. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of North Frisian in connection with economic and social activities was brought to the attention of the Committee of Experts by the North Frisian speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

316. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

Article 14 – Transfrontier exchanges

“ The Parties undertake:

a to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;”

317. In the first evaluation report (see paragraph 214), the Committee of Experts noted that no bilateral or international agreements existed for North Frisian. It had not been informed of any initiatives to conclude such agreements. The Committee of Experts concluded therefore that this undertaking was not fulfilled. It noted that the existing co-operation within the Inter-Frisian Council would correspond to Article 14.b of the Charter rather than the present provision.

318. The second periodical report states that there are ongoing talks with a view to the conclusion of a cultural agreement between Schleswig-Holstein and the Netherlands. These negotiations are still in their initial stages, however, and their eventual outcome is open.

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North Frisian

319. In the light of the new information provided to the Committee of Experts on the ongoing negotiations with the Netherlands, the Committee of Experts concludes that the undertaking is fulfilled.

Part III
Sater Frisian

2.2.5. *Sater Frisian in the Sater Frisian speech area in Lower Saxony*

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a***
 - i* to make available pre-school education in the relevant regional or minority languages; or
 - ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
 - iii* to apply one of the measures provided for under *i* and *ii* above at least to those pupils whose families so request and whose number is considered sufficient; or
 - iv*** ***if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under *i* to *iii* above;”***

320. In its first evaluation report (see paragraph 215), the Committee of Experts observed that in the five nursery schools in the Saterland municipality, children were spoken to in Sater Frisian one hour per week, if the parents so wished. However, Sater Frisian activities were usually conducted by voluntary helpers. Having regard to the endangered position of the Sater Frisian language, the Committee of Experts saw an urgent need for positive action to institutionalise Sater Frisian activities as a regular part of pre-school provision. Thus, it did not consider this undertaking fulfilled and encouraged the establishment of a legal framework and the allocation of adequate resources to secure the implementation of this undertaking.

321. In the second periodical report, the authorities of Lower Saxony refer to the various cultural activities organised in Saterland, as well as further education activities for specialised staff and voluntary helpers. They also mention a certificate given to nursery-school children as an incentive to continue participation in Sater Frisian activities.

322. The Committee of Experts observes that Sater Frisian at pre-school level continues to be taught by voluntary helpers. Because of the lack of voluntary help, teaching at this level is still limited to one hour per week, aiming only at getting the children acquainted with the language. In the opinion of the Committee of Experts, the existing pre-school provision in Sater Frisian does not correspond to a substantial part of pre-school education, as required by the present undertaking. The Sater Frisian speakers state that they do not have the resources required to undertake more structural activities, such as the Witaj-project for the Sorbian speakers, despite the wish among the speakers to intensify the existing provision. The situation with respect to the continued existence of the Sater Frisian language is all the more worrying in view of the fact that Germany did not undertake to apply any of the Part III provisions with regard to primary and secondary education.

323. The Committee of Experts considers that this undertaking is not fulfilled,

The Committee of Experts urges the German authorities to encourage, through adequate institutional and financial support, the provision of at least a substantial part of pre-school education in Sater Frisian to those pupils whose families so request.

“e ii to provide facilities for the study of these languages as university and higher education subjects;”

324. In its first evaluation report (see paragraph 216), while acknowledging the existence of some research being conducted into the Sater Frisian language, the Committee of Experts noted that there was no possibility to study Sater Frisian as a university subject. It therefore concluded that this undertaking was not fulfilled and encouraged the authorities to ensure that research into Sater Frisian was carried out and that strategies for its preservation were developed, including facilities to study the language.

325. The *Land* authorities state in the second periodical report that they consider this undertaking fulfilled since no restrictions were applied and universities were allowed to offer facilities for the study of Sater Frisian. However, the freedom for universities to offer such facilities is already covered by the basic principle of non-discrimination contained in Article 7, paragraph 2 of the Charter. The present undertaking requires States Parties to provide the necessary facilities for the study of a regional or minority language and cannot be fulfilled by merely not prohibiting the provision of these facilities.

326. The Committee of Experts observes that currently there are no facilities for the study of Sater Frisian as a university or higher education subject. Moreover, the possibilities for research into Sater Frisian, which were taken into account by the Committee of Experts in the first monitoring round, have been drastically reduced, as the research post at Oldenburg University has been abolished upon the retirement of the holder of the post.

327. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts urges the authorities to take the necessary steps to respect this obligation, bearing in mind in particular the key role of university education for the training of teachers, and thus for the future of the Sater Frisian language.

“f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;”

328. Having regard to the courses offered by the Saterland Catholic Educational Association, the Committee of Experts considered this undertaking fulfilled in its first evaluation report (see paragraph 217).

329. The Committee of Experts was informed during its second “on-the-spot” visit that these courses could not be offered in 2003/2004, but that there were plans to reintroduce them. The *Land* authorities stated during the second “on-the-spot” visit that adult education might be discontinued altogether, due to budget cuts.

330. Having regard to these developments, the Committee of Experts revises its previous conclusion, and considers that this undertaking is not fulfilled at present.

“g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;”

331. In its first evaluation report (see paragraph 218), the Committee of Experts considered that it had not received sufficient information about a structured approach to this undertaking and could therefore not conclude that this undertaking was fulfilled.

332. In the second periodical report, the authorities of Lower Saxony stated that a “Sater Frisian Working Panel” had been set up with the objectives of, *inter alia*, creating awareness of the cultural value of the Sater Frisian language and documenting the history and the culture of Saterland. Some teaching materials had been developed, and educational materials for the teaching of the “history, culture and language of the Saterland” were being prepared.

333. The Committee of Experts welcomes these developments. However, it understands that the teaching of the history and the culture which is reflected by the Sater Frisian language is not an integral part of the mainstream school curriculum in the Sater Frisian language area, and it is up to the teachers concerned to

include it in their teaching. In the view of the Committee of Experts a more structured approach to the teaching of the history and culture reflected by the Sater Frisian language is needed, especially considering that the general public is often not aware of the Sater Frisian language and the cultural wealth it represents.

334. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

335. In its first evaluation report (see paragraph 219), the Committee of Experts observed that there was neither a supervisory body specifically responsible for Sater Frisian within the meaning of this undertaking, nor public periodic reports describing the state of affairs regarding Sater Frisian teaching. The Committee of Experts therefore considered that this undertaking was not fulfilled, and encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in the Sater Frisian language and to draw up periodic reports.

336. In their second periodical report, the German authorities provide the information that a Specialist Adviser for Sater Frisian in Classroom Instruction was appointed to serve with the government of the district (*Bezirk*) of Weser-Ems. The Authorities state that the Specialist adviser is also responsible for monitoring the measures aimed at further developing the teaching of Sater Frisian and that the district government regularly reports to the Lower Saxony Ministry of Education and Cultural Affairs. However, the Committee of Experts has not been informed of the publication of any periodic reports based on this monitoring.

337. The Committee of Experts considers that this undertaking is not fulfilled.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

338. In its first evaluation report (see paragraph 222), the Committee of Experts observed that no use had been made of the existing possibility to use Sater Frisian when dealing with administrative authorities. Emphasising that decided efforts should be made in order to create the conditions encouraging Sater Frisian speakers to use their language before administrative authorities, the Committee of Experts considered this undertaking only formally fulfilled.

339. The authorities of Lower Saxony state in the second periodical report that the possibility of issuing directives or formal guidance to administrative authorities and public services, with a view to encouraging the speakers to use Sater Frisian, will be examined. The Committee of Experts hopes that such positive measures will be taken in order to secure the implementation of this undertaking in practice.

340. Considering that the second periodical report only contains information concerning the municipality of Saterland, which is covered by paragraph 2 of this Article, and due to the lack of information regarding the State administration competent for Saterland, the Committee of Experts is not in a position to conclude that this undertaking is fulfilled.

“c to allow the administrative authorities to draft documents in a regional or minority language.”

341. In its first evaluation report (see paragraph 223), the Committee of Experts observed that no use had been made of the possibility for the administrative authorities to draft documents in Sater Frisian. It referred to a lack of clear legal rules and concluded that this undertaking was only formally fulfilled.

342. The authorities of Lower Saxony referred to their comments under the previous undertaking, stating that the possibility of issuing directives or formal guidance to administrative authorities and public services would be examined. The Committee of Experts considers that such positive measures are needed in order to make the administrative authorities aware of the possibility of drafting documents in Sater Frisian.

343. Considering that the second periodical report only contains information concerning the municipality of Saterland, which is covered by paragraph 2 of this Article, and due to the lack of information regarding the State administration competent for Saterland, the Committee of Experts is not in a position to conclude that this undertaking is fulfilled.

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

“b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

344. In its first evaluation report (see paragraph 225), the Committee of Experts considered this undertaking formally fulfilled, as no use had been made of the possibility to submit applications to the Saterland municipality.

345. The authorities of Lower Saxony stated in the second periodical report that the possibility of issuing directives or formal guidance to administrative authorities and public services, with a view to encouraging the speakers to use Sater Frisian, would be examined. The Committee of Experts hopes that such positive measures will be taken in order to secure the implementation of this undertaking in practice.

346. The Committee of Experts considers this undertaking only formally fulfilled at present.

“c the publication by regional authorities of their official documents also in the relevant regional or minority languages;”

347. In its first evaluation report (see paragraph 226), the Committee of Experts noted that the Saterland municipality represented the local government level. Having received no information regarding the regional authorities, the Committee of Experts could not conclude that this undertaking was fulfilled. In their second periodical report, the German authorities did not provide additional information in this respect. The Committee of Experts understands that no publications within the meaning of this undertaking are made at the regional administrative level and considers, therefore, that this undertaking is not fulfilled.

“d the publication by local authorities of their official documents also in the relevant regional or minority languages;”

348. In its first evaluation report (see paragraph 227), taking into consideration that preparations were underway with regard to official bilingual communications, the Committee of Experts considered this undertaking fulfilled. However, no new information was provided in the second periodical report as to whether these preparations lead to practical results. Therefore, the Committee of Experts considers that it is not in a position to conclude whether this undertaking is or is not fulfilled and requests the German authorities to provide the necessary information in their next periodical report.

“e the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;”

349. In its first evaluation report (see paragraph 228), the Committee of Experts noted that the Saterland municipality represented the local government level. Having received no information regarding the regional authorities, the Committee of Experts could not conclude that this undertaking was fulfilled. In their second periodical report, the German authorities did not provide any additional information in this respect. The Committee of Experts understands that Sater Frisian is not used in the assemblies of regional authorities and considers, therefore, that this undertaking is not fulfilled.

“f the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;”

350. In its first evaluation report (see paragraph 229), the Committee of Experts considered this undertaking only formally fulfilled, as no local council members made use of the formal possibility to use Sater Frisian in assemblies.

351. According to the information provided in the second periodical report, still no use is being made of this possibility, as only 20% of the local council members in the Saterland municipality have a command of Sater Frisian. Although the use of Sater Frisian in local assemblies is, according to the information received, within the competence of the local authorities, the Committee of Experts considers that the central authorities, i.e. the *Land* authorities or the federal authorities, still have the obligation to encourage the use of Sater Frisian in the concerned assemblies (see the first evaluation report in respect of Finland, ECRML (2001) 3, paragraph 164), for example by providing the additional funds required for interpretation. The Committee has not received information on the existence of any measures of encouragement in this respect.

352. The Committee of Experts considers this undertaking only formally fulfilled.

“g the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.”

353. Pursuant to Article 3, paragraph 2 of the Charter, Germany accepted this additional undertaking with respect to the Sater Frisian language in the *Land* of Lower Saxony, by a second declaration registered at the Secretariat General of the Council of Europe on 21 March 2003.

354. The second periodical report confines itself to stating that “adequate signposting was provided”. According to the information provided by the Sater Frisian speakers during the “on-the-spot” visit, the Saterland municipality provided the funds necessary for bilingual signs, which will soon be put up.

355. The Committee of Experts considers this undertaking partly fulfilled at present and would welcome information about the completion of this work.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

“c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”

356. In its first evaluation report (see paragraph 231), the Committee of Experts considered that it was not in a position to conclude that this undertaking was fulfilled. While it noted that there were Sater-Frisian-speaking employees in local administration, it had not been informed of any deployment policy adopted regarding this undertaking.

357. The second periodical report states that the *Land* is not aware of any concrete deployment policies, but that it will examine the possibility of issuing directives or formal guidance, with a view to ensuring complete fulfilment of this undertaking. The Committee of Experts hopes that such positive measures will be taken in order to secure the implementation of this undertaking in practice.

358. The Committee of Experts considers that this undertaking is not fulfilled at present.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

359. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Sater Frisian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

360. In its first evaluation report (see paragraph 233), the Committee of Experts noted that despite the fact that the Broadcasting Act of Lower Saxony made provision for cultural diversity and regional languages, there were no private radio programmes in Sater Frisian on a regular basis. Considering that this provision requires practical results, the Committee of Experts concluded that this undertaking was only formally fulfilled. It encouraged the authorities to consider measures aimed at encouraging and/or facilitating the broadcasting of radio programmes in Sater Frisian on a regular basis.

361. In the second periodical report, the authorities of Lower Saxony argue that one must acknowledge that private broadcasters depend on the audience’s response and that therefore it must ultimately be up to these broadcasters to decide on the extent to which they will include local special features such as the Sater Frisian language. The Committee of Experts emphasises that it is precisely because of their relative economic and political weakness that regional or minority languages tend to be absent from the media, unless this disadvantage is redressed by positive measures. This undertaking requires the State Party to take such positive measures with respect to private radio broadcasters.

362. Nevertheless, the Committee of Experts was informed by representatives of the Sater Frisian speakers and the *Land* authorities during the second “on-the-spot” visit that a project was started after the drafting of the second periodical report with a view to broadcasting radio programmes in Sater Frisian on the private radio station Ems-Vechte-Welle. The Committee of Experts welcomes this project, in the framework of which Ems-Vechte-Welle and the association Seelter Buund are co-operating with the financial support of the supervisory authority for private broadcasters of Lower Saxony (*Niedersächsische Landesmedienanstalt*). According to the information provided by the *Land* authorities, the *Land* contributed €25 000 to this project.

363. While considering this undertaking fulfilled, the Committee of Experts would welcome further information about the abovementioned co-operation project in the next periodical report.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

364. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Sater Frisian in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

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365. In its first evaluation report (see paragraph 233), the Committee of Experts noted that despite the fact that the Broadcasting Act of Lower Saxony made provision for cultural diversity and regional languages, there were no private television programmes in Sater Frisian on a regular basis. Considering that this provision should lead to practical results over a longer period of time, the Committee of Experts concluded that this undertaking was only formally fulfilled. It encouraged the authorities to consider measures aimed at encouraging and/or facilitating the broadcasting of television programmes in Sater Frisian on a regular basis.

366. In the second periodical report, the authorities of Lower Saxony affirm that one must acknowledge that private broadcasters depend on the audience's response and that therefore it must ultimately be up to these broadcasters to decide on the extent to which they will include local special features such as the Sater Frisian language. The Committee of Experts emphasises that it is precisely because of their relative economic and political weakness that regional or minority languages tend to be absent from the media, unless this disadvantage is redressed by positive measures. This undertaking requires the State Party to take such positive measures with respect to private television broadcasters.

367. The Committee of Experts considers that the statutory provision taken into account in its first evaluation report is in fact too vague to have any practical consequences, if it is not followed by concrete positive measures. Since no such measures have been taken, the Committee of Experts revises its previous conclusion and considers that this undertaking is not fulfilled.

The Committee of Experts encourages the German authorities to adopt positive measures aimed at encouraging and/or facilitating the broadcasting of television programmes in Sater Frisian on a regular basis.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

368. In its first evaluation report (see paragraph 235), while acknowledging the general support schemes for audio and audiovisual works of the *Land* of Lower Saxony, the Committee of Experts had not been informed of any audio or audiovisual works in Sater Frisian which had received support through these general schemes. Consequently, it considered this undertaking formally fulfilled and requested examples of cases where financial assistance had been provided for works in Sater Frisian.

369. The Committee of Experts observes that to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from the general promotion measures, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Sater Frisian). Consequently, this provision necessitates pro-active measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc. The Committee of Experts is however not aware of any specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Sater Frisian.

370. In the light of these considerations, the Committee of Experts revises its previous assessment and considers this undertaking not fulfilled.

“e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”

371. In its first evaluation report (see paragraph 236), the Committee of Experts observed that some newspapers published articles in Sater Frisian. It had not been informed, however, about the way in which the authorities were encouraging or facilitating the publication of newspaper articles in Sater Frisian on a regular basis, and considered that it was not in a position to conclude that this undertaking was fulfilled.

372. While stating that the *Land* authorities will continue to encourage newspapers to publish such articles, the second periodical report does not comment on what form this encouragement takes. The authorities also refer to the constitutional guarantee of the freedom of the press, and affirm that decisions to publish articles in Sater Frisian are made autonomously by the publishing companies with due regard to their readers' response.

373. Although the Charter does not specify what form the measures of encouragement and/or facilitation stipulated by this undertaking should take, the Committee of Experts observes that they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or aid for the distribution of newspapers containing articles in Sater Frisian, could be envisaged in this context.

374. The Committee of Experts has been informed that the three regional newspapers available in Saterland publish some articles in Sater Frisian, but irregularly.

375. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

376. In its first evaluation report (see paragraph 235), while acknowledging the general support schemes for audio and audiovisual works of the *Land* of Lower Saxony, the Committee of Experts had not been informed of any audio or audiovisual works in Sater Frisian which had received support through these general schemes. Consequently, it considered this undertaking formally fulfilled and requested examples of cases where financial assistance had been provided for works in Sater Frisian.

377. The German authorities stated in the second periodical report that productions in the Sater Frisian language could not be subsidised under the general scheme for financial assistance to audiovisual productions, because no applications for pertinent project funding had so far been submitted, but that Lower Saxony would continue to draw attention to the availability of promotional funding in this respect. The Committee of Experts stresses the need for such measures of financial assistance to be designed in such a way that programmes in Sater Frisian could qualify for them in practice.

378. The Committee of Experts observes that the fulfilment of this undertaking requires at least some degree of practical implementation and therefore considers that this undertaking is still only formally fulfilled.

Article 12 – Cultural activities and facilities

379. The Committee of Experts was informed during the second monitoring round that thanks to federal funds, the *Seelter Buund* acquired the former railway station of Scharrel in Saterland in 2002, with a view to converting this building into a Sater Frisian Cultural Centre. The Committee of Experts commends the German authorities for this positive development and looks forward to receiving further information regarding the implementation of this project in Germany's next periodical report.

Paragraph 1

“With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

“d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;”

380. In its first evaluation report (see paragraph 242), the Committee of Experts considered that it needed further information as to whether the *Seelter Buund* was responsible for organising and supporting cultural activities and facilities in order to be able to conclude whether this undertaking was fulfilled.

381. The second periodical report provides the information that the *Seelter Buund* does indeed organise and support such activities. The German authorities also drew the attention of the Committee of Experts to the acquisition by this association of the former railway station of Scharrel, with a view to converting it into a Sater Frisian Cultural Centre.

382. The Committee of Experts considers this undertaking fulfilled.

“g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;”

383. In its first evaluation report (see paragraph 245), the Committee of Experts observed that the libraries of Oldenburg and Göttingen Universities were keeping copies of Sater Frisian works. It had not been informed, however, how extensive these collections were and whether a clear responsibility had been assigned to these libraries in this respect. The Committee of Experts therefore requested further information and considered this undertaking partly fulfilled.

384. The authorities informed the Committee of Experts in the second periodical report that the libraries in question kept a copy of all the volumes (about 20-30) available in the Sater Frisian language. The planned Sater Frisian Cultural Centre (see paragraph 379 above) will also include a library.

385. The Committee of Experts considers this undertaking fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

386. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g. cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of European or international exhibitions or events, documentation on the country aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the image of the country abroad, *inter alia* for tourism purposes, etc.). Indeed, the spirit of this undertaking is in particular to encourage a country to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

387. In its first evaluation report (see paragraph 247), the Committee of Experts observed that the *Land* authorities made provision for Sater Frisian by supporting the Inter-Frisian Council, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

388. The second periodical report gives no information regarding the continued fulfilment of this undertaking by the authorities of Lower Saxony. As to the federal authorities, the second periodical report states that it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, no cultural activity involving the Sater Frisian language has benefited from this general scheme in practice.

389. The Committee of Experts considers this undertaking partly fulfilled with respect to the authorities of Lower Saxony and only formally fulfilled with respect to the federal authorities.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

390. In its first evaluation report (see paragraph 513), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

391. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Sater Frisian in connection with economic and social activities was brought to the attention of the Committee of Experts by the Sater Frisian speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

392. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

“d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”

393. In its first evaluation report (see paragraph 514), the Committee of Experts considered that it did not have sufficient information to allow it to conclude that this undertaking was fulfilled.

394. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use of regional or minority languages can be facilitated and encouraged with regard to economic and social activities. The measures envisaged should be positive, and not concern only the elimination or discouragement of negative practice. These measures could for example be to facilitate and/or encourage the use of the regional or minority language on buildings, the oral use of the language in public areas, such as in railway stations or airports, use of bilingual brochures in tourism, giving rewards to companies that are actually using the regional or minority language, initiating a campaign of bilingualism etc.

395. In the second periodical report, the German authorities stated that the acquisition, with public funds, of the Scharrel station for use as a cultural centre would have effects on all spheres of daily life, including economic activities. The German authorities have also drawn the attention of the Committee of Experts to a competition organised by the Niedersächsische Heimatbund, an association supported by the Land authorities, regarding activities to implement the Charter, where the Seelter Buund received the 1st prize.

396. Based on the information received in the second report, the Committee of Experts considers this undertaking fulfilled.

Part III
Low German in Bremen

2.2.6. *Low German in the Länder of Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein*

2.2.6.a. Low German in the Free Hanseatic City of Bremen

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i* to make available pre-school education in the relevant regional or minority languages; or
- ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii* to apply one of the measures provided for under *i* and *ii* above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv** ***if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under *i* to *iii* above;”***

397. In its first evaluation report (see paragraph 254), the Committee of Experts considered that it did not have sufficient information to conclude whether this undertaking was or was not fulfilled and requested further information.

398. The second periodical report does not provide any further information which would allow the Committee of Experts to assess the provision of pre-school education in Low German in Bremen. During the second “on-the-spot” visit, the authorities of the Free Hanseatic City of Bremen stated that there was no systematic approach with respect to Low German in the field of pre-school education and that no measures were envisaged to improve this situation.

399. The Committee of Experts considers therefore that this undertaking is not fulfilled.

The Committee of Experts encourages the authorities to take the necessary measures so that pre-school education in Low German will be available where there is a sufficient demand.

- “b** *iii* ***to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”***

400. In its first evaluation report (see paragraph 255), the Committee of Experts noted that it was left to the teachers to decide whether Low German was taught or not, and that Low German was taught within the curricula for the subject of German, rather than as a subject in its own right. It was also not clear to the Committee of Experts if teaching of Low German as indicated by this obligation was actually taking place. Therefore, the Committee of Experts could not conclude that this undertaking was fulfilled and encouraged the German authorities to take the necessary measures to ensure that Low German forms a part of the curriculum in its own right.

401. Teaching of Low German continues to take place within the curriculum for the subject of German. The Committee of Experts notes that a new framework curriculum for primary schools for the subject of German has been developed in co-operation with the *Länder* of Berlin, Brandenburg and Mecklenburg-Western Pomerania and entered into force for the 2004/2005 school year. Although the Committee of Experts welcomes as a positive development the fact that this curriculum makes a specific reference to Low German and to the need for primary schools to pay special attention to it for the implementation of the Charter, it observes that Low German remains marginal within the curriculum. The Committee of Experts was informed by the authorities of the Free

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Hanseatic City of Bremen that the teaching of Low German still depends largely on volunteer work. A systematic approach is still missing and as a consequence, the level of teaching varies considerably from one school to another.

402. The Committee of Experts considers that this undertaking is still not fulfilled at present.

The Committee of Experts encourages the authorities of the Free Hanseatic City of Bremen to adopt a structured approach with a view to ensuring that Low German is systematically taught within primary education with regular school hours allocated to it.

“c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”

403. In its first evaluation report (see paragraph 256), the Committee of Experts considered that it had received no information enabling it to assess whether teaching of Low German was an integral part of the curriculum at secondary level. It was therefore not in a position to conclude that this undertaking was fulfilled.

404. Within secondary education, Low German is taught in the framework of the subject of German. With respect to lower secondary education, the Bremen framework curriculum for German of 2002 makes provision for, and lays down the aims and methods of, the teaching of Low German. According to the information provided in the second periodical report, selected grammar schools (*Gymnasien*) offer a one-year Low German course at upper secondary grades, forming part of the basic course ‘German’. Despite these positive developments, the Committee of Experts was informed that the teaching of Low German remains largely voluntary and very limited in practice, due to the lack of a systematic approach with respect to Low German within secondary education.

405. The Committee of Experts considers, therefore that this undertaking is partly fulfilled.

The Committee of Experts encourages the authorities to take the necessary measures to make the teaching of Low German within secondary education more systematic with regular school hours allocated to it.

“e ii to provide facilities for the study of these languages as university and higher education subjects;”

406. In its first evaluation report (see paragraph 257), considering that Bremen University regularly offered Low German courses, the Committee of Experts concluded that this undertaking was fulfilled. It was informed in the present monitoring cycle, however, that due to budgetary cuts it was no longer possible to study Low German as a subject at Bremen University and that research into Low German had been discontinued altogether. The remaining offer is only limited to irregular, short seminars (1.5 – 2 hours) about subjects relating to Low German. The Committee of Experts regrets this development and considers that this undertaking is no longer fulfilled.

“g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;”

407. In its first evaluation report (see paragraph 259), the Committee of Experts stated that it had received no information other than on courses offered by Bremen University and requested further information. The second periodical report confines itself to referring to information provided with regard to adult education. The Committee of Experts nevertheless observes that the framework curricula for the subject of German at primary and lower secondary levels make some provision for the teaching of the history and culture which is reflected by Low German. However, it has not been informed about the way in which history and culture which is reflected by Low German is dealt with in practice in schools, with a particular reference to teaching materials, and would welcome further information in Germany’s next periodical report.

“h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”

408. In its first evaluation report (see paragraph 260), the Committee of Experts was not in a position to conclude that this undertaking was fulfilled. Although it had been informed that there were possibilities to learn Low German as a basic and further teacher training subject, it had no information as to whether this offer was systematic.

409. Although the second periodical report refers to the offer of Bremen University with regard to Low German, the Committee of Experts was informed by the authorities during the second “on-the-spot” visit that this information is now obsolete (see also paragraph 406 above). There is no specific basic training for Low German teachers, and the current teacher training offer is limited to some further training opportunities on the premises of the Institute for Low German, on the basis of an unofficial co-operation between the Institute and the university. The Committee of Experts was not informed by the authorities of any measures envisaged in relation with this undertaking.

410. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

411. In its first evaluation report (see paragraph 263), the Committee of Experts observed that Bremen had refrained from adopting special administrative regulations in order to implement this undertaking, on the assumption that this provision had become directly applicable upon the entry into force of the Charter in Germany. The Committee of Experts affirmed, however, that it would be advisable to issue specific instructions to the authorities concerned and to make these instructions public, with a view to informing the authorities and the Low German speakers of the possibility to submit documents in Low German. It concluded that this undertaking was only formally fulfilled.

412. According to the information contained in the second periodical report, the authorities of the Free Hanseatic City of Bremen do not envisage the adoption of specific instructions or administrative regulations with reference to this undertaking. The authorities further stated that no cases were known where documents or requests drafted in the Low German language had been rejected.

413. The Committee of Experts is not aware of any examples of the possibility of submitting documents in Low German being used in practice. Neither has it been informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, for example through information campaigns for the general public, or to informing the relevant authorities of their obligations under the Charter.

414. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking and in the absence of any measures of encouragement, the Committee of Experts maintains its previous conclusion that this undertaking is only formally fulfilled.

“c to allow the administrative authorities to draft documents in a regional or minority language.”

415. In its first evaluation report (see paragraph 263), the Committee of Experts observed that Bremen had refrained from adopting special administrative regulations in order to implement this undertaking, on the assumption that this provision had become directly applicable upon the entry into force of the Charter in

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Germany. The Committee of Experts affirmed, however, that it would have been advisable to issue specific instructions or formal legal rules to the authorities concerned, with a view to informing them of the possibility of drafting documents in Low German. It concluded that this undertaking was only formally fulfilled.

416. The German authorities stated in the second periodical report that the administrative authorities are well aware that official documents could also be drafted in Low German, but that “as a rule, in order to ensure legal certainty, the official language ‘standard German’ is used” for drafting such documents. The Committee of Experts is of the view that this attitude reinforces the perception of Low German as a ‘lesser’ language and is detrimental to the promotion of Low German as a written language and to efforts aimed at improving its status as a regional or minority language. Whilst acknowledging the significance, as a symbolic gesture of a general nature, of the recent publication of a Low German version of the Constitution of Bremen, the Committee of Experts is not aware of any example of an official document being drafted in Low German by the administrative authorities in practice.

417. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking and in the absence of any encouraging measures, the Committee of Experts maintains its previous conclusion that this undertaking is only formally fulfilled.

Paragraph 2

“In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;”

418. In its first evaluation report (see paragraph 265), the Committee of Experts considered this undertaking only partly fulfilled. The second periodical report states that no specific measures were taken with respect to this undertaking and the Committee of Experts is not aware whether Low German is used within the framework of regional or local authorities in Bremen at all. The Committee of Experts revises its previous conclusion, therefore, and considers this undertaking only formally fulfilled.

“b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

419. In its first evaluation report (see paragraph 266), the Committee of Experts considered this undertaking only formally fulfilled, as it had not received any information about its implementation in practice. It affirmed that it would be advisable to issue and to make public specific instructions or formal legal rules to the authorities concerned, with a view to informing the authorities and the speakers of this possibility.

420. According to the information contained in the second periodical report, the authorities of the Free Hanseatic City of Bremen do not envisage the adoption of specific instructions or administrative regulations with reference to this undertaking. The authorities further stated that no cases were known where applications in Low German had been rejected.

421. Although oral communication in Low German with regional or local authorities appears to take place occasionally, the Committee of Experts is not aware of any examples of the possibility of submitting written applications in Low German being used in practice. Neither was it informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, for example through information campaigns, or to informing the relevant authorities of their obligations under the Charter.

422. The Committee of Experts stresses that for this undertaking to be effectively fulfilled, a legal framework allowing the use of regional or minority languages in dealings with the administrative authorities should be accompanied by arrangements in administrative organisation designed to counterbalance practical obstacles (see, for example, the first evaluation report in respect of Hungary, ECRML(2001)4, paragraph 54), in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities. In this connection, the

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Committee of Experts also draws the authorities' attention to the relevant paragraphs of the Charter's Explanatory Report.

423. The Committee of Experts considers that this undertaking is only partly fulfilled.

“c the publication by regional authorities of their official documents also in the relevant regional or minority languages;”

“d the publication by local authorities of their official documents also in the relevant regional or minority languages;”

424. In its first evaluation report (see paragraph 267), the Committee of Experts observed that Bremen had refrained from adopting special administrative regulations in order to implement these undertakings, on the assumption that these provisions had become directly applicable upon the entry into force of the Charter in Germany. The Committee of Experts affirmed, however, that it would be advisable to issue specific instructions or formal legal rules to the authorities concerned, with a view to informing them of the possibility of drafting documents in Low German. It concluded that these undertakings were only formally fulfilled.

425. The German authorities stated in the second periodical report that the administrative authorities were well aware that official documents could also be drafted in Low German, but that “as a rule, in order to ensure legal certainty, the official language ‘standard German’ is used” for drafting such documents. The Committee of Experts is of the view that this attitude reinforces the perception of Low German as a ‘lesser’ language and is detrimental to the promotion of Low German as a written language and to efforts aimed at improving its status as a regional or minority language. The Committee of Experts is not aware of any examples of an official document being drafted in Low German by a regional or local authority in practice.

426. Considering that some degree of practical implementation is needed for the fulfilment of these undertakings and in the absence of any encouraging measures, the Committee of Experts maintains its previous conclusion that these undertakings are only formally fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

427. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter's Explanatory Report).

428. In its first evaluation report (see paragraph 269), the Committee of Experts considered that a commendable effort was made in the public sector, but did not have any information as to the measures of encouragement for the broadcasting of radio programmes in Low German by private radio stations in Bremen.

429. According to the information available to the Committee of Experts, radio programmes in Low German are only broadcast by *Radio Bremen*, a public service broadcaster. The Committee of Experts understands that there are no programmes in Low German on private radios in Bremen and it was not informed of any measures taken by the authorities to encourage and/or to facilitate the broadcasting of Low German programmes by private radio broadcasters.

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430. In view of the fact that this undertaking concerns private radio broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

431. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

432. In its first evaluation report (see paragraph 270), the Committee of Experts stated that there was no information about Low German programmes on private television channels and that it was not aware of any measures of encouragement in this respect. The Committee of Experts considered therefore that this undertaking was not fulfilled.

433. The second periodical report states that *Radio Bremen TV*, the public television broadcaster, includes Low German in its programmes. However, the Committee of Experts understands that there are no programmes in Low German on private television channels in Bremen and it was not informed of any measures taken by the authorities to encourage and/or to facilitate the broadcasting of Low German programmes by private television broadcasters.

434. In view of the fact that this undertaking concerns private television broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

435. In its first evaluation report (see paragraph 271), the Committee of Experts stated that it had not received any information on the steps taken by Bremen aimed at encouraging the production and distribution of audio and audiovisual works in Low German. Therefore, the Committee of Experts could not conclude that this undertaking was fulfilled.

436. The Committee of Experts observes that to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from general promotion measures for audiovisual works, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Low German in the Free Hanseatic City of Bremen). Consequently, this provision necessitates pro-active measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc. The Committee of Experts is however not aware of any specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German in Bremen.

437. The Committee of Experts considers that this undertaking is not fulfilled.

“e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”

438. In its first evaluation report (see paragraph 272), the Committee of Experts observed that a monthly magazine published by the *Institut für Niederdeutsche Sprache* existed, but that no newspaper articles in Low German were published on a regular basis. Considering that it was not in a position to conclude that this undertaking was fulfilled, the Committee of Experts requested further information on the ways in which the authorities were encouraging or facilitating the publication of newspaper articles in Low German on a regular basis.

439. In the second periodical report, the authorities of the Free Hanseatic City of Bremen state that the free press independently makes its own decisions on regular publication of Low German texts, without any scope for the State to exert an influence.

440. The Committee of Experts emphasises that owing to their relative economic and political weakness, regional or minority languages tend to be absent from the media, including the print media, unless this disadvantage is redressed by positive measures. This undertaking requires the State Party to take precisely such positive measures with respect to newspapers. Although the Charter does not specify what form the measures of encouragement and/or facilitation stipulated by this undertaking should take, the Committee of Experts observes that they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or aid for the distribution of newspapers containing articles in Low German, could be envisaged in this context.

441. The Committee of Experts considers that this undertaking is not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

442. In its first evaluation report (see paragraph 273), the Committee of Experts observed that Open Channel productions were granted subsidies. It considered this undertaking formally fulfilled and requested examples of cases where financial assistance had been provided to audiovisual productions in Low German.

443. The second periodical report gives examples of Low German programmes produced and broadcast by the Open Channels of Bremen and Bremerhaven. The Committee of Experts was also informed in the second monitoring round that the *Länder* of Lower Saxony and Bremen founded the media company *nordmedia* (*Mediengesellschaft Niedersachsen/Bremen mbH*), which promotes audiovisual productions. According to the information provided in the second periodical report, three films in Low German were subsidised by *nordmedia*.

444. The Committee of Experts considers this undertaking fulfilled.

“g to support the training of journalists and other staff for media using regional or minority languages.”

445. In its first evaluation report (see paragraph 274), the Committee of Experts could not conclude that this undertaking was fulfilled, as it had received no information regarding this undertaking. The second periodical report also contains no information about the implementation of this undertaking. The Committee of Experts therefore considers that this undertaking is not fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

“c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;”

446. In its first evaluation report (see paragraph 278), the Committee of Experts noted that funds were made available for the production of Low German stage performances of plays originally written in other languages and that Bremen promoted the required translations. However, the Committee of Experts had not been informed of any other measures within the meaning of this undertaking. Therefore, it considered this undertaking only partly fulfilled.

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447. The second periodical report refers to the media company *nordmedia*, established by the *Länder* of Lower Saxony and Bremen, which also subsidises works in Low German. No information was provided, however, as to whether funds provided by *nordmedia* are also used for dubbing, post-synchronisation and subtitling in Low German for works produced in other languages.

448. The Committee of Experts maintains its previous conclusion that this undertaking is only partly fulfilled.

“d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;”

449. In its first evaluation report (see paragraph 279), the Committee of Experts considered that it had not been made aware of any information in this respect and could therefore not conclude that this undertaking was fulfilled.

450. The second periodical report confines itself to stating that the Parliament of the Free Hanseatic City of Bremen and the Senator for Cultural Affairs take account of applications by organisations of this language group in the subsidising schemes and encourage participation in general cultural events.

451. The information provided does not allow the Committee of Experts to conclude that this undertaking is fulfilled. It requests further information, including practical examples, on the ways in which bodies responsible for cultural activities make appropriate allowance for Low German in Germany's next periodical report.

“e to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;”

452. In its first evaluation report (see paragraph 280), the Committee of Experts considered that it had not been made aware of any relevant information in this respect and could therefore not conclude that this undertaking was fulfilled. The second periodical report does not provide any additional information with respect to this undertaking. The Committee of Experts considers therefore that this undertaking is not fulfilled.

“f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;”

453. In its first evaluation report (see paragraph 281), the Committee of Experts considered that it had not been made aware of any information pointing to the inclusion of representatives of Low German and could therefore not conclude that this undertaking was fulfilled.

454. The *Land* authorities state in the second periodical report that “the participation of authors and linguists in the planning and implementation of cultural activities is on a voluntary basis and cannot be influenced by public authorities”. However, the Committee of Experts observes that this undertaking clearly requires the public authorities to provide incentives for the direct participation of the users of Low German in providing facilities and planning cultural activities. It understands that no measures of encouragement have been taken in this respect by the authorities of the Free Hanseatic City of Bremen.

455. The Committee of Experts therefore considers that this undertaking is not fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

456. In its first evaluation report (see paragraph 283), the Committee of Experts observed that the *Land* authorities made provision for Low German in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

457. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the Low German language seems to have been included in any relevant federal scheme abroad.

458. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

459. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the Bremen authorities.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

460. In its first evaluation report (see paragraph 285), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

461. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Low German in Bremen in connection with economic and social activities was brought to the attention of the Committee of Experts by the Low German speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

462. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

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- c** *to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;”*

463. In its first evaluation report (see paragraph 286), the Committee of Experts noted the German authorities' claim that it was impossible to lay down any requirements as regards the use of Low German within the meaning of this undertaking, as direct nursing and other care facilities were mostly provided by private-sector and free non-profit making institutions. The Committee of Experts concluded that the *Land* had not insured the implementation of this undertaking and encouraged the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

464. According to the information provided in the second periodical report, hospitals, retirement homes and nursing services in Bremen generally offer the possibility to be received and treated in Low German. An information brochure on the existing social care facilities taking special account of the possibility to use Low German was compiled on behalf of governmental agencies by the *Verbraucherzentrale Bremen* (Bremen Consumer Protection Centre) and on demand, the authorities inform citizens about social care facilities where they can be received and treated in Low German. However, social care facilities have full discretion as regards recruitment of staff proficient in Low German, and the authorities of the Free Hanseatic City of Bremen expressed the view that there is little room for the *Land* to interfere in this domain.

465. While acknowledging that it is possible in some social care facilities in Bremen to be received and treated in Low German, the Committee of Experts observes that this undertaking requires the States Parties to ensure, wherever reasonably possible, that this possibility is offered, which implies structural measures with a view to guaranteeing a more systematic provision. These measures could include, for example, regulations governing the relevant qualifications which take account of a person's knowledge of Low German, or facilities and incentives for the existing social care personnel to improve their Low German skills.

466. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

The Committee of Experts encourages the German authorities to adopt a structural policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities in Bremen.

2.2.6.b. Low German in the Free and Hanseatic City of Hamburg

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *l* to make available pre-school education in the relevant regional or minority languages; or
- ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii* to apply one of the measures provided for under *i* and *ii* above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv** ***if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under *i* to *iii* above;”***

467. In its first evaluation report (see paragraph 287), the Committee of Experts observed that work on the development of a concept for the inclusion of Low German in pre-school education was to start in 2002. On the basis of this information, it considered that this undertaking was not fulfilled at the time of the adoption of the first evaluation report.

468. There is no systematic teaching in Low German at pre-school level in Hamburg. According to the information provided by the authorities of Hamburg, the Senate Authority for Education and Sports is currently preparing ‘Directives on Education and Instruction in Pre-School Classes’ (*Richtlinien für Erziehung und Bildung in Vorschulklassen*) which should be adopted in 2005. The section of these directives concerning the subject of German would make special provision for Low German, with a view to familiarising pre-school children with the Low German language or preserving their existing skills in this language.

469. The Committee of Experts considers that this undertaking is not fulfilled at present. It considers, however, that the envisaged measures would represent a positive step towards compliance with this provision, and looks forward to receiving further information in the next periodical report.

- “b** *iii* ***to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”***

470. In its first evaluation report (see paragraph 288), the Committee of Experts observed that Low German was included in the study of German language and literature, but considered that there was insufficient information to assess whether this scheme actually ensured sufficient teaching of Low German as an integral part of the curriculum. The Committee of Experts could therefore not conclude that this undertaking was fulfilled.

471. The Committee of Experts has been informed that a new framework curriculum for the teaching of German in primary schools, which entered into force in 2004, makes the teaching of Low German compulsory. This curriculum, by direct reference to the Charter, makes it mandatory to include at least one Low German song, poem or short story per school year. According to the information provided by the authorities, there was some concern about this development among German teachers who do not speak Low German. The authorities are preparing teaching materials, with a selection of recordings of spoken Low German texts, in order to help these teachers.

472. Despite the new framework curriculum, the provision for the teaching of Low German within primary education clearly remains below the level required by this undertaking. Nevertheless, the Committee of Experts acknowledges that these developments represent a step towards the fulfilment of this undertaking, as well as for

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the protection and promotion of Low German in Hamburg in general, and commends the efforts of the authorities of Hamburg.

473. The Committee of Experts revises its previous conclusion, therefore, and considers this undertaking partly fulfilled.

The Committee of Experts encourages the authorities of the City of Hamburg to pursue their efforts to increase the provision for the teaching of Low German within primary education, including the allocation of regular school hours to Low German.

“c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”

474. In its first evaluation report (see paragraphs 289-291), the Committee of Experts noted that Low German was an optional element of the curriculum of German courses and that further optional offers with respect to Low German were very rarely used. It observed that these optional elements did not provide for the teaching of Low German as an integral part of the curriculum. The Committee of Experts therefore concluded that this undertaking was not fulfilled.

475. According to the information provided in the second periodical report, new framework curricula for the teaching of German in secondary schools entered into force or are in the testing phase. The Committee of Experts welcomes the fact that these curricula, which make direct reference to the Charter and Hamburg's undertakings under it, make the teaching of Low German a mandatory part of the subject of German, even when the students and the teacher are not active speakers of Low German. Low German can also be chosen as a subject for the *Abitur*. Although it is possible to offer a two-semester elementary Low German course at the upper secondary level, this possibility has not been used in practice due to a lack of demand. According to the information available to the Committee of Experts, the time allocated to Low German still depends largely on the willingness of the teachers and the students in practice, and the teaching of Low German is even more limited within secondary education than within primary education.

476. While welcoming the adoption of framework curricula making the teaching of Low German mandatory in the framework of German classes, the Committee of Experts observes that the provision for the teaching of Low German within these curricula still remains clearly below the level required by this undertaking. Nevertheless, the Committee of Experts acknowledges that these developments represent a step towards the fulfilment of this undertaking.

477. The Committee of Experts revises its previous conclusion, therefore, and considers this undertaking partly fulfilled.

The Committee of Experts encourages the authorities to pursue their efforts with a view to making the teaching of Low German within secondary education more systematic with regular school hours allocated to Low German.

“d iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”

478. In its first evaluation report (see paragraph 292); having been informed that Low German was not part of the curriculum as far as technical and vocational education is concerned due to a lack of demand, the Committee of Experts considered that this undertaking was not fulfilled.

479. The Committee of Experts has been informed that there have not been any significant changes in the situation prevailing at the time of its first evaluation report with respect to this undertaking. The authorities stated, however, that it could be possible to offer teaching of Low German at this level of education, notably in schools for trainees of the restaurants/catering trade and the social care sector. The Committee of Experts encourages the authorities of the City of Hamburg to look into ways in which this potential could be used.

480. The Committee of Experts considers that this undertaking is not fulfilled at present.

“h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”

481. In its first evaluation report (see paragraph 296), the Committee of Experts was not in a position to conclude that this undertaking was adequately implemented. Teacher-training facilities in Hamburg did not provide for particular training in Low German. While would-be teachers could attend courses on Low German language and literature at university, the Committee of Experts observed that the grades obtained for these courses did not provide a specific qualification as teacher of Low German.

482. The Committee of Experts notes that, while it is not possible to study Low German as a subject in its own right, Hamburg University offers courses on Low German in the framework of German studies. The *Land Institute for Teacher Training and School Development (Landesinstitut für Lehrerbildung und Schulentwicklung)* provides further training opportunities with regard to Low German. Nevertheless, a specific qualification as teacher in/of Low German is still lacking.

483. According to the information provided in the second periodical report, there are plans to tackle the existing shortcomings with respect to this undertaking. The second periodical report refers notably to plans to offer an additional three-semester study programme specially devoted to Low German at university, as well as to amend the examination regulations with a view to introducing the mention “main subject Low German” in the State Examination certificate for teachers.

484. The Committee of Experts considers this undertaking only partly fulfilled at present. It encourages the Hamburg authorities to adopt the envisaged measures, which in its view would clearly contribute to the fulfilment of this undertaking.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

485. In its first evaluation report (see paragraph 297), considering that there was no supervisory body or public periodic reports within the meaning of this undertaking, the Committee of Experts concluded that this undertaking was not fulfilled. It encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Hamburg and to draw up periodic reports.

486. The Committee of Experts observes that there has not been any development in this field. The authorities report that in the future a staff member of the school supervisory section of the Senate Authority for Education and Sports (*Behörde für Bildung und Sport*) will have the task of co-ordinating measures to promote Low German in schools, in co-operation with all school supervisory bodies, and of drawing up regular reports.

487. The Committee of Experts considers this undertaking not fulfilled at present and encourages the envisaged moves towards the creation of a supervisory body.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

488. In its first evaluation report (see paragraph 300), the Committee of Experts observed that Hamburg had refrained from adopting special administrative regulations in order to implement this undertaking, on the assumption that this provision had become directly applicable upon the entry into force of the Charter in

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Germany. The Committee of Experts affirmed, however, that it would be advisable to issue specific instructions to the authorities concerned and to make these instructions public, with a view to informing the authorities and the Low German speakers of the possibility to submit documents in Low German. It concluded that this undertaking was only formally fulfilled.

489. The authorities of the Free and Hanseatic City of Hamburg state in the second periodical report that the provisions of Article 10 became directly enforceable law in Hamburg upon the ratification of the Charter and that Hamburg deliberately decided against adopting formal rules or directives to implement the undertakings under this Article. The authorities further stated that no cases were known where documents or requests drafted in the Low German language had been rejected.

490. The Committee of Experts reiterates its view that this provision is formulated in a way which would not make it self-executing. It is not aware of any examples of the possibility of submitting documents in Low German being used in practice. Neither was it informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, except for the provision of doorplates or stickers to staff members of administrative authorities who speak Low German. In the opinion of the Committee of Experts, further measures are needed to ensure the systematic implementation of this undertaking in practice, such as a human resources policy taking account of civil servants' written command of Low German, information campaigns for the general public, or measures to inform the relevant authorities of their obligations under the Charter.

491. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts maintains its previous conclusion that this undertaking is only formally fulfilled.

“c to allow the administrative authorities to draft documents in a regional or minority language.”

492. In its first evaluation report (see paragraph 301), the Committee of Experts expressed its view that in order to make it clear to the competent administrative authorities that they may draft documents in Low German, it would be advisable that instructions (or, when necessary formal rules) are issued to competent authorities and made public. It considered that this undertaking was only formally fulfilled.

493. In the second periodical report, the German authorities refer to their general comments under Article 10, according to which Hamburg deliberately refrained from issuing formal rules and directives. The authorities are of the view that, on account of Hamburg's particular City-State constitution, it was unnecessary to enforce and/or publicise this undertaking on a wider scale than was already provided by the practice of informally disseminating the related information through in-service briefings, conferences, etc.

494. The Committee of Experts reiterates its view that this provision is formulated in a way which would not make it self-executing. It has not been made aware of any examples of administrative documents being drafted in Low German.

495. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts maintains its previous conclusion that this undertaking is only formally fulfilled.

Paragraph 2

“In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;”

496. The Committee of Experts observes that this undertaking concerns the internal organisation of the local and regional authorities and indicates that a regional or minority language may be used as a working language by the authority concerned, excluding relations with the central authorities (see paragraph 106 of the Charter's Explanatory Report).

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497. In its first evaluation report (see paragraph 302), the Committee of Experts noted, as the only example of a practical measure, doorplates indicating the relevant linguistic competence of staff members of administrative authorities. On the basis of the information it had received, the Committee of Experts considered this undertaking partly fulfilled.

498. The second periodical report mentions the possibility of marriage ceremonies being conducted in Low German and refers to the general comments of the Hamburg authorities concerning the undertakings under this Article. The Committee of Experts understands that with the exception of doorplates indicating staff members' competence in Low German, the Free and Hanseatic City of Hamburg has not taken any measures to implement this undertaking.

499. The Committee of Experts maintains its previous assessment that this undertaking is only partly fulfilled.

“b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

500. In its first evaluation report (see paragraph 303), the Committee of Experts considered this undertaking only formally fulfilled, as it had not received any information about its implementation in practice. It affirmed that it would be advisable to issue and to make public specific instructions or formal legal rules to the authorities concerned, with a view to informing the authorities and the speakers of this possibility.

501. In the second periodical report, the German authorities refer to their general comments under Article 10, according to which Hamburg deliberately refrained from issuing formal rules and directives and state that no use has been made of the possibility to submit applications drafted in Low German so far. The Committee of Experts has not been informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, for example through information campaigns, or to informing the relevant authorities of their obligations under the Charter.

502. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts maintains its previous conclusion that this undertaking is only formally fulfilled.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”

503. In its first evaluation report (see paragraph 305), the Committee of Experts observed that while no applications for reassignment had been submitted by public service employees, employees had been asked in some District Council Offices whether they spoke Low German so that they might, if required, be appointed to appropriate posts.

504. The Committee of Experts has received no new information in the second monitoring cycle. It is not in a position to conclude whether this undertaking is fulfilled, and would welcome further information about the practical results of the initiatives of District Council Offices in Germany's next periodical report.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the

public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

505. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

506. In its first evaluation report (see paragraph 306), the Committee of Experts considered that a commendable effort was made in the public sector, but did not have any information as to the measures of encouragement for the broadcasting of radio programmes in Low German by private radio stations in Hamburg.

507. The authorities of the Free and Hanseatic City of Hamburg state in the second periodical report that Hamburg has no scope for exerting influence on broadcasters as a result of the constitutional rule of governmental non-intervention in broadcasting. The Committee of Experts understands that a commendable effort continues to be made by the public broadcaster *NDR*, but that there are no programmes in Low German on private radios in Hamburg.

508. In view of the fact that this undertaking concerns private radio broadcasters, the Committee of Experts considers that it is not fulfilled.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

509. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

510. In its first evaluation report (see paragraph 307), the Committee of Experts stated that there was no information about Low German programmes on private television channels and that it was not aware of any measures of encouragement in this respect. The Committee of Experts therefore considered that this undertaking was not fulfilled.

511. The authorities of the Free and Hanseatic City of Hamburg state in the second periodical report that Hamburg has no scope for exerting influence on broadcasters as a result of the constitutional rule of governmental non-intervention in broadcasting. The second periodical report states that *NDR*, the public broadcaster, includes Low German in its television programmes. However, the Committee of Experts understands that there are no programmes in Low German on private television channels in Hamburg.

512. In view of the fact that this undertaking concerns private television broadcasters, the Committee of Experts considers that it is not fulfilled.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

513. In its first evaluation report (see paragraph 308), the Committee of Experts stated that it had not received any information on the steps taken by Hamburg aimed at encouraging the production and distribution of audio and audiovisual works in Low German. Therefore, the Committee of Experts could not conclude that this undertaking was fulfilled.

514. The Committee of Experts observes that to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from general promotion measures for audiovisual works, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article

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11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Low German in the Free and Hanseatic City of Hamburg). Consequently, this provision necessitates pro-active measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc. The Committee of Experts is however not aware of any specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German in Hamburg.

515. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

“e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”

516. In its first evaluation report (see paragraph 309), the Committee of Experts observed that Low German articles regularly appeared in the daily evening paper *“Hamburger Abendblatt”* and various weeklies of the city districts. However, the Committee of Experts considered that it was not in a position to conclude that this undertaking was fulfilled, as it needed further information on how the authorities were encouraging or facilitating the publication of newspaper articles in Low German on a regular basis.

517. In the second periodical report, the authorities of the Free and Hanseatic City of Hamburg state that constitutional law precludes any governmental influence on press contents and that encouragement, or stipulation of requirements, is not possible. According to the authorities, there is no scope for direct state action or influence in this field.

518. The Committee of Experts emphasises that owing to their relative economic and political weakness, regional or minority languages tend to be absent from the media, including the print media, unless this disadvantage is redressed by positive measures. This undertaking requires the State Party to take precisely such positive measures with respect to newspapers. Although the Charter does not specify what form the measures of encouragement and/or facilitation stipulated by this undertaking should take, the Committee of Experts observes that they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or aid for the distribution of newspapers containing articles in Low German, could be envisaged in this context.

519. Based on the information received, the Committee of Experts observes that newspaper articles in Low German are published on a regular basis. The Committee of Experts therefore considers the undertaking fulfilled at present. If this practice ceases, however, the authorities remain obliged to encourage and/or facilitate the publication of such newspaper articles on a regular basis.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

520. In its first evaluation report (see paragraph 310), the Committee of Experts had been informed by the German authorities that tape-recordings and videograms of readings by authors and stage productions in Low German were on sale, but it lacked information as to whether existing measures were also applied to such audiovisual productions in Low German. It considered this undertaking formally fulfilled and requested examples of cases where financial assistance had been provided to works in Low German.

521. According to the information provided by Hamburg in the second periodical report, the Senate Authority for Cultural Affairs, which has responsibility for this subject matter, does not intervene in the market for radio play or other audiovisual productions. The authorities also state that it is not possible to give examples of cases where relevant audiovisual productions have been subsidised.

522. The Committee of Experts revises its previous assessment, therefore, and considers that this undertaking is not fulfilled.

“g to support the training of journalists and other staff for media using regional or minority languages.”

523. In its first evaluation report (see paragraph 310), the Committee of Experts could not conclude that this undertaking was fulfilled, as it had received no information regarding this undertaking. The second periodical report also contains no information about the implementation of this undertaking. The Committee of Experts considers therefore that this undertaking is not fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

“d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;”

524. In its first evaluation report (see paragraph 314), the Committee of Experts noted the information provided by the German authorities that the Hamburg (Senate) Authority for Cultural Affairs encouraged the institutions which received public support and which were active in the literary field to strive for equal treatment of Low German. The Committee of Experts requested further information on the extent to which these institutions actually took into consideration the Low German background of proposed activities.

525. In the second periodical report, the German authorities state that the institutions concerned are independent, autonomous bodies not bound by directives, which do not have to comply with State regulations as regards the contents of their cultural work and that the competent Senate authority must observe the rule of freedom of the arts.

526. The Committee of Experts stresses that this undertaking requires the German authorities to ensure that bodies responsible for organising or supporting cultural activities make appropriate allowance for incorporating the knowledge and use of Low German. The Committee of Experts has received no evidence of measures taken by the Hamburg authorities to ensure compliance with this undertaking. Moreover, it understands that the institutions mentioned in Germany’s initial periodical report have not organised any Low German activities since the adoption of the first evaluation report.

527. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

“f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;”

528. In its first evaluation report (see paragraph 315), the Committee of Experts observed that the Hamburg Senate Authority for Cultural Affairs provided co-funding for the *Institut für Niederdeutsche Sprache* (INS – Institute for the Low German Language) in Bremen, which carries out cultural planning and counselling activities. It considered however that the information received was not sufficient to conclude that this undertaking was fulfilled.

529. The German authorities state in the second periodical report that the *Institut für Niederdeutsche Sprache* closely co-operates with a very active “circle of friends” and with many speakers and promoters of Low German who give planning and advisory support to the Institute’s work. However, the Committee of Experts has not received any information as to how representatives of Low German, including the Institute, participate in cultural activities organised in Hamburg. There is also no evidence of measures taken by the Hamburg authorities with a view to providing incentives for such direct participation.

530. The Committee of Experts has not received sufficient information to conclude on this undertaking and requests further information in Germany's next periodical report.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

531. In its first evaluation report (see paragraph 317), the Committee of Experts could not consider this undertaking fulfilled, as it had not been made aware of any information with respect to this provision.

532. In the second periodical report, the authorities of the Free and Hanseatic City of Hamburg refer to the stage performances and TV broadcasts abroad of the *Ohnsorg-Theater*. The Committee of Experts understands, however, that for its international performances, the *Ohnsorg-Theater* uses standard German.

533. With respect to the federal authorities, the second periodical report states that it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany's cultural policy abroad. Moreover, no cultural activity involving the Low German language seems to have been included in any relevant federal scheme abroad.

534. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

535. The Committee of Experts considers that this undertaking is not fulfilled as regards both the *Land* authorities and the federal authorities.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

536. In its first evaluation report (see paragraph 319), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

537. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Low German in Hamburg in connection with economic and social activities was brought to the attention of the Committee of Experts by the Low German speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

538. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

“d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”

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539. In its first evaluation report (see paragraph 319), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

540. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use regional or minority languages can be facilitated and encouraged with regard to economic and social activities. The measures envisaged should be positive, and not concern only the elimination or discouragement of negative practice. These measures could for example be to facilitate and/or encourage the use of the regional or minority language on buildings, the oral use of the language in public areas, such as in railway stations or airports, use of bilingual brochures in tourism, giving rewards to companies that are actually using the regional or minority language, initiating a campaign of bilingualism etc.

541. The second periodical report contains no information in relation to the implementation of this undertaking by Hamburg and the Committee of Experts has not been made aware of any measures to facilitate and/or encourage the use of Low German within the meaning of this undertaking.

542. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

- c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;”***

543. In its first evaluation report (see paragraph 320), the Committee of Experts observed that while some retirement homes could provide the possibility to be received and treated in Low German, no specific measures were taken in other publicly subsidised care facilities. On the basis of the information it had received, the Committee of Experts could not consider this undertaking fulfilled. It encouraged the authorities to take the necessary measures to increase and make more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

544. According to the information provided in the second periodical report, no specific measures have been taken with respect to this undertaking. The authorities of the Free and Hanseatic City of Hamburg affirm that the competent Senate Authority does not envisage any special additional measures, as long as there is no explicit demand for the provision of social care in Low German.

545. While acknowledging that it is possible in some social care facilities in Hamburg to be received and treated in Low German, the Committee of Experts observes that this undertaking requires the States Parties to ensure that this possibility is offered, which implies structural measures with a view to guaranteeing a more systematic provision. These measures could include, for example, regulations governing the relevant qualifications which take account of a person’s knowledge of Low German, or facilities and incentives for the existing social care personnel to improve their Low German skills.

546. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

The Committee of Experts encourages the authorities of Hamburg to adopt a structured policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

2.2.6.c. Low German in the *Land* of Mecklenburg-Western Pomerania

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i to make available pre-school education in the relevant regional or minority languages; or*
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or*
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or*
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;”**

547. In its first evaluation report (see paragraph 321), the Committee of Experts observed that recommendations and model projects existed for nursery schools. While Low German was present in 56 pre-schools, the quality and intensity of the teaching of Low German differed widely. The Committee of Experts had furthermore not received any information about any planned activities in order to implement this undertaking. It considered, therefore, that this undertaking was partly fulfilled.

548. The Committee of Experts has been informed that, given the shortage in this field, the main priority of the authorities is to promote the training of pre-school teachers and several activities in this field have been brought to the attention of the Committee of Experts.

549. According to the information provided in the second periodical report, thirty-one children’s day-care centres operated by the social services provider *Volkssolidarität Mecklenburg-Vorpommern e.V.*, as well as eight run by the German Red Cross, provide regular activities or instruction in Low German. The authorities report that a further 100 pre-school children followed introductory Low German courses under a separate project. However, the Committee of Experts has not been informed of the full extent of the existing pre-school education available in Low German, nor of the measures taken by the authorities to favour and/or encourage such education.

550. The Committee of Experts is aware that pre-school education provision in Mecklenburg-Western Pomerania is being reorganised. The *Land* Government will gradually introduce a free-tuition pre-school year, as well as day-care offers for all children from age 2 onwards. The Committee of Experts would welcome further information about the way in which the authorities of Mecklenburg-Western Pomerania envisage taking account of this undertaking in the framework of this reform.

551. The Committee of Experts considers this undertaking partly fulfilled at present and would welcome further information regarding the reorganisation of pre-school education and the effect that this will have on the availability of Low German at this level.

“b *iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”*

“c *iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”*

552. In its first evaluation report (see paragraphs 322-323), the Committee of Experts observed that a mandatory Low German Framework Curriculum existed. However, it was unclear to the Committee of Experts

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whether this Framework Curriculum ensured the teaching of Low German to the extent envisaged by these provisions. It therefore considered that it was not in a position to conclude that these undertakings were fulfilled.

553. The Committee of Experts has been informed by the authorities that the number of school pupils has dropped dramatically in Mecklenburg-Western Pomerania as a result of recent demographic changes, which will have repercussions for the entire school system of the *Land*. The Committee of Experts urges the German authorities to bear in mind the protection and promotion of Low German while taking decisions in relation with this situation.

554. According to the information contained in the second periodical report, Low German continues to be taught as a part of the subjects of German, music, as well as 'local history and geography, and elementary science' at primary schools. It can also be offered as an alternative subject in primary schools instead of 'philosophy for children'.

555. Within secondary education, Low German can also be included in the teaching of other subjects or offered as an extracurricular activity in all types of schools. It is also possible to have Low German as a required optional subject (*Wahlpflichtunterricht*) and/or an optional subject (*Neigungsunterricht*) from grade 7 onwards in 'regional schools', secondary modern schools, *Realschulen* and comprehensive schools. In *Gymnasien*, Low German can be taught as a required optional subject, or in the form of project courses.

556. The Committee of Experts understands that the level of Low German provision at primary and secondary schools is highly variable, depending on school types, geographical areas, as well as the willingness of schools and pupils. The *Land* authorities acknowledge that the lack of reliable data concerning the actual extent to which Low German is taught at individual schools constitutes a problem. The Committee of Experts is pleased to note that a new study addressing this issue is in progress and looks forward to receiving further information in this respect in Germany's next periodical report.

557. At the suggestion of the Low German Consultative Council (*Niederdeutsch-Beirat*), the Ministry of Education, Science and Cultural Affairs of Mecklenburg-Western Pomerania issued an Administrative Ordinance (*Verwaltungsvorschrift*) on "Low German in Classroom Instruction" on 9 March 2004. The Committee of Experts welcomes the adoption of this Administrative Ordinance, which provides for several measures to promote the teaching of Low German at primary and secondary schools, including the appointment of Low German advisers at the *L.I.S.A.* (*Land* Institute for Schools and Training), at the four State Education Offices and at schools. The Committee of Experts has also been informed that 10 teachers were specifically appointed as Low German teachers in the 2003/2004 school year.

558. The Committee of Experts considers these undertakings partly fulfilled at present. It commends the authorities of Mecklenburg-Western Pomerania for the positive developments described above, and encourages them to pursue their efforts with a view to ensuring that Low German is systematically taught at primary and secondary schools.

"d iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;"

559. In its first evaluation report (see paragraph 324), the Committee of Experts noted that Low German was offered as a part of other subjects, and not as a separate subject, on the basis of the Low German Framework Curriculum. The Committee of Experts was not in a position to conclude that this undertaking was fulfilled, however, as the extent of the provision for Low German at this level was not clear.

560. The second periodical report confines itself to referring to the general comments made under primary and secondary education. These comments only concern general education schools (*allgemein bildende Schulen*), however, and do not contain any information with respect to the provision for the teaching of Low German within technical and vocational education. It is also not clear to the Committee of Experts to what extent the Low German Framework Curriculum applies to technical and vocational schools.

561. Due to the lack of specific information, the Committee of Experts is still not in a position to conclude that this undertaking is fulfilled and requests further information in Germany's next periodical report.

“g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;”

562. In its first evaluation report (see paragraph 326), the Committee of Experts requested further information on the activities pursued within the meaning of this undertaking in order to be able to conclude on its fulfilment.

563. The second periodical report provides several examples of advanced seminars on various topics concerning the history of Low German and the regional culture, organised notably by Greifswald University and the *Institut für Volkskunde – Wossidlo Archiv*. The Committee of Experts also observes that the Low German Framework Curriculum, as well as the framework curricula for the subject of German at primary and secondary levels, make provision for the teaching of the history and the culture which is reflected by Low German.

564. While the Committee of Experts considers this undertaking fulfilled, it would welcome further information about the way in which history and culture which is reflected by Low German is dealt with in schools in practice, with a particular reference to teaching materials, and would welcome further information in Germany's next periodical report.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

565. In its first evaluation report (see paragraph 328), the Committee of Experts considered that this undertaking was not fulfilled, as there was no supervisory body specifically entrusted with the tasks envisaged by this provision. It encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Mecklenburg-Western Pomerania and to draw up periodic reports.

566. The German authorities state in the second periodical report that the Mecklenburg-Western Pomerania Low German Consultative Council (*Niederdeutsch-Beirat*) will in future fulfil this supervisory function and submit regular reports on the measures taken to further develop education in Low German in Mecklenburg-Western Pomerania. The Committee of Experts thinks that this could be a possible solution for the implementation of this undertaking, and would welcome further information about developments in this respect in the next periodical report.

567. The Committee of Experts considers this undertaking not fulfilled at present and encourages the envisaged moves towards drawing up periodic reports and making them public.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

568. In its first evaluation report (see paragraph 331), the Committee of Experts noted that the *Land Administrative Procedure Act* did not rule out the use of Low German and that accordingly documents drafted in Low German could be submitted to administrative authorities. However, in view of the lack of practical information, the Committee of Experts considered that it was not able to conclude that this undertaking was fulfilled.

569. The German authorities state in the second periodical report that submission of Low German documents is admissible, but that it only occurs in the case of historical deeds, due to the fact that Low German speakers

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also speak German. With the exception of a model case dating back to the 1960s, the Committee of Experts has not been informed of any examples of the possibility of submitting documents in Low German being used in practice. Neither has it been informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, for example through information campaigns for the general public, or to informing the relevant authorities of their obligations under the Charter.

570. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking and in the absence of any measures of encouragement, the Committee of Experts considers that this undertaking is only formally fulfilled.

“c to allow the administrative authorities to draft documents in a regional or minority language.”

571. In its first evaluation report (see paragraph 332), the Committee of Experts considered that this undertaking was only formally fulfilled. It observed that Mecklenburg-Western Pomerania had not adopted special administrative regulations in order to implement this undertaking, whereas in the Committee of Experts’ opinion it would have been advisable to issue specific instructions or formal legal rules to the authorities concerned, with a view to informing them of the possibility of drafting documents in Low German.

572. The Committee of Experts has been informed by the German authorities that documents, speeches, letters and messages are written in Low German within administrative authorities, including the *Land* authorities, and that letters sent by citizens in Low German are answered in Low German as far as possible. However, while the second periodical report contains practical examples concerning measures to encourage the use of Low German within some regional and local authorities, no such measures have been reported with respect to the *Land* authorities.

573. Bearing in mind that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts is of the view that the information at its disposal at present is not sufficient for it to evaluate its fulfilment with respect to the *Land* authorities in practice. It considers, therefore, that this undertaking is formally fulfilled and would welcome further information, such as statistical information and/or practical examples in relation with this undertaking in Germany’s next periodical report.

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

a the use of regional or minority languages within the framework of the regional or local authority;”

574. In its first evaluation report (see paragraph 333), while it had been informed that a wide range of initiatives were being pursued by the regional or local authorities in Mecklenburg-Western Pomerania in relation to this undertaking, the Committee of Experts considered that it needed further information in order to be able to evaluate the fulfilment of this undertaking.

575. According to the information available to the Committee of Experts, Low German is regularly used within the framework of regional or local authorities. The second periodical report contains information about a number of initiatives designed to increase the use of Low German within regional or local authorities, such as sticker campaigns, the appointment of Low German Commissioners, mission statements of local authorities being drafted in Low German, etc. According to the authorities, the *Land* Government also appealed to the political and administrative representatives of the various regions, municipalities, towns and villages to use the Low German language within administrative authorities, and the Minister-President of Mecklenburg-Western Pomerania frequently uses Low German during his public appearances and speeches.

576. The Committee of Experts considers this undertaking fulfilled.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

- c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”**

577. In its first evaluation report (see paragraph 336), the Committee of Experts did not conclude on the fulfilment of this undertaking, because it had received no information as to the policy of the authorities regarding requests from employees to be appointed in the territory in which their knowledge of Low German would be most useful.

578. The second periodical report reiterates that the Low German speech area covers the entire territory of the *Land* of Mecklenburg-Western Pomerania. Although in principle it is possible for a public service employee to send a request to the personnel co-ordination section of the Ministry of the Interior for appointment in another territory in which their knowledge of Low German would be most useful, no such applications have so far been filed. The Committee of Experts understands that there is no specific human resources policy taking account of the Low German proficiency of civil servants.

579. The Committee of Experts considers that this undertaking is only formally fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

- “b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”**

580. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or private broadcasting regulations making specific provision for regional or minority languages, could be envisaged in this context.

581. In its first evaluation report (see paragraph 337), the Committee of Experts considered that a commendable effort was made in the public sector, but did not have any information as to the measures of encouragement for the broadcasting of radio programmes in Low German by private radio stations in Mecklenburg-Western Pomerania.

582. The Committee of Experts is aware that there are some Low German programmes on the regional radio station of the public broadcaster NDR. While the authorities refer to *Antenne Mecklenburg-Vorpommern*, a private radio broadcaster, in the second periodical report, the Committee of Experts has received no evidence that this radio station broadcasts programmes in Low German and would welcome further information in Germany’s next periodical report.

583. According to the information provided in the second periodical report, the Minister-President of Mecklenburg-Western Pomerania addressed a letter to public and private broadcasting companies and the print media in 2003, requesting the addressees to use Low German in the media. While recognising the symbolic

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value of this gesture, the Committee of Experts considers that this measure is not effective enough to be considered as encouragement and/or facilitation within the meaning of this undertaking.

584. The second periodical report refers to talks between the *Niederdeutsch-Beirat* of Mecklenburg-Western Pomerania and public and private broadcasters. The authorities have also informed the Committee of Experts that consideration will be given to use the possibilities offered by 'Open Channels', in view of the fact that Low German speakers are already represented on the *Land* Broadcasting Board. The Committee of Experts hopes that these initiatives will gradually lead to Low German programmes being broadcast by private radio stations on a regular basis.

585. The Committee of Experts commends the initiatives referred to above. Nevertheless, it must conclude that this undertaking is not fulfilled at present.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

586. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter's Explanatory Report). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or private broadcasting regulations making specific provision for regional or minority languages, could be envisaged in this context.

587. In its first evaluation report (see paragraph 338), the Committee of Experts observed that no television programmes were broadcast in Low German on a regular basis. It did not have any information as to measures taken with a view to encouraging or facilitating the broadcasting of such programmes. The Committee of Experts concluded, therefore, that this undertaking was not fulfilled.

588. According to the information provided in the second periodical report, the Rostock Open Channel (ROK-TV) broadcasts a monthly 45-minute television programme, with five reruns per month, in which Low German and standard German are spoken alternately. This programme (*Klönssnack im alten Hafenaus*), which is a co-operation project involving several NGOs, is produced by the Media Workshop of ROK-TV and receives indirect financial support from the authorities. It is also stated in the second periodical report that an Open Channel which will be received in Neubrandenburg and Schwerin is also starting operations and will include Low German in its programmes. Although the Committee of Experts considers that the existing provision is still very limited, it welcomes these developments as a positive step towards the fulfilment of this undertaking and would welcome further information in the next periodical report.

589. The Committee of Experts considers this undertaking partly fulfilled and encourages the German authorities to pursue their efforts with a view to increasing the presence of Low German on private television channels.

“e ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”

590. In its first evaluation report (see paragraph 340), while the Committee of Experts had been informed that Low German articles regularly appeared in newspapers, it was not in a position to conclude that this undertaking was fulfilled, as it had received no information on how the authorities were encouraging or facilitating the publication of newspaper articles in Low German on a regular basis.

591. Although the second periodical report contains additional data about the extent and periodicity of Low German articles in newspapers, no information has been provided to the Committee of Experts regarding the ways in which the public authorities encourage and/or facilitate the publication of such articles.

592. Based on the information received, the Committee of Experts observes that newspaper articles in Low German are published on a regular basis. The Committee of Experts therefore considers the undertaking fulfilled

at present. If this practice ceases, however, the authorities remain obliged to encourage and/or facilitate the publication of such newspaper articles on a regular basis.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

- c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;”***

593. In its first evaluation report (see paragraph 345), having only received information regarding translation activities, and not dubbing, post-synchronisation and subtitling, the Committee of Experts considered this undertaking partly fulfilled.

594. The second periodical report refers to a live television programme broadcast by ROK-TV (see paragraph 588 above), in which High German contributions were dubbed in Low German. The Committee of Experts has received no further information in connection with this undertaking.

595. The Committee of Experts considers that the information received is not sufficient for it to revise its previous evaluation and that this undertaking is still partly fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

596. In its first evaluation report (see paragraph 350), the Committee of Experts observed that the *Land* authorities made provision for Low German in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

597. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the Low German language seems to have been included in any relevant federal scheme abroad.

598. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

599. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Mecklenburg-Western Pomerania.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

600. In its first evaluation report (see paragraph 352), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

601. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Low German in Mecklenburg-Western Pomerania in connection with economic and social activities was brought to the attention of the Committee of Experts by the Low German speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

602. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

“d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”

603. In its first evaluation report (see paragraph 353), the Committee of Experts considered that it was not in a position to conclude that this undertaking was fulfilled, as it had not received any information with respect to this undertaking.

604. In their second periodical report, the German authorities informed the Committee of Experts of several initiatives fostering the use of Low German. For example, Low German names of plants were displayed and brochures and leaflets in Low German were distributed during the international horticultural exhibition IGA 2003 in the Hanseatic City of Rostock. Guided tours in Low German are organised in several museums. According to the information available to the Committee of Experts, Low German is an important element in tourism promotion activities of the *Land* of Mecklenburg-Western Pomerania.

605. The Committee of Experts considers this undertaking fulfilled.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;”

606. In its first evaluation report (see paragraph 354), the Committee of Experts observed that Low German was used to a certain extent in social care facilities, but that this depended on whether there were Low German speakers among the staff. It considered that the information at its disposal did not allow it to assess if this undertaking was fulfilled.

607. According to the information provided in the second periodical report, on the basis of sample surveys, it can be assumed that 10-12% of staff employed in social care facilities speak Low German. In many nursing homes, Low German is a regular feature of daily life. In addition, the authorities have pointed to a number of examples regarding measures taken by nursing and retirement homes with a view to actively fostering the use of

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Low German. The Committee of Experts has also been informed that staff members of nursing and retirement homes in the *Landkreis* of Nordvorpommern attended a 36-hour course in order to improve their Low German skills.

608. While it seems possible to use Low German in retirement homes, the Committee of Experts has received no information with respect to other social care facilities, such as hospitals. The second periodical report states that initial concepts are being developed for fostering the use of Low German in hospitals, retirement homes and other facilities, for example by appointing a Low German contact person at each facility. The Committee of Experts encourages the German authorities to pursue these efforts and to ensure, wherever reasonably possible, that the possibility to use Low German is offered in social care facilities, which implies structural measures with a view to guaranteeing a more systematic provision. These measures could include, for example, regulations governing the relevant qualifications which take account of a person's knowledge of Low German, or facilities and incentives for the existing social care personnel to improve their Low German skills.

609. The Committee of Experts considers that this undertaking is partly fulfilled.

The Committee of Experts encourages the authorities of Mecklenburg-Western Pomerania to adopt a structured policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

2.2.6.d. Low German in the *Land* of Lower Saxony

Article 8 – Education

610. Germany's instrument of ratification does not include the teaching of Low German in primary and secondary education under Part III. Considering the crucial role of education in the protection of regional or minority languages and the importance of the continuity of educational provision, the Committee of Experts encourages the German authorities to consider the possibility of extending the scope of Part III protection for Low German under Germany's instrument of ratification to primary and secondary education.

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i* to make available pre-school education in the relevant regional or minority languages; or
- ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii* to apply one of the measures provided for under *i* and *ii* above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv** **if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under *i* to *iii* above;”**

611. In its first evaluation report (see paragraph 355), the Committee of Experts observed that a model test (bilingualism in nursery schools) had been implemented in 36 nursery schools. It had not received information about any planned activities in connection with this undertaking, however, and considered therefore that this undertaking was partly fulfilled.

612. According to the information provided in the second periodical report, bilingual education (standard German/Low German) takes place in 34 nursery schools in Ostfriesland. These schools are networked through the *Plattdütskbüro* (Low German Office) of the *Ostfriesische Landschaft*, which also offers further training activities for nursery school teachers in Ostfriesland. Although the Committee of Experts is aware of *Land*-wide awareness-raising and further training activities organised by the *Ostfriesische Landschaft*, it has not been informed of the availability of pre-school education in Low German in areas other than Ostfriesland.

613. As the information at its disposal only concerns the availability of pre-school education in Low German in Ostfriesland, the Committee of Experts considers this undertaking only partly fulfilled. It would welcome further information regarding the ways in which the authorities of Lower Saxony are favouring and/or encouraging pre-school education in Low German elsewhere on the territory of the *Land*.

- “e** *ii* **to provide facilities for the study of these languages as university and higher education subjects;”**

614. In its first evaluation report (see paragraph 356), having observed that two major universities offered courses on Low German, the Committee of Experts considered that this undertaking was fulfilled.

615. The Committee of Experts observes that since the adoption of its first evaluation report, the facilities for the study of Low German at university level have been drastically reduced and that the information contained in the second periodical report is no longer accurate. Göttingen University, in particular, decided to discontinue the independent course of study 'Low German language and literature' and not to renew the only Low German professorship, also referred to in the second periodical report, upon the retirement of the chair's current holder. This chair has been in existence for over 50 years and was of crucial importance for the Low German language in Lower Saxony, and in Germany in general. The Committee of Experts deeply regrets these developments and

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the fact that financial considerations appear to have taken precedence over the need for the protection and the promotion of the Low German language and Germany's obligations under the Charter. It understands that there are talks to reinforce the position of the Low German language at Oldenburg University, the outcome of which is still uncertain. The Low German speakers were of the view that it would have been far more cost-efficient to maintain the professorship at Göttingen University rather than creating a new structure.

616. In these circumstances, the Committee of Experts considers that this undertaking is no longer fulfilled.

The Committee of Experts urges the German authorities to take the necessary measures with a view to re-establishing facilities for the study of Low German as a university or higher education subject in Lower Saxony as a matter of priority.

“f iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

617. In its first evaluation report (see paragraph 357), having only been informed about the adult education offer in Ostfriesland, the Committee of Experts requested information concerning the situation in other areas of Lower Saxony.

618. According to the information provided by the German authorities in the second periodical report, adult education centres throughout the *Land* offer Low German courses. In 2001, 170 courses and events took place at 33 adult education centres, including those in Hildesheim, Göttingen, Northeim, Hameln and Goslar.

619. The Committee of Experts considers this undertaking fulfilled.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

620. In its first evaluation report (see paragraph 359), the Committee of Experts noted that a Working Group had been given the task of monitoring the implementation of the Charter, but requested more information concerning this body and other bodies which produce publications on measures to introduce instruction in Low German. The Committee of Experts encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Lower Saxony and to draw up periodic reports.

621. The second periodical report does not contain any information regarding the Working Group referred to in the initial periodical report, which would allow the Committee of Experts to assess the fulfilment of this undertaking. It is notably not aware of any periodic reports prepared by this Working Group which are made public. The Committee of Experts requests more detailed information, in particular on the precise name and statute of this Working Group, as well as the documents it produces and the activities it organises.

622. The German authorities further refer to the so-called “red book” (*Rote Mappe*), a critical annual report prepared by *Niedersächsischer Heimatbund*, which is made public and which contains a section on Low German and Sater Frisian. The Committee of Experts observes, however, that the 2004 “red book” itself draws attention to the lack of external supervision regarding the teaching of Low German and urges the *Land* Government to set up such a supervisory body.

623. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts encourages the German authorities to establish a supervisory body within the meaning of this undertaking.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

- a v to ensure that users of regional or minority languages may validly submit a document in these languages;”**

624. In its first evaluation report (see paragraph 362), the Committee of Experts observed that the *Land* of Lower Saxony had refrained from adopting special administrative regulations in order to implement this undertaking, on the assumption that this provision had become directly applicable upon the entry into force of the Charter in Germany. The Committee of Experts affirmed, however, that it would be advisable to issue specific instructions to the authorities concerned and to make these instructions public, with a view to informing the authorities and the Low German speakers of the possibility to submit documents in Low German. It considered that this undertaking was only formally fulfilled.

625. The German authorities state in the second periodical report that the authorities of the *Weser-Ems Regierungsbezirk* regularly used Low German in the administration's contact with citizens. The authorities affirm that the possibility to submit a document in Low German was ensured by the fact that a major part of the staff members understood and spoke Low German. No information has been provided regarding other authorities, including central authorities. Moreover, the Committee of Experts is not aware of a structured policy or measures to ensure the availability of Low-German-speaking staff members, and to inform the administrative authorities and the Low German speakers about the right to submit documents in Low German.

626. The Committee of Experts was informed during the “on-the-spot” visit that the administrative level of *Regierungsbezirke* was to be abolished starting from 2005. Considering that the information contained in the second periodical report exclusively concerns this administrative level, and only the *Weser-Ems Regierungsbezirk*, the Committee of Experts is not in a position to conclude that this undertaking is fulfilled in practice and maintains its previous assessment, therefore, that it is only formally fulfilled. It encourages the German authorities to submit more detailed information concerning the measures taken by the *Land* of Lower Saxony to ensure that documents in Low German may be submitted within its administrative districts, and practical examples of this possibility being used by the speakers.

- “c to allow the administrative authorities to draft documents in a regional or minority language.”**

627. In its first evaluation report (see paragraph 363), the Committee of Experts expressed its view that in order to make it clear to the competent administrative authorities that they may draft documents in Low German, it would be advisable that instructions (or, when necessary formal rules) are issued to competent authorities and made public. It considered that this undertaking was only formally fulfilled.

628. The Committee of Experts has not received sufficient information to conclude on the fulfilment of this undertaking and would welcome further information, including examples of documents drafted in Low German within the administrative districts of the *Land* of Lower Saxony, in Germany's next periodical report.

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

- a the use of regional or minority languages within the framework of the regional or local authority;”**

629. The Committee of Experts observes that this undertaking concerns the internal organisation of the local and regional authorities and indicates that a regional or minority language may be used as a working language

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by the authority concerned, excluding relations with the central authorities (see paragraph 106 of the Charter's Explanatory Report).

630. In its first evaluation report (see paragraph 364), while it had been informed that Low German was used to some extent within the administration, the Committee of Experts was of the view that the information at its disposal was not sufficient to assess whether and to what extent this provision was applied in practice. It considered that this undertaking was only formally fulfilled.

631. The second periodical report states that Low German is used to some extent in Ostfriesland and in Ammerland, where many local authorities employ staff proficient in the Low German language and where representatives of *Landkreise* (rural administrative districts) and local authorities formed working panels dealing specifically with the implementation of Article 10 of the Charter. The Committee of Experts received no information about measures taken elsewhere in Lower Saxony. It has also not been informed of any steps taken with a view to ensuring the implementation of this undertaking in practice.

632. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

“b *the possibility for users of regional or minority languages to submit oral or written applications in these languages;*”

633. In its first evaluation report (see paragraph 365), the Committee of Experts observed that, even assuming that no further legal acts were required for the implementation of this undertaking, it had not received any information concerning the extent to which this provision was applied in practice. The Committee of Experts was of the view that it would be advisable to issue specific instructions to the authorities concerned and to make these instructions public, with a view to informing the local and regional authorities and the Low German speakers of the possibility to submit documents in Low German. It considered that this undertaking was only formally fulfilled.

634. The second periodical report confines itself to stating that applications may be submitted in Low German and refers to the information provided in connection with the area of the *Weser-Ems Regierungsbezirk*.

635. Although oral communication in Low German with regional or local authorities appears to take place occasionally in Lower Saxony, the Committee of Experts is not aware of any examples of the possibility of submitting written applications in Low German being used in practice. Neither was it informed of any measures taken by the authorities with a view to encouraging Low German speakers to avail themselves of this possibility, for example through information campaigns, or to informing the relevant authorities of their obligations under the Charter.

636. The Committee of Experts stresses that for this undertaking to be effectively fulfilled, a legal framework allowing the use of regional or minority languages in dealings with the administrative authorities should be accompanied by arrangements in administrative organisation designed to counterbalance practical obstacles (see, for example, the first evaluation report in respect of Hungary, ECRML (2001) 4, paragraph 54), in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities. In this connection, the Committee of Experts also draws the authorities' attention to the relevant paragraphs of the Charter's Explanatory Report.

637. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

“c *the publication by regional authorities of their official documents also in the relevant regional or minority languages;*”

d *the publication by local authorities of their official documents also in the relevant regional or minority languages;*”

638. In its first evaluation report (see paragraph 366), while the Committee of Experts had been informed that these provisions were directly applicable in Lower Saxony, it had not received any information regarding the

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practical implementation of these undertakings and the encouragement of such publications. The Committee of Experts was therefore not in a position to conclude that these undertakings were fulfilled.

639. According to the information provided in the second periodical report, no official documents in Low German are published by local and regional authorities in Lower Saxony and the authorities have not yet established such publication practices. The Committee of Experts has not been informed of any measures taken by the central authorities, i.e. the *Land* authorities or the federal authorities, to ensure the implementation of this undertaking in practice, for example by providing the additional funds required for related translation costs.

640. Considering that some degree of practical implementation is needed for the fulfilment of these undertakings and in the absence of any encouraging measures, the Committee of Experts considers that these undertakings are only formally fulfilled.

“e *the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*”

641. In its first evaluation report (see paragraph 367), the Committee of Experts could not conclude that this undertaking was fulfilled, as it had not received any information.

642. While Low German is used by a number of local authorities in debates in their assemblies, its use by regional authorities appears very limited. In this context, only the assemblies of the *Kreistag* (district council) in Harburg, Winsen/Luhe *Landkreis* (district) and the *Kreistag* of Rotenburg/Wümme *Landkreis* are mentioned in the second periodical report as using Low German in their debates at irregular intervals. The Committee of Experts has not been informed of any measures taken by the central authorities to encourage the use of Low German by regional authorities in debates in their assemblies.

643. The Committee of Experts considers, therefore, that this undertaking is only partly fulfilled.

Paragraph 4

“ *With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:*”

c *compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.*”

644. In its first evaluation report (see paragraph 370), the Committee of Experts was not in a position to conclude that this undertaking was fulfilled, as it had received no information as to the policy of the authorities regarding requests from employees to be appointed in the territory in which their knowledge of Low German could be most useful.

645. According to the information provided in the second periodical report, a formalised procedure for the implementation of this undertaking does not exist. The authorities state that, on a pragmatic basis, the Weser-Ems *Regierungsbezirk* complies with the assignment wishes of staff members, provided that there are no conflicting service requirements and that lower-level administrative authorities in Weser-Ems usually proceed along the same lines. The Committee of Experts has not received information about the way in which this undertaking is implemented in other areas in Lower Saxony. It is also aware that *Regierungsbezirke* were dissolved in 2005.

646. In the opinion of the Committee of Experts, a bilingual human resources policy applicable throughout the territory of Lower Saxony, taking account of the Low German proficiency of civil servants and ensuring compliance with their possible requests to be appointed in the territory in which their knowledge of Low German could be most useful, is necessary for this undertaking to be fully implemented.

647. The Committee of Experts considers that this undertaking is partly fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

648. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

649. In its first evaluation report (see paragraph 373), the Committee of Experts stated that it did not have any information as to measures with a view to encouraging the broadcasting of television programmes in Low German. Taking a number of programmes in Low German into consideration, the Committee of Experts considered this undertaking only partly fulfilled.

650. The Committee of Experts has been informed during the second monitoring cycle that the existing offer in television programmes in Low German in Lower Saxony is exclusively public. In the second periodical report, the authorities of Lower Saxony affirmed that, in view of the programming autonomy of broadcasters and the constitutional rule of non-intervention in broadcasting, there was no scope for the *Land* Government to exert an influence on specific detailed programme contents. The Committee of Experts emphasises that regional or minority languages tend to be absent from the media because of their relative economic and political weakness, unless this disadvantage is redressed by positive measures. This undertaking precisely requires the State Party to take such positive measures with respect to private television broadcasters.

651. In view of the fact that this undertaking concerns private television broadcasters, the Committee of Experts considers that this undertaking is not fulfilled.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

652. In its first evaluation report (see paragraph 374), the Committee of Experts considered that this undertaking was fulfilled through subsidies granted by Lower Saxony for the production of audio and audiovisual works in Low German.

653. In the present monitoring cycle, the Committee of Experts has been informed that there are in fact no specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German in Lower Saxony.

654. The Committee of Experts stresses that, to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from general promotion measures for audiovisual works, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Low German in the *Land* of Lower Saxony). Consequently, this provision necessitates pro-active measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc.

655. Accordingly, the Committee of Experts revises its previous conclusion, and considers that this undertaking is not fulfilled. It encourages the authorities of Lower Saxony to develop special schemes with a view to encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

656. In its first evaluation report (see paragraph 376), by reference to its evaluation under sub-paragraph d.ii of this paragraph of the Charter, the Committee of Experts considered this undertaking fulfilled. The Committee of Experts was informed in the second monitoring round that the *Länder* of Lower Saxony and Bremen founded the media company *nordmedia* (*Mediengesellschaft Niedersachsen/Bremen mbH*), which promotes audiovisual productions. According to the information provided in the second periodical report, three films in Low German were subsidised by *nordmedia*. The Committee of Experts maintains its previous assessment, therefore, that this undertaking is fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 1

“With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;”

657. In its first evaluation report (see paragraph 379), the Committee of Experts considered this undertaking partly fulfilled. While it had received information regarding the translation of works in Low German into High German, it had not been informed of relevant dubbing, post-synchronisation and subtitling activities. The second periodical report refers to two audiovisual works produced in Low German with sub-titles in standard German, which were subsidised by the authorities in 2001 and 2002. However, the Committee of Experts has not been informed of a policy ensuring continued support for dubbing, post-synchronisation and subtitling activities. The Committee of Experts considers that the information received does not justify its departing from its previous conclusion and that this undertaking is partly fulfilled.

“c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;”

658. In its first evaluation report (see paragraph 379), the Committee of Experts considered this undertaking partly fulfilled. While it had received information regarding translation activities, it had not been informed of dubbing, post-synchronisation and subtitling activities with a view to fostering access in Low German to works produced in other languages. No further information has been provided to the Committee of Experts in the second monitoring cycle. The Committee of Experts maintains its previous assessment, therefore, that this undertaking is partly fulfilled.

“f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;”

659. In its first evaluation report (see paragraph 382), the Committee of Experts considered that it was not in a position to conclude that this undertaking was fulfilled and requested the German authorities to submit further information concerning the degree of direct participation by representatives of the users of Low German in Lower Saxony in providing facilities and planning cultural activities.

Part III
Low German in Lower Saxony

660. The second periodical report contains information regarding activities of institutions, such as *Ostfriesische Landschaft* or *Niedersächsischer Heimatbund e.V.*, which organise and participate in cultural activities making provision for the Low German language. Both organisations include Low German speakers among their members.

661. The Committee of Experts considers this undertaking fulfilled.

Paragraph 2

“ In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.”

662. In its first evaluation report (see paragraph 384), the Committee of Experts observed that there was no information as to activities of the Government intended to encourage and/or provide appropriate cultural activities and facilities in the Southern part of Lower Saxony, where Low German is traditionally not used.

663. The authorities of the *Land* of Lower Saxony state in the second periodical report that activities of groups of Low German speakers also take place in Southern Lower Saxony. However, they only make reference to the existing offer concerning adult education and do not give examples of activities within the meaning of this Article of the Charter.

664. The Committee of Experts is therefore not in a position to conclude that this undertaking is fulfilled, and would welcome further information in Germany's next periodical report.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

665. In its first evaluation report (see paragraph 385), the Committee of Experts observed that the *Land* authorities made provision for Low German in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

666. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany's cultural policy abroad. Moreover, no cultural activity involving the Low German language seems to have been included in any relevant federal scheme abroad.

667. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

668. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Lower Saxony.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

“c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”

669. In its first evaluation report (see paragraph 387), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

670. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Low German in Lower Saxony in connection with economic and social activities was brought to the attention of the Committee of Experts by the Low German speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

671. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

“d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”

672. In its first evaluation report (see paragraph 388), the Committee of Experts could not consider this undertaking fulfilled, as it had not received any information with respect to this undertaking.

673. According to the information provided in the second periodical report, awareness-raising activities were undertaken by *Niedersächsischer Heimatbund* in co-operation with the *Institut für Niederdeutsche Sprache* and with the support of the *Land* Government. The second periodical report also refers to a project entitled “*Plattdütsk bi d’ Arbeit*” (“Low German at work”), organised by the *Ostfriesische Landschaft* and the association *Ostfreeske Taal* in 2002. The Committee of Experts understands that this project has been continued due to broad support from the population, as well as from economic actors. As a result of this project, many businesses encouraged their customers to speak Low German, for example by advertising in Low German or indicating the Low German competence of their employees with pins and stickers. The Committee of Experts welcomes this project, which has been very successful and which resulted in increased use of Low German in economic and social life. In the opinion of the Committee of Experts, it could be used as a model in other areas in Lower Saxony, as well as in other *Länder* where Low German is spoken.

674. The Committee of Experts considers this undertaking fulfilled and encourages the authorities to maintain and increase their support for such projects.

2.2.6.e. Low German in the *Land* of Schleswig-Holstein

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

“b iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”

675. In its first evaluation report (see paragraph 394), the Committee of Experts observed that the legal basis for the inclusion of Low German in primary school education was provided by the Decree on Low German in School (*Niederdeutsch in der Schule*) and by curricula for various subjects which defined Low German as a field of general importance. However, there were no general regulations defining the extent to which Low German must be offered in classroom instruction and much depended on the areas and the demand by pupils. The Committee of Experts was not in a position to conclude that this undertaking was fulfilled.

676. The German authorities affirm in the second periodical report that this undertaking is fulfilled by the fact that Low German is included in the curriculum as a task area of general importance. They state that it is not possible to introduce a general regulation stipulating the extent to which Low German must be included in classroom instruction, due to significant regional differences and the fact that there are only relatively few teachers speaking Low German.

677. The Committee of Experts observes that Low German is not taught as a subject in its own right, but included in the teaching of other subjects. The Committee of Experts commends the authorities of Schleswig-Holstein for the availability and quality of teaching materials and the appointment of commissioners responsible for Low German education at different levels of school organisation. However, as the Committee of Experts also observed in its first evaluation report, the extent to which Low German is taught appears to vary significantly according to the areas, demand by pupils, as well as the competence and willingness of teachers. Thus, Low German is an important part of classroom instruction at some schools, whereas at others children become familiar with the language at most. The Low German speakers perceive the lack of clear guidelines as one of the main reasons for these differences.

678. According to the information contained in the second periodical report, surveys have been conducted on the implementation of the Decree on Low German in School, which give an overview of the extent of Low German classroom instruction. The Committee of Experts would welcome further information about the content of these surveys in Germany's next periodical report.

679. While acknowledging the considerable efforts of the authorities of Schleswig-Holstein to improve the level of teaching of Low German in recent years and to encourage primary schools to include Low German in regular classroom instruction, the Committee of Experts observes that this undertaking requires States Parties to provide for the teaching of a regional or minority language as an integral part of the curriculum. This implies a systematic provision with clear guidelines ensuring that a minimum number of hours is devoted to the teaching of the language concerned.

680. The Committee of Experts considers this undertaking partly fulfilled. It encourages the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within primary education to the extent envisaged by this undertaking, by adopting clear guidelines and other structural measures.

The Committee of Experts encourages the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within primary education to the extent envisaged by this undertaking, by adopting clear guidelines and other structural measures.

“c iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”

681. In its first evaluation report (see paragraph 395), not having received any information as to how many secondary schools actually taught Low German within regular schools hours, the Committee of Experts could not conclude that this undertaking was fulfilled.

682. The Committee of Experts' observations with respect to the provision for the teaching of Low German within primary education also apply to secondary education. The authorities of Schleswig-Holstein informed the Committee of Experts during the “on-the-spot” visit that the majority of secondary schools offer Low German, although the number of teaching hours devoted to Low German is highly variable. The Committee of Experts understands that new surveys have been conducted to assess the extent of Low German instruction within secondary education. The Committee of Experts would welcome further information about the content of these surveys in Germany's next periodical report.

683. The Committee of Experts considers this undertaking partly fulfilled. It encourages the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within secondary education to the extent envisaged by this undertaking, by adopting clear guidelines and other structural measures.

The Committee of Experts encourages the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within secondary education to the extent envisaged by this undertaking, by adopting clear guidelines and other structural measures.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

684. In its first evaluation report (see paragraph 400), the Committee of experts observed that there was no supervisory body specifically entrusted with the task of monitoring the teaching of Low German and drawing up periodic reports. It therefore considered this undertaking not fulfilled and encouraged the authorities to establish a supervisory body designed to monitor the measures taken in developing education in Low German in Schleswig-Holstein and to draw up periodic reports.

685. According to the second periodical report, the *Land* Government “does not perceive any need for establishing a special/separate supervisory body” in addition to the existing supervision, ensured by the public official responsible for expert supervision, the Schools Offices and Centres for Low German (*Zentren für Niederdeutsch*). The authorities also refer to the *Consultative Council for Low German* which deals, *inter alia*, with school matters, which however does not draw up periodic reports of its findings.

686. The Committee of Experts reiterates that this undertaking requires a supervisory body specifically entrusted with the task of evaluating the teaching of Low German. The Committee of Experts has been informed by the Low German speakers that they perceive the lack of adequate supervision as hampering the development of the teaching of Low German.

687. During the “on-the-spot” visit, the representatives of the *Land* authorities informed the Committee of Experts that there is a specialised body (*Fachkraft*) appointed by the Ministry of Education which monitors the teaching of Low German and draws up reports. These reports are not made public, however, and the authorities were of the view that it could be envisaged to develop this body as a supervisory body in accordance with this undertaking.

688. The Committee of Experts considers this undertaking not fulfilled at present and encourages the authorities to develop the existing structures of supervision along the lines envisaged by this provision.

Paragraph 2

“ With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.”

689. In its first evaluation report (see paragraph 401), the Committee of Experts stated that it had not been made aware of any measures on the part of the German authorities with respect to this undertaking.

690. The authorities of Schleswig-Holstein argue in the second periodical report that the Low German speech area must be considered as comprising the entire *Land* and state that it is not clear what ‘other territories’ might be referred to. Since Schleswig-Holstein has chosen this undertaking, there must be territories within the *Land* where Low German is not used. The Committee of Experts requests the authorities to clarify this situation in Germany’s next periodical report.

Article 10 – Administrative authorities and public services

Paragraph 1

“ Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

a v to ensure that users of regional or minority languages may validly submit a document in these languages;”

691. In its first evaluation report (see paragraph 404), the Committee of Experts observed that the legal framework in Schleswig-Holstein allowed the submission of documents in Low German. It considered, however, that due to the lack of practical information it was not able to conclude that this undertaking was fulfilled.

692. According to the second periodical report, there are no examples of Low German documents being submitted to administrative authorities. In the view of the authorities, this is due to the status of Low German as a spoken language.

693. The Committee of Experts interprets the ratification of this undertaking by Schleswig-Holstein as a sign of the *Land*’s commitment to the development of the use of Low German in public life, also as a written language which can be used in official situations. The Committee of Experts stresses that for this undertaking to be effectively fulfilled, a legal framework allowing the use of regional or minority languages in dealings with the administrative authorities should be accompanied by arrangements in administrative organisation designed to counterbalance practical obstacles (see, for example, the first evaluation report in respect of Hungary, ECRML (2001) 4, paragraph 54), in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities. In this connection, the Committee of Experts also draws the authorities’ attention to the relevant paragraphs of the Charter’s Explanatory Report.

694. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts considers that it is only formally fulfilled.

“c to allow the administrative authorities to draft documents in a regional or minority language.”

695. In its first evaluation report (see paragraph 405), the Committee of Experts considered that this undertaking was only formally fulfilled. It observed that Schleswig-Holstein had not adopted special administrative regulations in order to implement this undertaking, whereas in the Committee of Experts’ opinion it would have been advisable to issue specific instructions or formal legal rules to the authorities concerned, with a view to informing them of the possibility of drafting documents in Low German.

Part III
Low German in Schleswig-Holstein

696. The German authorities affirm that the lack of written communication is due to the fact that Low German is primarily used as an oral language in daily life. The authorities also argue that, due to differences in vocabulary and terminology, a one-to-one translation or an unequivocal translation from High German to Low German is not always possible, as a result of which Low German texts drafted by administrative authorities might not be sufficiently clear and intelligible so as to stand up to legal scrutiny.

697. The Committee of Experts interprets the ratification of this undertaking by Schleswig-Holstein as a sign of the *Land's* commitment to the development of the use of Low German in public life, also as a written language which can be used in official situations, including, if needed, the development of the necessary administrative vocabulary. While acknowledging the pertinence of the questions raised in the second periodical report, the Committee of Experts is of the view that the drafting of official documents in Low German by the administrative authorities would significantly contribute to this development and to the prestige of Low German.

698. Considering that some degree of practical implementation is needed for the fulfilment of this undertaking, the Committee of Experts considers that it is only formally fulfilled.

Paragraph 2

“In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

“b the possibility for users of regional or minority languages to submit oral or written applications in these languages;”

699. In its first evaluation report (see paragraph 407), the Committee of Experts considered that this undertaking was only formally fulfilled. It stressed that it would have been advisable to issue and make public specific instructions or formal legal rules to the authorities concerned, with a view to making this possibility clear to the authorities and the speakers.

700. The second periodical report refers to the brochure “*Sprache ist Vielfalt*”, which was distributed to the speakers and to all local authorities in Schleswig-Holstein, which draws attention to this possibility. Although oral communication in Low German with regional or local authorities appears to take place, the Committee of Experts is not aware of any examples of the possibility of submitting written applications in Low German being used in practice. According to the authorities, this is mainly due to the status of Low German as a spoken language (see paragraphs 696-697 above). However, they state in the second periodical report that the *Land* Government plans to discuss the scope for the implementation of this provision with the association of local authorities. The Committee of Experts hopes that this will lead to increased written use of Low German with local and regional authorities.

701. The Committee of Experts considers that this undertaking is only partly fulfilled at present.

Paragraph 4

“With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

c compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”

702. In its first evaluation report (see paragraph 409), the Committee of Experts observed that an announcement along the lines of this provision had been made at the Conference of Personnel Officers (*Personalreferentenkonferenz*) and that an application to this effect would be examined. It had not received any information on a positive practice or a structured approach with regard to this undertaking, however, and considered that the information provided did not allow it to conclude that this undertaking was fulfilled.

703. The authorities of Schleswig-Holstein point out in the second periodical report that Low German is spoken throughout the Land, although the extent to which it is used varies from one region to another. They argue that, “in all practical respects, therefore, this obligation would seem to be of little relevance as regards Low German”.

704. The Committee of Experts interprets this undertaking, chosen by the German authorities, as pointing to their commitment to comply with requests of Low-German-speaking civil servants to be appointed in areas where their knowledge of Low German would be most useful. It understands that there are no practical examples of this happening in practice and that Schleswig-Holstein has no specific human resources policy taking account of the Low German proficiency of civil servants.

705. The Committee of Experts considers, therefore, that this undertaking is only formally fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

“b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”

706. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in Low German in the private sector, whereas public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. Measures such as financial or technical support, or private broadcasting regulations making specific provision for regional or minority languages, could be envisaged in this context.

707. In its first evaluation report (see paragraph 410), the Committee of Experts observed that radio programmes in Low German were regularly broadcast and considered this undertaking fulfilled.

708. In the present monitoring round, the Committee of Experts has looked at the degree of practical implementation of this undertaking in more detail. It observes that a commendable effort is made in the public sector. However, while the authorities refer to programmes in Low German on the private radio station *Radio Schleswig-Holstein* and on Open Channels, they state that these programmes are not broadcast on a regular basis.

709. The second periodical report refers to a letter addressed by the Minister-President of Schleswig-Holstein to the directors and managers of public and private broadcasters, informing them of the Committee of Experts’ findings and encouraging them to support the presence of regional or minority languages in their broadcasts. The Committee of Experts is pleased to note this initiative and recognises its symbolic value. It considers, however, that this measure is not effective enough to be considered as encouragement and/or facilitation within the meaning of this undertaking.

710. In view of the fact that this undertaking concerns private radio broadcasters, the Committee of Experts considers that it is partly fulfilled at present.

“c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”

711. The Committee of Experts observes that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of television programmes in Low German in the private sector, whereas public

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service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter's Explanatory Report). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal.

712. In its first evaluation report (see paragraph 411), the Committee of Experts considered that this undertaking was not fulfilled. It noted that the availability of television programmes in Low German had been decreasing. It was also not aware of any active measures to facilitate the broadcasting of television programmes in Low German.

713. The Committee of Experts understands that there are no programmes in Low German on private television channels. The second periodical report refers to a letter addressed by the Minister-President of Schleswig-Holstein to the directors and managers of public and private broadcasters, informing them of the Committee of Experts' findings and encouraging them to support the presence of regional or minority languages in their broadcasts. The Committee of Experts is pleased to note this initiative and recognises its symbolic value. It considers, however, that this measure is not effective enough to be considered as encouragement and/or facilitation within the meaning of this undertaking.

714. The Committee of Experts considers that this undertaking is not fulfilled.

“d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”

715. In its first evaluation report (see paragraph 412), the Committee of Experts observed that promotion schemes and subsidies were available for audiovisual works in Low German and considered this undertaking fulfilled.

716. In the present second monitoring round the Committee of Experts has looked in more detail at the degree of practical implementation of this undertaking. The Committee of Experts observes, in particular, that to fulfil this undertaking it is not sufficient to allow works in regional or minority languages to benefit from the general promotion measures, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Germany with respect to Low German). Consequently, this provision necessitates pro-active measures by the authorities (see the first evaluation report in respect of Croatia ECRML (2001) 2, paragraph 95). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc.

717. The Committee of Experts is not aware of any specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German.

718. In the light of these considerations, the Committee of Experts revises its previous assessment and considers that this undertaking is not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

719. In its first evaluation report (see paragraph 408), the Committee of Experts considered that despite the existence of the possibility, there was no indication that existing measures for financial assistance for audiovisual works were used to promote productions in Low German. It considered this undertaking formally fulfilled and requested the German authorities to provide examples of cases where financial assistance had been provided to works in Low German.

720. According to the information provided in the second periodical report, while there are examples of promotional funds being allocated to audiovisual productions in Low German by the Corporation for the Funding of Audiovisual Work in Schleswig-Holstein (*MSH*), pertinent applications for promotional funds for audiovisual productions in Low German are filed only very infrequently.

721. The Committee of Experts considers this undertaking fulfilled at present, but encourages the authorities to consider the ways in which the existing promotion schemes could be adapted with a view to ensuring that Low German productions can qualify for financial assistance more regularly.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

- “b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;***
- c to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;”***

722. In its first evaluation report (see paragraphs 417-418), the Committee of Experts requested further information concerning specific steps taken by the authorities with regard to these undertakings.

723. According to the information provided in the second periodical report, the *Land* authorities subsidise translation activities, *Inter alia*, through the Centres for Low German in Leck and Ratzeburg and through the *Institut für Niederdeutsche Sprache* in Bremen. Although the second periodical report provides several examples of translations, it is not clear to the Committee of Experts whether these concern translations from or into Low German. The Committee of Experts requests the authorities to clarify this issue. It would also welcome further information as to whether the authorities foster access in standard German to works produced in Low German, and whether they foster access in Low German to works produced in standard German, by aiding and developing means other than translations, such as dubbing, post-synchronisation and subtitling activities.

- “d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;”***

724. In its first evaluation report (see paragraph 419), the Committee of Experts requested more detailed information regarding the implementation of this undertaking.

725. The second periodical report provides detailed information about several bodies and associations involved in the promotion of the Low German language, which receive direct support from the *Land* of Schleswig-Holstein. Numerous cultural activities either incorporate Low German or are entirely devoted to its promotion. Particular reference is made to the annual *Land-wide Plattdeutscher Tag* (Low German day), organised by the *Schleswig-Holsteinischer Heimatbund (SHHB)*.

726. The Committee of Experts considers that this undertaking is fulfilled.

- “f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;”***

727. In its first evaluation report (see paragraph 420), the Committee of Experts considered that it was not in a position to conclude that this undertaking was fulfilled on the basis of the information at its disposal, and requested further information.

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728. The requested information has been submitted in the second periodical report. The Committee of Experts observes that several bodies and organisations of the Low German speakers participate in the organisation of numerous cultural activities.

729. The Committee of Experts considers that this undertaking is fulfilled.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

730. In its first evaluation report (see paragraph 422), the Committee of Experts observed that the *Land* authorities made provision for Low German in the presentation of the culture of the *Land* abroad, while the federal authorities did not make such provision. It considered therefore that this undertaking was partly fulfilled.

731. According to the information provided in the second periodical report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad. However, the Committee of Experts has not been informed of any structured approach integrating regional or minority languages in Germany’s cultural policy abroad. Moreover, no cultural activity involving the Low German language seems to have been included in any relevant federal scheme abroad.

732. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad (e.g., cultural exchanges, reference to the regional or minority languages spoken in Germany in the context of exhibitions or events, information concerning Germany aiming at an international public, use of bilingual place-names on the official maps and in the official brochures and guides used to promote the cultural image of Germany abroad). Indeed, the spirit of this undertaking is in particular to encourage Germany to present or promote itself abroad, or in front of an international audience, in a manner other than as a monolingual or a monocultural country.

733. According to the information received, the federal authorities do not reflect the many regional or minority languages spoken in Germany when pursuing their cultural policy abroad. Accordingly, this undertaking is not fulfilled as regards the federal level and the Committee encourages the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad. The Committee of Experts considers this undertaking fulfilled with respect to the authorities of Schleswig-Holstein.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

- c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;***

734. In its first evaluation report (see paragraph 285), the Committee of Experts considered that it had received no information with respect to this undertaking and could not conclude that it was fulfilled.

735. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of Low German in Schleswig-Holstein in connection with economic and social activities was brought to the attention of the Committee of Experts by the Low German speakers. The Committee of Experts also understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking.

736. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

d *to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

737. In its first evaluation report (see paragraph 425), not having received any information with respect to the implementation of this undertaking, the Committee of Experts could not consider this undertaking as being fulfilled.

738. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use of regional or minority languages can be facilitated and encouraged with regard to economic and social activities. The measures envisaged should be positive, and not concern only the elimination or discouragement of negative practice. The measures envisaged could for example be to facilitate and/or encourage the use of the regional or minority language on buildings, the oral use of the language in public areas, such as in railway stations or airports, use of bilingual brochures in tourism, giving rewards to companies that are actually using the regional or minority language, initiating a campaign of bilingualism etc.

739. The second periodical report does not contain further information in this respect. The Committee of Experts is still not in a position to conclude, therefore, that this undertaking is fulfilled and requests further information in Germany's next periodical report.

Paragraph 2

“ With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:

c *to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;”*

740. Owing to the lack of a systematic approach in accordance with this provision, the Committee of Experts could not consider this undertaking fulfilled in its first evaluation report (see paragraph 426). While some Low-German-speaking staff members were available in social care facilities of the *Land*, the authorities were of the view that there was no necessity to systematically require social care facilities to employ staff members who have a command of Low German.

741. In their second periodical report, the authorities of Schleswig-Holstein reiterate their position according to which no action needs to be taken in this field. They also argue that, given that only a very small part of social care facilities are under the authorities' direct control, there is no scope for the *Land* to lay down any requirements in relation with this undertaking. The Committee of Experts understands that there is still no systematic approach with respect to the availability of Low-German-speaking staff members at social care facilities and that the number of existing staff members who can speak Low German is not known.

742. While acknowledging that it is possible in some social care facilities in Schleswig-Holstein to be received and treated in Low German, the Committee of Experts observes that this undertaking requires the States Parties to ensure, wherever reasonably possible, that this possibility is offered, which implies institutional measures with a view to guaranteeing a more systematic provision, to the extent that the public authorities are competent. These measures could include, for example, regulations governing the relevant qualifications which take account of a person's knowledge of Low German, or facilities and incentives for the existing social care personnel to improve their Low German skills.

743. The Committee of Experts considers, therefore, that this undertaking is partly fulfilled.

The Committee of Experts encourages the authorities of Schleswig-Holstein to adopt a structured policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

2.2.7. *Romany in the Land of Hesse*

744. The Committee of Experts considers that the decision to extend Part III protection under the Charter to the Romany language in Hesse was a very ambitious step. During the second “on-the-spot” visit, the representatives of the authorities of the Land of Hesse explained that this decision was very “future-orientated”, and that the main preoccupation behind it was to treat the Sinti and Roma on an equal footing with other regional or minority language speakers.

745. While welcoming this strong long-term commitment, the Committee of Experts recalls that it must nonetheless evaluate the present level of implementation of the precise undertakings entered into under Part III with respect to the Romany language in Hesse. This evaluation clearly shows that there is a significant gap between a number of the undertakings chosen and the level of implementation provided for by the domestic legal framework and practice. The Committee of Experts observes, in particular, that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romany language of German Sinti and Roma has no standard written form, as it has hitherto not been codified, in accordance with the wishes of a number of speakers. The Committee of Experts is also aware that part of the speakers do not wish the Romany language to have a presence in public life outside the Sinti and Roma community, which is in contradiction with the aims of a number of provisions of the Charter, notably those relating to judicial and administrative authorities, as well as to the media.

Article 8 – Education

Paragraph 1

“ With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a** *i* to make available pre-school education in the relevant regional or minority languages; or
- ii* to make available a substantial part of pre-school education in the relevant regional or minority languages; or
- iii* to apply one of the measures provided for under *i* and *ii* above at least to those pupils whose families so request and whose number is considered sufficient; or
- iv* if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under *i* to *iii* above;”
- “b** *i* to make available primary education in the relevant regional or minority languages; or
- ii* to make available a substantial part of primary education in the relevant regional or minority languages; or
- iii* to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv* to apply one of the measures provided for under *i* to *iii* above at least to those pupils whose families so request and whose number is considered sufficient;”
- “c** *i* to make available secondary education in the relevant regional or minority languages; or
- ii* to make available a substantial part of secondary education in the relevant regional or minority languages; or

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- iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv **to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;**
- “d i to make available technical and vocational education in the relevant regional or minority languages; or
- ii to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or
- iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
- iv **to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;**
- “e i to make available university and other higher education in regional or minority languages; or
- ii to provide facilities for the study of these languages as university and higher education subjects; or
- iii **if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;**”

746. According to the information available to the Committee of Experts, teaching in or of Romany does not take place at any level of education in Hesse. The German authorities state in the second periodical report that the Hesse Land Association of German Sinti and Roma was informed that such teaching was requested in a number of Hessian towns and that the Association plans to carry out an in-depth local needs analysis as soon as funds become available.

747. The second periodical report also refers to the fact that the Federal Government has allocated funds to the Documentation Centre of German Sinti and Roma in Heidelberg for establishing an “Education Section”, which would be responsible, inter alia, for developing materials for supplemental homework assistance and language classes, as well as for encouraging the introduction of courses in Romany in Hesse. The Committee of Experts understands, however, that in practice the activities of this section of the Documentation Centre exclusively concern fighting against discrimination of Sinti and Roma children in education. The representatives of this organisation informed the Committee of Experts during the “on-the-spot” visit that no concrete plans had been elaborated to develop teaching in or of Romany.

748. The Committee of Experts considers, therefore, that none of the undertakings under Article 8, paragraph 1, sub-paragraphs a to e are fulfilled at present.

The Committee of Experts encourages the German authorities to take the necessary measures and allocate appropriate funds with a view to organising, in co-operation with the speakers, teaching in or of Romany at all levels of education in Hesse.

- “f iii **if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;**”

749. Romany is currently not taught as an adult and continuing education subject. According to the information provided in the second periodical report, the Hessian Land Association of German Sinti and Roma had been informed that adult education in Romany was requested in a number of towns in Hesse. The

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authorities report that the Association plans to carry out an in-depth local needs analysis as soon as funds become available. The representatives of the Hessian Land Association of German Sinti and Roma informed the Committee of Experts during the “on-the-spot” visit that the Association was not able to meet the existing demand in this field in certain areas, such as Darmstadt, as they had not received any support from the authorities so far. The Committee of Experts was furthermore not informed of any measures taken by the German authorities with a view to favouring or encouraging the offering of Romany in the field of adult education.

750. The Committee of Experts considers therefore that this undertaking is not fulfilled at present and encourages the German authorities to take the necessary measures and allocate appropriate funds with a view to favouring and/or encouraging the offering of Romany as a subject of adult and continuing education.

“g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;”

751. According to the information provided in the second periodical report, the framework curricula for schools in Hesse make provision for the history and culture of the Sinti and Roma. Pertinent educational materials have been developed, and teachers are trained with regard to the history and culture of the Sinti and Roma by the Educational Bureau for National Minorities: Sinti and Roma (Pädagogisches Büro Nationale Minderheiten: Sinti und Roma), established by the Hessian Ministry of Culture. Several further training and awareness-raising activities were carried out by the Bureau. The Committee of Experts commends the authorities for these efforts.

752. The Committee of Experts considers that this undertaking is fulfilled.

“h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;”

753. While the second periodical report contains information about commendable efforts in making available further training opportunities with respect to the history and culture of the Sinti and Roma, which concerns sub-paragraph g of the present paragraph, the Committee of Experts was not informed of any measures to ensure the training of teachers with a view to implementing sub-paragraphs a to f, i.e. teaching of Romany at all levels of education. Although the authorities affirm that the Hessian Schools Act makes it possible to recruit Romany-speakers who did not pass the state examination for teachers for teaching Romany to Sinti and Roma, the Committee of Experts is not aware of any example of this possibility being put into practice. Moreover, the Committee of Experts is of the view that appropriately qualified teachers are needed to implement the undertakings under the present paragraph.

754. The Committee of Experts considers therefore that this undertaking is not fulfilled.

“i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.”

755. No supervisory body responsible for the implementation of this undertaking was brought to the attention of the Committee of Experts. The Hessian authorities pointed out in the second periodical report that the prerequisite for implementing this provision was that the Romany speakers specify their requirements for instruction in the Romany language.

756. The Committee of Experts considers therefore that this undertaking is not fulfilled.

Paragraph 2

“ With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.”

757. The Committee of Experts has no information concerning any activities under paragraph 2 and is therefore not in a position to conclude whether this obligation is or is not fulfilled.

Article 9 – Judicial authorities

Paragraph 1

“ The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:

“b in civil proceedings:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

“c in proceedings before courts concerning administrative matters:

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;”

758. The German codes of judicial procedure provide that legal documents shall be submitted in the original. Documents and evidence drafted in languages other than German are allowed. The costs incurred for translation become part of the litigation costs, with the exception of the social court, where payment is never required. It considers, therefore, that these undertakings are formally fulfilled.

Paragraph 2

“ The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;”

759. The German legal framework guarantees that the validity of legal documents is not denied on the grounds that they have not been drafted in German. The Committee of Experts considers this undertaking fulfilled.

Article 10 – Administrative authorities and public services

Paragraph 2

“ In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

- e** *the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*
- f** *the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;”*

760. The Committee of Experts stresses that the implementation of these undertakings requires positive measures of encouragement from the authorities. These could include, for example, the provision of the additional funds required for interpretation from and into, or the taking of minutes in the regional or minority language concerned. According to the information provided in the second periodical report, the only measure taken by the authorities was to point out in a press release on the decision taken by the Land Government on 14 July 1998 that speeches in the Romany language may be made in the assemblies of local authorities. Although the use of Romany in the assemblies of local and regional authorities appears to be allowed, no measures of encouragement in this respect were reported. In particular, no practical arrangements have been made which would enable speakers to make use of such a possibility. The Committee of Experts considers therefore that these undertakings are only formally fulfilled.

Paragraph 3

“ With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

- c** *to allow users of regional or minority languages to submit a request in these languages.”*

761. The second periodical report confines itself to stating that “in administrative practice, no case has so far become known where a request to this effect was submitted by a member of this minority”. In the absence of any practical implementation, of pertinent legal provisions ensuring compliance with this undertaking or of positive measures taken by the authorities to encourage the use of Romany in relations with public service providers, the Committee of Experts considers that this undertaking is not fulfilled.

Paragraph 4

“ With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

- c** *compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.”*

762. The German authorities stated in the second periodical report that no request to this effect had been made by public service employees. The Committee of Experts notes that there is no pertinent legislation or structured policy ensuring compliance with this undertaking and is also not aware of the existence of Romany-speaking public service employees in Hesse. It considers therefore that this undertaking is not fulfilled.

Paragraph 5

“ The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.”

763. Under German law, persons may assume the regional or minority language version of their names by making a pertinent declaration before the registrar. Pursuant to section 3 of the Act on Name Changes by Minorities (MindNamÄndG), no fees shall be charged for acceptance of a declaration to this effect and its registration and certification. The Committee of Experts considers this undertaking fulfilled.

Article 11 – Media

Paragraph 1

“ The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

- b ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”***
- c ii to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis;”***

764. The Committee of Experts observes that these undertakings concern the encouragement and/or facilitation of the broadcasting of radio and television programmes in Romany in the private sector.

765. According to the information provided in the second periodical report, the Land Government will inform the public broadcaster Hessischer Rundfunk about Germany’s obligations with respect to these undertakings and is prepared to initiate a dialogue between the Hesse Land Association of German Sinti and Roma and the public broadcaster. While welcoming this approach, the Committee of Experts observes that public service broadcasting is covered under Article 11, paragraph 1.a of the Charter (see also paragraph 110 of the Charter’s Explanatory Report).

766. Section 13, paragraph 1 of the Act on Private Broadcasting of the Land of Hesse stipulates that the programmes shall contribute towards “the protection of ethnic, cultural and linguistic minorities”. The Committee of Experts understands, however, that except for very occasional broadcasts of songs, Romany is not being used on radio or television. The Committee of Experts was furthermore not informed of any measures taken by the authorities designed to encourage the broadcasting of programmes in Romany by the private media.

767. The Committee of Experts considers that these undertakings are not fulfilled.

- “d to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;”***

768. In the view of the German authorities, state promotion of the Documentation and Cultural Centre of German Sinti and Roma is sufficient to fulfil this undertaking and it is up to this institution to decide on the adoption of pertinent measures and to implement them within the limits of the overall funds available.

769. The Committee of Experts acknowledges the significance of the work carried out by the Documentation and Cultural Centre which promotes the production and distribution of works about the history and culture of German Sinti and Roma. It observes, however, that these works are exclusively in German and that no audio and audiovisual works in the Romany language of German Sinti and Roma, as stipulated by this undertaking, are produced.

770. As a result, the Committee of Experts considers that this undertaking is not fulfilled.

- “e i to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or***
- ii to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;”***

771. The Committee of Experts considers that it is not possible to implement either of these alternative options at present, due to the fact that the Romany language of German Sinti and Roma does not have a

standard written form and that the organisations of the Sinti and Roma community do not want to make publicly accessible written materials in Romany. It considers, therefore, that this undertaking is not fulfilled.

“f ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;”

772. According to the German authorities, this provision is implemented through the special state promotion of the Documentation and Cultural Centre of German Sinti and Roma. The Committee of Experts observes, however, that this information concerns the undertaking under paragraph 1.d. Although the existing measures for financial assistance for audiovisual productions would in principle be applicable to productions in Romany by virtue of the principle of non-discrimination, this does not happen in practice. The Committee of Experts has furthermore received no evidence that these measures are designed in such a way that audiovisual productions in Romany could qualify for them in practice. The Committee of Experts considers this undertaking not fulfilled.

“g to support the training of journalists and other staff for media using regional or minority languages.”

773. The German authorities argue that Germany fulfils this undertaking through the public promotion of the Documentation and Cultural Centre of German Sinti and Roma and that it is up to this institution to take measures implementing this provision. The Committee of Experts has received no information, however, that the Documentation and Cultural Centre supports the training of journalists and other staff for media within the meaning of this undertaking. Considering that the fulfilment of the present undertaking requires at least some degree of practical implementation, the Committee of Experts concludes that it is not fulfilled.

Paragraph 2

“ The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

774. The German Basic Law guarantees freedom of information, including the free reception of radio and television broadcasts from the neighbouring countries. The Committee of Experts considers this undertaking fulfilled.

Article 12 – Cultural activities and facilities

Paragraph 1

“ With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;”

775. The second periodical report refers to the “Roma and Sinti Symphony Orchestra”, which was founded in Frankfurt am Main in 2002 and which receives organisational support from the Central Council and the

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Documentation and Cultural Centre of German Sinti and Roma. According to the information provided by the representatives of German Sinti and Roma, the orchestra also receives funds from the authorities of the Land and the City of Frankfurt, albeit irregularly. The Committee of Experts has however not received information regarding the encouragement of types of expression and initiative specific to Romany and would welcome further information in Germany's next periodical report.

“d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;”

776. The second periodical report refers to a number of cultural activities organised in co-operation with the Hessian Land Association of German Sinti and Roma. However, the Committee of Experts has received no information as to how the authorities ensure that other bodies responsible for organising or supporting cultural activities make appropriate allowance for the Romany language and the culture of German Sinti and Roma, and would welcome further information in this respect in Germany's next periodical report.

“f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;”

777. According to the information provided in the second periodical report, the Hessian Land Association of German Sinti and Roma participated in the organisation of a number of cultural activities in Hesse. The Committee of Experts considers this undertaking fulfilled.

“g to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;”

778. According to the German authorities, Germany complies with this undertaking through the funding provided by the federal authorities and the Land of Baden-Württemberg to the Documentation and Cultural Centre of German Sinti and Roma, since the tasks of this Centre include collecting, keeping copies of and publishing such works. The Committee of Experts has received no information, however, that this Centre collects, keeps a copy of and presents or publishes works produced in the Romany language, and requests the German authorities to clarify this matter in Germany's next periodical report.

Paragraph 2

“ In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.”

779. The Committee of Experts has no information concerning any activities under paragraph 2. It is therefore not in a position to conclude whether this obligation is or is not fulfilled, and would welcome further information in Germany's next periodical report.

Paragraph 3

“ The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.”

780. The second periodical report contains examples of federal support for cultural activities of German Sinti and Roma abroad, notably the support of the Federal Office for a performance of the Roma theatre Pralipe in Sevilla, Spain in 2003. The Committee of Experts considers this undertaking fulfilled with respect to the federal authorities. It has not received any information regarding the implementation of this undertaking by the *Land* authorities and would welcome further information in Germany's next periodical report.

Article 13 – Economic and social life

Paragraph 1

“ With regard to economic and social activities, the Parties undertake, within the whole country:

- a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;”**

781. The established law of the Federal Republic of Germany is in compliance with this provision. The Committee of Experts considers this undertaking fulfilled.

- “c to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;”**

782. According to the German authorities, no practices within the meaning of this undertaking exist in Germany and therefore no specific information with respect to this undertaking can be provided. The representatives of the speakers are of the view, however, that such practices continue to exist. They argued, notably, that the media contribute to the stigmatisation of the Romany-speakers. The Committee of Experts is not in a position to conclude that this undertaking is fulfilled at present, and encourages the authorities to inform the Committee about measures taken to oppose any practices discouraging the use of Romany in connection with economic and social activities. It understands that the German Federal Parliament is in the process of adopting anti-discrimination legislation, which would create mechanisms to oppose certain kinds of practices envisaged by this undertaking. The Committee of Experts looks forward to receiving further information in this respect in Germany's next periodical report.

- “d to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.”**

783. The German authorities consider that Germany fulfils this undertaking as a result of the promotional funds provided by the federal authorities and the Länder to the organisations of German Sinti and Roma, which stimulate the use of the Romany language outside the private sphere. While the Committee of Experts acknowledges that the general promotion measures may have this indirect effect, it does not consider that this can be regarded as facilitation or encouragement within the meaning of this undertaking.

784. The Committee of Experts notes that this undertaking leaves a broad range of options as to the way in which the use of regional or minority languages can be facilitated and encouraged with regard to economic and social activities. The measures envisaged should be positive, and not concern only the elimination or discouragement of negative practice. These measures could for example be to facilitate and/or encourage the oral use of the language in public areas, such as in railway stations or airports, giving rewards to companies that are actually using the regional or minority language, initiating a campaign of bilingualism etc.

785. The Committee of Experts was not informed of such positive measures with respect to the use of the Romany language in Hesse. It is therefore not in a position to conclude that this undertaking is fulfilled and would welcome further information in the next periodical report.

Article 14 – Transfrontier exchanges

“ The Parties undertake:

- a *to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;*”**

786. The Committee of Experts understands that organisations of the Romany speakers in Germany closely co-operate with organisations of Roma in other European countries, notably Austria, Poland, Slovakia and Hungary. The Committee of Experts is not aware, however, of the ways in which the German authorities apply existing bilateral or multilateral agreements with these States with a view to fostering such contacts in the fields of culture, education or information. It is not in a position to conclude that this undertaking is fulfilled, therefore, and would welcome further information in Germany’s next periodical report.

Chapter 3. Conclusions

3.1. Conclusions of the Committee of Experts on how the German authorities reacted to the recommendations of the Committee of Ministers

Recommendation no. 1:

“adopt specific legal provisions, where these are still lacking, in order to implement the undertakings which Germany has entered into under the Charter;”

The German authorities have not adopted specific legal provisions in order to implement Germany's undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this position was the adoption of the Frisian Law by the Parliament of Schleswig-Holstein (see paragraphs 274-275 above), which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. Given that regional or minority language speakers are not likely to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter, such legal measures are also needed in the other *Länder* concerned.

Recommendation no. 2:

“establish specific planning and monitoring mechanisms and ensure adequate resource allocation in the field of education;”

The efforts made by the German authorities appear insufficient. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education are still lacking. This renders it more difficult to envisage and enforce targeted measures with a view to improving the teaching in or of regional or minority languages. The reduction of the budget allocated to the study of and research into regional or minority languages at university level has resulted in a deterioration of the provision at this level since the adoption of this Recommendation, in particular with respect to the Sater Frisian and Low German languages.

Recommendation no. 3:

“take urgent action to strengthen education in North Frisian, Sater Frisian and Lower Sorbian, whose survival is particularly endangered, and in particular ensure continuity in educational provision in these languages throughout the school system ;”

There are positive prospects for education in North Frisian, thanks to some moves envisaged to strengthen it and political support for the implementation of a model that the North-Frisian-speakers have themselves developed (see paragraph 238 above). There have not been any significant changes with respect to education in Lower Sorbian (see paragraphs 167-194 above). The situation concerning Sater Frisian education has actually worsened since the adoption of this Recommendation by the Committee of Ministers (see paragraphs 320-337 above).

Recommendation no. 4:

“improve basic and further teacher training for all regional and minority languages;”

There has been limited progress in this field. Incentives for basic and further teacher training for Upper Sorbian have been created in Saxony (see paragraphs 106-109 above). Some efforts have been made or are envisaged in Schleswig-Holstein with respect to North Frisian and in Hamburg with respect to Low German (see paragraphs 261-266 and 482-484 above). However, the shortage of adequately trained teachers at all levels of education remains one of the principal problems affecting nearly all regional or minority languages.

Recommendation no. 5:

“establish a structural policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;”

A structured policy in accordance with the standard set by the Committee of Ministers in this Recommendation is still lacking. There is a general lack of relevant organisational measures, such as a human resources policy taking account of civil servants' skills in regional or minority languages, facilities and incentives for them to improve these skills, or an adequate framework for and resources allocated to translation and interpretation. The possibility to use regional or minority languages in dealings with judicial and administrative authorities in practice remains marginal, if not non-existent, especially with respect to written communication.

Recommendation no. 6:

“make the speakers of the regional or minority languages more aware that they have the possibility to avail themselves of the right to use their language before administrative and, where relevant, judicial authorities;”

Some awareness-raising activities have been undertaken, particularly in Schleswig-Holstein, which should be pursued. In some *Länder*, the efforts to make speakers of regional or minority languages aware of the possibility of using their language before the authorities have been too limited to have an impact on practical use.

Recommendation no. 7:

“take a more active approach towards promoting the presence of the regional or minority languages in the media.”

Germany's undertakings in the field of broadcasting media concern the encouragement and/or facilitation of the broadcasting of regional or minority language programmes in the private sector. While some regional or minority languages enjoy a certain presence in public service broadcasting, their presence is marginal in private broadcasting, and the authorities of the *Länder* concerned generally express the view that the State has a very limited scope for intervention. Nevertheless, there have been positive initiatives by the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

3.2. Findings of the Committee of Experts in the second monitoring round

A. The Committee of Experts compliments Germany on its continuing constructive dialogue with the Committee of Experts and its transparent approach to the implementation of the Charter. It notes, in particular, that the first evaluation report of the Committee of Experts and the second periodical report of Germany were discussed with representatives of regional or minority languages at an implementation conference and that the written comments of the language groups were appended to the second periodical report. The Committee of Experts commends the German authorities for the comprehensive information contained in the second periodical report and their response to requests for further information made by the Committee of Experts.

B. By adding further undertakings to its existing ones, Germany has demonstrated its long-term commitment to the protection and promotion of regional or minority languages. The Committee of Experts notes with satisfaction Germany's dynamic approach to the instrument of ratification.

C. However, despite some positive developments, the situation of regional or minority languages has not changed significantly since the first monitoring round and the previous recommendations of the Committee of Ministers still remain valid. The Committee of Experts understands that the negative budgetary outlook has hampered progress to a certain extent. Nevertheless, it considers that Germany should take more determined steps to tackle the problems identified by the Charter's monitoring mechanism.

D. The protection and promotion of regional or minority languages is mainly under the responsibility of the *Länder*. There is no federal language policy and the Federation mainly fulfils a co-ordinating role in this area. While some mechanisms of inter-*Land* co-operation are being put into place, the Committee of Experts

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considers that there is further scope for development in this area, in particular with regard to the Low German language, with the possible assistance of the federal level.

E. The attitude of the *Länder* towards regional or minority languages is on the whole very positive, although measures taken in favour of regional or minority languages vary significantly between the *Länder* concerned. Overall, the promotion of regional or minority languages is negatively affected, to varying degrees depending on the *Land*, by the lack of long-term, structured policies of language promotion and the absence of a pro-active approach to this promotion.

F. The German authorities have not adopted specific legal provisions in order to implement Germany's undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this situation was the adoption of the Frisian Law (see paragraphs 274-275 above) by the Parliament of Schleswig-Holstein, which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. The Committee of Experts welcomes this development and considers that similar measures are also needed in other *Länder* concerned. It considers, in particular, that it is not realistic to expect civil servants dealing with citizens on a day-to-day basis to apply the Charter directly of their own initiative or regional or minority language speakers to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter.

G. The absence of clear structured policies for regional or minority languages creates confusion among the speakers, as to the bodies and authorities responsible for the promotion of regional or minority languages at both the *Land* and federal levels on the one hand, and as to the availability and continuation of funding on the other. This situation combined with a shift from institutional funding towards project funding makes it particularly difficult for the speakers to develop and to implement long-term plans. This problem is particularly acute for the North Frisian, Sater Frisian and Low German languages, which have less developed institutional funding mechanisms.

H. The Committee of Experts welcomes the fact that the Federation has accepted, on a voluntary basis, to maintain the level of its financial contribution to the Foundation for the Sorbian People. However, a lasting solution involving a long-term commitment by the Federation would be desirable. There are also some concerns about the internal organisation of the Foundation which need to be addressed in co-operation with the Sorbian-speakers.

I. The decision to extend Part III protection to the Romany language in Hesse was a very ambitious step. While welcoming this strong long-term commitment, the Committee of Experts is of the view that compliance with the selected undertakings requires a far more pro-active approach and sustained efforts from the German authorities, including a structured policy vis-à-vis the Romany language and the allocation of adequate financial resources. The Committee of Experts observes that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romany language of German Sinti and Roma has no standard written form, in accordance with the wishes of a number of speakers. In addition, some Romany-speakers do not wish their language to have a presence in public life outside the Sinti and Roma community. Given these circumstances, the Committee of Experts has some concerns as to how far implementation of many undertakings under Part III for Romany in the *Land of Hesse* is feasible in practice.

J. The situation regarding education in Danish at all levels remains satisfactory.

K. Provision for teaching in or of Upper Sorbian is relatively well developed. However, the rationalisation programme in rural schools in territories where Upper Sorbian is traditionally used may be having an adverse effect on the maintenance of the language. The Committee of Experts is especially concerned about the minimum number of 20 pupils required to open and maintain a class in secondary education, which it considers too high. This high threshold has already resulted in the closing-down of the Sorbian secondary school in Crostwitz. A lower minimum number would be appropriate for Upper Sorbian, especially considering the precarious situation of this language and the general demographic trend in Saxony.

L. There have been no noticeable changes regarding Lower Sorbian education. The shortage of teachers at all levels of education, in particular, is a problem that has to be dealt with urgently in order to secure the future

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of Lower Sorbian, which the Committee of Experts already identified as a particularly endangered language in its first evaluation report. The Lower Sorbian speakers are of the view that the definition of the traditional Lower Sorbian settlement area by the legal framework and administrative practice in the *Land* of Brandenburg, which has repercussions in the field of education among others, does not coincide with the territory where Lower Sorbian has traditionally been used. There seems to be a need for the German authorities to examine this question and take the necessary steps, in co-operation with the speakers.

M. North Frisian education remains on the whole below the level envisaged by the undertakings chosen by Germany with respect to this language. Nevertheless, there have been certain improvements since the last monitoring round and there are ongoing plans and initiatives that offer positive prospects for this language. The Committee of Experts particularly welcomes the development of a coherent and realistic educational model by the speakers, and the political support pledged by the authorities of Schleswig-Holstein for its implementation, and trusts that this support will be followed by concrete action.

N. The level of provision for teaching in and of Sater Frisian, another language which the Committee of Experts identified as being particularly endangered in its first evaluation report, is not satisfactory. The Committee of Experts regrets that provision for this language has actually deteriorated since the adoption of its first evaluation report, including some fields covered by Germany's Part III undertakings. At the same time, the lack of continuity of the teaching, as evidenced by the fact that Germany has not chosen any Part III undertakings with respect to primary and secondary education, continues to be a source of concern. Teaching and study of Sater Frisian needs to be strengthened as a matter of priority, in accordance with Germany's obligations under Article 7, paragraph 1.f and Article 8 of the Charter, in order to ensure the transmission of this language to future generations.

O. Overall, Low German continues to be treated as a variant of German. While there have been considerable improvements in some *Länder* as regards the place of Low German in the Framework Curricula, in the overwhelming majority of cases Low German is taught as an element in other subjects (mainly German), rather than as a subject in its own right. In the absence of clear guidelines regarding the minimum number of teaching hours devoted to Low German, provision for the teaching of this language remains highly variable, depending on the willingness of the schools, teachers and pupils, and generally too limited to be considered an integral part of the curriculum. The lack of continuity in the teaching of Low German in Lower Saxony is a source of special concern. The Committee of Experts is worried about the reduction of the available facilities for the study of and research into Low German due to budget cuts since the adoption of its first evaluation report. This tendency needs to be reversed as a matter of urgency, given that the availability of an adequately trained specialised teaching staff is crucial for all the efforts in this field.

P. The absence of supervisory bodies within the meaning of Article 8, paragraph 1.i continues to be a problem. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education, with corresponding reports which are made public, are still lacking. This makes it difficult to assess the development and shortcomings of regional or minority language education, and thus to develop and implement long-term strategies for improving it.

Q. The use of regional or minority languages before administrative authorities (and before judicial authorities in the case of Upper and Lower Sorbian) remains marginal. In the opinion of the Committee of Experts, in addition to the problem concerning the legal framework mentioned above, this is due to the fact that structured policies and relevant organisational measures to ensure the implementation of Germany's undertakings are often missing. Good practice that prevails elsewhere includes, for example, taking account of civil servants' skills in regional or minority languages, providing facilities and incentives for them to improve these skills, creating an adequate framework for, and allocating resources to, translation and interpretation. Not enough is done to make the speakers aware of the possibility to use their language before the authorities.

R. With regard to broadcasting, Germany has chosen only Part III undertakings pertaining to private broadcasters (Article 11, paragraph 1, sub-paragraphs b.ii and c.ii), despite the fact that a commendable effort is being made for some regional or minority languages in public service broadcasting. For these languages, the Committee of Experts encourages the German authorities also to ratify Article 11, paragraph 1.a.iii.

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S. Regional or minority languages remain largely absent from the private media, due to the lack of positive measures to promote their visibility there. The authorities claim that they have a very limited scope for intervention in this area on account of the constitutional guarantee of the freedom of the media. The Committee of Experts reiterates its view that this freedom is not compromised by facilitating or promoting the use of regional or minority languages in the media, and that it is necessary for their relative disadvantage in terms of economic and political weight to be redressed by positive measures in the media. There have nonetheless been positive initiatives involving the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

T. The conditions for the use of regional or minority languages in the field of culture remain favourable in Germany. However, the federal authorities still make very limited provision for regional or minority languages and the cultures they reflect in pursuing their cultural policy abroad.

U. More determined measures are needed to encourage the use of regional or minority languages in economic and social life. There is considerable scope for increasing the use of regional or minority languages in economic activities. Positive initiatives, such as the project "*Plattdütsk bi d' Arbeit*" (see paragraph 673 above), could serve as a model for future action in this field. Regarding social care facilities, structured policies and corresponding measures, such as a bilingual human resources policy, are needed for the fulfilment of Germany's undertakings with respect to the use of regional or minority languages.

The German government was invited to comment on the content of this report in accordance with Article 16.3 of the Charter. The comments received are attached in Appendix II.

On the basis of this report and its findings the Committee of Experts submitted its proposals to the Committee of Ministers for recommendations to be addressed to Germany. At the same time it emphasised the need for the German authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 957th meeting on 1 March 2006, the Committee of Ministers adopted its Recommendation addressed to Germany, which is set out in Part B of this document.

Appendix I: Instrument of Ratification

GERMANY

Declarations contained in a letter from the Permanent Representation of Germany, dated 16 September 1998, handed to the Secretary General at the time of deposit of the instrument of ratification, on 16 September 1998 - Or. Engl./Germ.

Minority languages within the meaning of the European Charter for Regional or Minority Languages in the Federal Republic of Germany shall be the Danish, Upper Sorbian, Lower Sorbian, North Frisian and Sater Frisian languages and the Romany language of the German Sinti and Roma; a regional language within the meaning of the Charter in the Federal Republic shall be the Low German language.

Pursuant to Article 3, paragraph 1, of the Charter, the Federal Republic of Germany specifies the regional or minority languages to which the provisions selected pursuant to Article 2, paragraph 2, of the Charter shall apply upon the entry into force of the Charter in the Federal Republic of Germany:

Danish in the Danish language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iv; b iv; c iii/iv; d iii; e ii; f ii/iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c;
Article 14 a; b.

Upper Sorbian in the Upper Sorbian language area in the Free State of Saxony:

Article 8, paragraph 1 a iii; b iv; c iv; d iv; e ii; f iii; g; h; i; paragraph 2;
Article 9 paragraph 1 a ii; a iii; b ii; b iii; c ii; c iii; d; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 a; b; g; paragraph 3 b/c; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2, paragraph 3;
Article 13, paragraph 1 a; c; d; paragraph 2 c.

Lower Sorbian in the Lower Sorbian language area in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv; e iii; f iii; g; h; i;
Article 9, paragraph 1 a ii; a iii; b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a iv/v; paragraph 2 b; g; paragraph 3 b/c; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e i; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

North Frisian in the North Frisian language area in *Land* Schleswig-Holstein:

Article 8, paragraph 1 a iii/iv; b iv; c iv; e ii; f iii; g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; h; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d;
Article 14 a.

Sater Frisian in the Sater Frisian language area in *Land* Lower Saxony:

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Article 8, paragraph 1 a iv; e ii; f iii; g; i;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; c; d; e; f; paragraph 4 a; c; paragraph 5;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; b; c; d; e; f; g; paragraph 2; paragraph 3;
Article 13, paragraph 1 a; c; d.

Low German in the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Obligations regarding Low German in the territory of the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Article 8, paragraph 1 a iv; e ii; g;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 1 a v; c; paragraph 2 a; b; f;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; d; f; paragraph 3;
Article 13, paragraph 1 a; c;

and additionally:

- in the Free Hanseatic City of Bremen:

Article 8, paragraph 1 b iii; c iii; f i; h;
Article 10, paragraph 2 c; d; e;
Article 11, paragraph 1 g;
Article 12, paragraph 1 b; c; e; g;
Article 13, paragraph 2 c;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iii; c iii; d iii; f ii; h; i;
Article 10, paragraph 2 e; paragraph 4 c;
Article 11, paragraph 1 g;
Article 12, paragraph 1 g;
Article 13, paragraph 1 d; paragraph 2 c;

- in *Land* Mecklenburg-Western Pomerania:

Article 8, paragraph 1 b iii; c iii; d iii; h; i;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; e; h;
Article 13, paragraph 1 d, paragraph 2 c;

- in *Land* Lower Saxony:

Article 8, paragraph 1 f iii; i;
Article 10, paragraph 2 c; d; e; paragraph 4 a; c;
Article 12, paragraph 1 b; c; e; g; paragraph 2;
Article 13, paragraph 1 d;
Article 14 a; b;

- in *Land* Schleswig-Holstein:

Article 8, paragraph 1 b iii; c iii; f iii; h; i; paragraph 2;
Article 10, paragraph 4 c;
Article 12, paragraph 1 b; c; g;
Article 13, paragraph 1 d; paragraph 2 c.

The separate specification of these provisions for the territories of each individual *Land* is in keeping with the federal structure of the Federal Republic of Germany and takes into account the situation of each of these

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languages in the *Land* in question.

The Romany language of the German Sinti and Roma in the territory of the Federal Republic of Germany and Low German language in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt shall be protected pursuant to Part II of the Charter.

Part II of the European Charter for Regional or Minority Languages shall be applied to Romany, the minority language of the German Sinti and Roma in the territory of the Federal Republic of Germany, and to the regional language Low German in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt upon its entry into force in the Federal Republic of Germany in accordance with the declaration of the Federal Republic of Germany of 23 January 1998. The objectives and principles laid down in Article 7 of the Charter shall form the bases with regard to these languages. At the same time, German law and Germany's administrative practice thus meet individual requirements laid down in Part III of the Charter:

With regard to Romany

for the territory of the Federal Republic of Germany:

Article 8, paragraph 1 f iii; g; h;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 10, paragraph 5;
Article 11, paragraph 1 d; e ii; f ii; g; paragraph 2;
Article 12, paragraph 1 g; paragraph 3;
Article 13, paragraph 1 a; c; d;
Article 14 a;

and additionally:

- in *Land* Baden-Württemberg:

Article 8, paragraphs 1 a iv, 1 e iii;
Article 10, paragraph 4 c;
Article 12, paragraphs 1 a, 1 d; f; paragraph 2.

- in *Land* Berlin:

Article 8, paragraph 1 a i/ii; b i/ii/iii/iv; e i/ii/iii; i; paragraph 2;
Article 11, paragraph 1 b i/ii: c ii; e i/ii;
Article 12, paragraph 1 a; d; f;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iv; c iv;
Article 11, paragraph 1 b ii; c ii;
Article 12, paragraph 1 a; d; f;

- in *Land* Hesse:

Article 8, paragraph 1 a iii/iv; b iv; c iv; d iv; e iii; i; paragraph 2;
Article 11, paragraph 1 b ii; c ii; e i;
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; paragraph 2;
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* Lower Saxony:

Article 12, paragraph 1 a; d; f;

- in *Land* Rhineland-Palatinate:

Article 8, paragraph 1 a iv; e iii;

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Article 11, paragraph 1 c ii;
Article 12, paragraph 1 a; d; f;

- in *Land* Schleswig-Holstein:
Article 10, paragraph 1 a v; paragraph 2 b; paragraph 4 c;
Article 11, paragraph 1 b ii; c ii;
Article 12, paragraph 1 a; d; f; paragraph 2.

With regard to Low German:

- in *Land* Brandenburg:
Article 8, paragraph 1 a iv; b iv; c iv; f iii; g;
Article 9, paragraph 2 a;
Article 10, paragraph 2 b; paragraph 3 c;
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;
Article 12, paragraph 1 a; f; g;

- in *Land* North-Rhine/Westphalia:
Article 8, paragraph 1 e iii; g; h; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;
Article 11, paragraph 1 d; paragraph 2;
Article 12, paragraph 1 a; d; e; f; g; h; paragraph 2;
Article 13, paragraph 1 a; c; d;

- in *Land* Saxony-Anhalt:
Article 8, paragraph 1 a iv; b iv; c iv; g; h;
Article 9, paragraph 2 a;
Article 11, paragraph 1 b ii; c ii; e ii; paragraph 2;
Article 12, paragraph 1 a; f; g; h.

The separate specification of these provisions for the territory of each individual *Land* is in keeping with the federal structure of the Federal Republic of Germany and takes into account the situation of each of these languages in the *Land* in question.

In accordance with the national distribution of competencies, the way in which the above-mentioned provisions of Part III of the Charter are implemented through legal regulations and Germany's administrative practice with due regard to the objectives and principles specified in Article 7 of the Charter shall be the responsibility of either the Federation or the competent *Land*. Details will be provided in the procedure for implementing the federal act with which the legislature consents to the Charter as laid down in the Memorandum to the Charter.

Period covered: 1/1/1999 -

The preceding statement concerns Article(s) : 10, 11, 12, 13, 14, 2, 3, 7, 8, 9

Declaration contained in a letter from the Permanent Representative of Germany, dated 17 March 2003 and registered at the Secretariat General on 21 March 2003 - Or. Engl./Germ.

In accordance with Article 3, paragraph 2, of the Charter, the Federal Republic of Germany will apply to the minority languages named below the following additional provision pursuant to Article 2, paragraph 2:

. North Frisian in the North Frisian language area in Land Schleswig-Holstein:
Article 10, paragraph 2 (g)

. Sater Frisian in the Sater Frisian language area in Land Lower Saxony:
Article 10, paragraph 2 (g)

. Romanes for the area of Land Hesse:
Article 8, paragraph 1 (a) (iii) and (iv); (b) (iv); (c) (iv); (d) (iv); (e) (iii); (i); paragraph 2
Article 10, paragraph 2 (e); (f); paragraph 3 (c); paragraph 4 (c)

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Article 11, paragraph 1 (b) (ii); (c) (ii); (e) (i)

Article 12, paragraph 1 (a) ; (d) ; (f) ; paragraph 2

In connection with the undertakings given for the entire federal territory :

Article 8, paragraph 1 (f) (iii) ; (g) ; (h)

Article 9, paragraph 1 (b) (iii) ; (c) (iii) ; paragraph 2 (a)

Article 10, paragraph 5

Article 11, paragraph 1 (d); (e) (ii); (f) (ii) ; (g) ; paragraph 2

Article 12, paragraph 1 (g) ; paragraph 3

Article 13, paragraph 1 (a) ; (c) ; (d)

Article 14 (a)

Period covered: 21/3/2003 -

The preceding statement concerns Article(s) : 10, 11, 12, 13, 14, 2, 3, 8, 9



Bundesministerium
des Innern

Appendix II: Comments of the Federal Republic of Germany

on the report of the Committee of Experts presented to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the European Charter for Regional or Minority Languages

Federal Ministry of the Interior
October 2005

I. Introduction

The Committee of Experts set up under the European Charter for Regional or Minority Languages (hereinafter referred to as the "Charter") submitted its second evaluation report to the Committee of Ministers of the Council of Europe on Germany's implementation of the Charter in accordance with Article 16 of the Charter.

The Report was forwarded to Germany enclosed with a letter of 14 August 2002 by the Directorate of Co-operation for Local and Regional Democracy.

The Federal Republic of Germany appreciates the activities of the Committee of Experts in the process of monitoring the implementation of the Charter and continues to welcome the Committee's efforts in assessing the achieved level of compliance with Germany's obligations arising from the Charter. Germany notes that the comments of the Committee of Experts show professional examination of the situation of regional and minority languages in Germany and that the Committee has in fact paid attention to important questions and problems; on the other hand, the Committee has reiterated its view on certain issues in response to which the German authorities had already made clear that they could not fully agree.

The present comments were drawn up by the Federal Ministry of the Interior after consultation with the governments of the *Länder* – which, because of the federal structure of the Federal Republic of Germany, are to a large extent responsible for implementing the Charter – and the representatives of the speakers of regional or minority languages as far as they had contributed to these comments.

Given the length of the monitoring report, necessary translation works and consultations with the *Länder* and representatives of the language groups, the Federal Republic of Germany will not be able to comment on the Committee's second evaluation report in full detail by 14 October 2005. As far as the present document does not comment on specific statements of the Committee of Experts, the Federal Republic of Germany will examine the implementation deficits referred to by the Committee, and reserves the right to explain the result of such examination and additional measures taken where appropriate in the next periodical report which will be submitted in 2006. Additional information, as requested by the Committee of Experts, on measures to alleviate the implications of the resettlement of the German-Sorbian population in mining areas (see no. 23 of the second evaluation report) will also be provided in the next periodical report.

Germany will publish the report of the Committee of Experts together with these comments.

Bearing in mind the above said and the positive nature of the report on Germany, the Federal Republic of Germany makes the following comments:

Section 1.01 II. The relation between the Charter on Regional or Minority Languages and the Framework Convention for the Protection of National Minorities

Appendix II
Comments by the German authorities

Germany – like an encouragingly large number of other Member States of the Council of Europe – is among the countries that have ratified the Framework Convention for the Protection of National Minorities (the “Framework Convention”); and it also belongs to the – still regrettably fewer – countries that have ratified the European Charter for Regional or Minority Languages. In Germany, the Framework Convention is applied to the national minorities of the Danes, Frisians, Sorbs and the German Sinti and Roma.

Both Conventions are perceived as legal instruments that are used first and foremost to protect national minorities and their languages.

They have become part of the German legal system, both as regards the personal scope of application as designated in the respective ratification document deposited with the Council of Europe, and in relation to the language- and regional-specific obligations undertaken under Part III of the Charter for Regional or Minority Languages.

As was already explained in the comments on the first evaluation report of the Committee of Experts, both Conventions will be interpreted and applied concordantly, without prejudice to their different legal contents, because both were drawn up by the Council of Europe and pursue comparable aims regarding the languages of national minorities.

This can also be an important aspect as regards evaluation of whether the respective competent legislative or administrative bodies consider themselves to have met the obligations ensuing from these conventions.

Germany will refer the questions arising from the close relation of both conventions to the re-established Committee of Experts DH-MIN responsible for minority issues to deal with these questions in depth; it would be appropriate to have the Committee of Experts of the European Charter for Regional or Minority Languages and the Advisory Committee on the Framework Convention take part in these discussions.

III. Preliminary comments on the “Conclusions and proposals for recommendations” of the Expert Committee in Chapter 3

(In the present document quotations from the second evaluation report of the Committee of Experts appear flush left, with small line spacing and type size (11); larger line spacing and type size were used for Germany’s comments.)

Re 3.1. Conclusions of the Committee of Experts on how the German authorities reacted to the recommendations of the Committee of Ministers

Re recommendation no. 1:

“adopt specific legal provisions, where these are still lacking, in order to implement the undertakings which Germany has entered into under the Charter;”

The German authorities have not adopted specific legal provisions in order to implement Germany’s undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this position was the adoption of the Frisian Law by the Parliament of Schleswig-Holstein (see nos. 274-275 above), which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. Given that regional or minority language speakers are not likely to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter, such legal measures are also needed in the other *Länder* concerned.

According to the **Frisian Council**, the Frisian minority shares the view of the Committee of Experts that legal provisions are necessary to improve the possibilities for use of the Frisian language. “In this regard, the adoption of the Frisian Law (*Friisk-gesäts*) by the parliament of Schleswig-Holstein is a significant step ensuring that not only the legal provisions of this law concerning the use of bilingual signs will be respected and put into practice by the *Land* and municipal authorities. In addition, the adoption and public discussion of this Law has led to greater open-mindedness in organizations and institutions that are not directly affected by its provisions. For example, bilingual place names were included in school atlases and official maps, and bilingual station name signs (German and Frisian) will be installed at all railway stations north of Husum, including those operated by the *Deutsche Bahn AG* and by the private railway company NEG. This is a very important step to raise public awareness and acceptance of the Frisian ethnic group as one of the four national minorities living in Germany. It has to be noted, however, that the use of bilingual signs was made possible only thanks to the provision of funds for Frisian cultural activities. The use of bilingual public signs is mostly regarded as the sole

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responsibility of the Frisian population, and not as the general responsibility of the state. With the Frisian Law, Frisians have been granted for the first time the right to acknowledge freely that they belong to the Frisian ethnic group. Now the Frisians have a legal right which so far had been granted only to the Danish minority in Schleswig-Holstein. This significant legal progress can be seen as a direct result of extending the scope of application of the Framework Convention to the Frisians; this right is a fundamental minority right.

Despite positive experience made so far it should be noted that the Frisian ethnic group would appreciate additional legal regulations and concrete measures to ensure equal treatment of the Frisian language in public life.

Considerable confusion was created by an examination of Frisian classes carried out by the *Land* Court of Auditors at public and Danish schools in Schleswig-Holstein, because the Frisian classes were evaluated based mainly on economic criteria and it was discussed to further centralize the teaching in and of the Frisian language. Although the confusion has been clarified the discussion has shown that there is still a lack of understanding for the necessity of including autochthonous minority languages in the school curricula. Because the teaching in and of the Frisian language still has no legal basis, it is often regarded as a kind of “luxury” and not as a given responsibility of the state for the protection and promotion of an acknowledged national minority and an acknowledged minority language. Therefore, the Frisian Council thinks that legal regulations should be adopted in the near future and concrete measures should be taken which not only maintain the status quo of the teaching in and of the Frisian language, but also contain the obligation to further improve the quality and quantity of Frisian classes. To this effect, the Schleswig-Holstein Schools Act should be amended.

In the opinion of the Frisian ethnic group it would be necessary to adopt legal regulations for the benefit of the Frisian population also in other areas. For example, in their recently adopted “*Modäl Nordfriislon*” (North-Frisian Model), the Frisians have suggested to introduce legal provisions giving the Frisian ethnic group the possibility to participate in decisions concerning town and country planning and coastal protection, since town and country planning indirectly affects the economic situation of the region and hence the future prospects of the Frisian minority and their language in the region. It would seem to be appropriate to amend the Town and Country Planning Act.”

1. “The **Danish minority** supports the above-mentioned suggestion because legal provisions express and guarantee necessary obligations. This is exactly why we referred to the Frisian Law which was proposed by the *Land* parliament group of the South Schleswig Association of Voters (*Sydslesvigsk Vælgerforening*, SSW) and was passed unanimously by the Schleswig-Holstein parliament. Legal regulations concerning, for example, the school system – especially the financial compensation for travel expenses for pupils of Danish schools – or the Danish library system and adult training, would be of great importance to the Danish minority.”

2. The above-mentioned suggestion is also supported by the Federal Council for Low German (*Bundesraat för Nedderdütsch*), the special-interest organization of this language group.

3.

“The *Bundesraat för Nedderdütsch* particularly shares the view regarding the activities of the eight *Länder* in question: We also believe that in some areas there is urgent need for legal provisions clarifying the existing legal situation to both the speakers of the Low German language and their communication partners in the administrative, societal and cultural sectors. This also holds true for Schleswig-Holstein which was commended in the second evaluation report several times. Although the recently passed Frisian Law contains clear provisions concerning the Frisian minority language, it does not contain such provisions concerning the regional language of Low German. It will be particularly necessary to eliminate this unequal treatment in the future.

The *Bundesraat för Nedderdütsch* expressly supports the reference to the limited activities of those *Länder* that have only signed up to Part II of the European Charter for Regional or Minority Languages.”

The **great majority of the *Länder***, however, rejects the recommendation to introduce additional specific legal provisions for the reasons given in the second periodical report. Since the general public has a vital interest in reducing bureaucracy, it is very unlikely that we will change our position, even if this recommendation is reiterated.

In response to the request for additional constitutional safeguards to protect the Low German language, as voiced in the second evaluation report of the Committee of Experts (see no. 26 of the report), the *Land* of Saxony-Anhalt wishes to make the following comments:

“It is pointed out once more that the lack of a specific provision concerning the Low German language in the constitution of the *Land* of Saxony-Anhalt does not allow the conclusion to be drawn that Saxony-Anhalt did not pursue a systematic and committed policy of language promotion, as claimed by the Committee of Experts. This is too simple a conclusion; in essence, the committed and systematic policy aimed at promoting the Low German language in Saxony-Anhalt is reflected in the very concrete implementation areas of such a policy. In these areas, the government of Saxony-Anhalt has always been committed to acting systematically. This view is shared by the speakers of Low German in Saxony-Anhalt and is reflected not only in the Working Group on Low German set up in April 2002, but also in numerous other projects, such as the publication of teaching material for the 1-6 grades “*Unsere plattdeutsche Fibel – Wir lernen Plattdeutsch in Sachsen-Anhalt*” (Our Low German reading book – We learn Low German in Saxony-Anhalt) published by Ursula Völlner and Saskia Luther.

With regard to the above-mentioned claimed lack of an insufficient legal basis for minority protection, the Free State of Saxony wishes to make the following comments:

“The generalized complaint that the German authorities “have not adopted specific legal provisions in order to implement Germany’s undertakings under the Charter” must be rejected. Based on the constitution of the Free State of Saxony, there exist a great number of legal provisions which have been referred to in the reports submitted so far. As for the rest, it has to be pointed out once more that the Charter applies as national law. It should also be mentioned that Section 4a of the amended Saxon Schools Act, which entered into force on 1 August 2004, takes express account of the European Charter for Regional or Minority Languages. Moreover, it should be noted that in other contexts involving society as a whole, it is permanently called for a reduction of bureaucracy. It is impossible and would be inappropriate to introduce legal regulations for all problems in everyday social life.”

Finally, the *Land* of **Brandenburg** wishes to make the following comments:

“Under number 215 of the second evaluation report, like in the first evaluation report, it is not made clear what legislative or other measures are expected as implementation of the provisions of the Charter. Neither does the Explanatory Report contain any precise information whether and, if so what, measures would be required by the Charter. Therefore, further comments cannot be made.”

Re recommendation no. 2:

“establish specific planning and monitoring mechanisms and ensure adequate resource allocation in the field of education;”

The efforts made by the German authorities appear insufficient. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education are still lacking. This renders it more difficult to envisage and enforce targeted measures with a view to improving the teaching in or of regional or minority languages. The reduction of the budget allocated to the study of and research into regional or minority languages at university level has resulted in a deterioration of the provision at this level since the adoption of this Recommendation, in particular with respect to the Sater Frisian and Low German languages.

“The **Frisian Council** fully shares the above-mentioned view of the Committee of experts. As regards the Frisian language, the universities of Flensburg and Kiel play a special role on the training of teachers. In the future, the training of teachers will be focused at Flensburg University. The negative impacts of the abolition of the position for a professor of the Frisian language at Flensburg University are still noticeable. This problem needs to be solved in the medium term. The Frisian Council believes that Flensburg University has good chances to develop a special regional and attractive profile. With regard to the ongoing structural changes introducing the bachelor and master levels, the university and the competent ministry should see to it that the Frisian seminar is strengthened, not weakened. The Frisian Council welcomes the willingness of the Ministry for Sciences, Economy and Transport to support Frisian as a university subject at Flensburg University. As regards secondary school education, a working group was set up in 2004 comprising representatives of the supervisory school authorities, the commissioners responsible for cultural and minority issues, the Institute for Quality Development at Schools (IQSH) and a representative of the Frisian ethnic group. This working group provides a basis for long-term planning. Now it is the responsibility of the *Land* to ensure that jointly developed approaches are put into practice.

As regards pre-school education (nursery schools), the *Land* has not developed a targeted language policy and a finance model.”

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“The Danish minority supports the above-mentioned recommendation to ensure appropriate funds for the educational sector, including the Danish school system, library system and adult training. In this area, planning certainty is particularly important.”

With regard to the recommendation to establish specific planning and monitoring mechanisms, the **Federal Government and the Länder** in contrast take the view that difficulties to fulfil obligations under the Charter do not result so much from a lack of planning and monitoring instruments as from the tight budget situation facing public authorities, the demographic development and internal migration into urban areas outside the traditional settlement areas of minority language speakers, i.e. from factors making it increasingly difficult to comply with minority-specific obligations taking account of general quality standards and economic considerations without limited centralization. Nevertheless, the next periodical report of the Federal Republic of Germany will deal more closely with the fulfilment of the obligatory supervision according to Article 8 para. 1 lit. i). With regard to recommendation no. 2 (“to ensure appropriate funds for the educational sector”) it should be noted that especially in times of a tense budgetary situation the views on what is or is not appropriate differ widely.

Re recommendation no. 3:

“take urgent action to strengthen education in North Frisian, Sater Frisian and Lower Sorbian, whose survival is particularly endangered, and in particular ensure continuity in educational provision in these languages throughout the school system;”

There are positive prospects for education in North Frisian, thanks to some moves envisaged to strengthen it and political support for the implementation of a model that the North-Frisian-speakers have themselves developed (see paragraph 238 above). There have not been any significant changes with respect to education in Lower Sorbian (see paragraphs 167-194 above). The situation concerning Sater Frisian education has actually worsened since the adoption of this Recommendation by the Committee of Ministers (see paragraphs 320-337 above).

“The **Frisian Council (North Frisian Section)** shares the view of the Committee of Experts that education in the Frisian language should be strengthened also in the future, even if the framework conditions for teaching in and of the Frisian language have improved in the last years.

If one looks at the teaching of the Frisian language at schools, such classes are offered only at individual initiative of parents or schools. In such cases, Frisian classes are completely funded by the *Land* of Schleswig-Holstein (taking account of actual demand) without affecting the regular budget of the school concerned or its regular curriculum. This practice represents significant progress compared to the past, and the Frisian Council acknowledges the efforts taken by the *Land* government and its openness to dialogue. Nevertheless, the Frisian Council would welcome if the provision of Frisian classes would no longer depend on the individual initiative of parents or schools but would be mandatory at all schools in North Frisland and on Helgoland (taking account of the actual demand) instead. Naturally, such a broad offer would increase demand, but at the same time the teaching of the Frisian language would be significantly strengthened. This would require adequate legal framework conditions and financial means.”

Re recommendation no. 4:

“improve basic and further teacher training for all regional and minority languages;”

There has been limited progress in this field. Incentives for basic and further teacher training for Upper Sorbian have been created in Saxony (see paragraphs 106-109 above). Some efforts have been made or are envisaged in Schleswig-Holstein with respect to North Frisian and in Hamburg with respect to Low German (see paragraphs 261-266 and 482-484 above). However, the shortage of adequately trained teachers at all levels of education remains one of the principal problems affecting nearly all regional or minority languages.

“The **Frisian Council** shares the view of the Committee of Experts that there has been little progress in this field, although some efforts were taken or are planned with regard to the Frisian language. It is indeed true that the combined shortage of qualified teachers and a legal basis for the teaching of the Frisian language still causes significant problems. The training of Frisian teachers will become more attractive as soon as the teaching of the Frisian language at schools is enshrined in the law (reliable offer policy). Therefore, legal regulations are indispensable to maintain the status quo and secure the current prospects for Frisian language teachers. In the short- and medium-term, existing approaches to teaching of the Frisian language should be extended. This would also improve job chances of qualified teachers of the Frisian language.”

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With regard to the issue of university education, the *Land* of **Lower Saxony** has made the following comments which put the Committee's observations into a different light:

"At its meeting on 24 February 2005, the *Land* parliament of Lower Saxony adopted a decision concerning "The regional languages of Low German and Sater Frisian in school education". In this decision the *Land* government is asked to "maintain a professorship in Low German language and literature in Lower Saxony in cooperation with other *Länder* of northern Germany, if appropriate, to ensure that additional classes are offered for the teacher training programme."

This goes back to a decision not to fill the vacancy at Göttingen University after the retirement of Professor Stellmacher at the end of the summer term 2005 and to abolish the Low German Language and Literature Master's Degree as part of a concept to optimize university education.

In accordance with the decision of the *Land* parliament of Lower Saxony, the *Land* government endeavours to develop a relevant offer and establish a professorship at Oldenburg University. After talks with the MWK and in line with the aims of the *Land* parliament's decision, the university of Oldenburg extended the structural policy plan of its German Department to include the establishment of a W2 professorship in Low German (as at July 2005). Although there is no vacancy for a position of a professor at the moment, there will be several such vacancies at the German department in the near future.

In its evaluation report on the German faculty, the Scientific Commission of Lower Saxony (WKN) has recommended focussing more on linguistic studies when adding a professorship in Low German to the faculty in order to retain the possibility of interlinking it with the institutes for Dutch studies, medievalist studies, German linguistics and social linguistics and Slavonic studies. Therefore, the professorship should be announced under the title "Language variation and language contact, with particular reference to the Low German language". Generally, it would be conceivable to extend this professorship to include also the Sater Frisian language. It is assumed that the recommendations of the WKN will be paid due heed in the process of establishing the professorships.

The MWK has told Oldenburg University that it was willing to provide the necessary funds for the position of an academic assistant for a certain period of time if such a professorship is established. Furthermore, Oldenburg University has been asked to examine possibilities of improving the co-operation with the Low German Institute in Bremen."

With regard to the observations of the Committee of Experts set out in no. 41 of the second evaluation report substantiating the above statement, the *Land* of **Saxony Anhalt** wishes to make the following comments:

"The Committee's request that the *Land* should exert greater influence on universities and research institutes is in conflict with the legally guaranteed autonomy of institutions of higher education. The *Land* is not in a position to require universities to concentrate their research projects on the Low German language, as can be seen from the example of the project "*Mittelelbisches Wörterbuch*" [Dictionary for the Middle Elbe Region] which was launched with seed money appropriated by the *Land* of Saxony Anhalt, but which the Martin-Luther University Halle-Wittenberg did not want to make a permanent project as part of the research of its German language department. To ask the *Land* for additional funds not only is in conflict with general budgetary constraints and the need to consolidate the budgets of the *Länder* – in this particular point the Committee of Experts is right – but it contradicts the claims for autonomy made by the universities themselves."

Re recommendation no. 5:

"establish a structural policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;"

A structured policy in accordance with the standard set by the Committee of Ministers in this Recommendation is still lacking. There is a general lack of relevant organisational measures, such as a human resources policy taking account of civil servants' skills in regional or minority languages, facilities and incentives for them to improve these skills, or an adequate framework for and resources allocated to translation and interpretation. The possibility to use regional or minority languages in dealings with judicial and administrative authorities in practice remains marginal, if not non-existent, especially with respect to written communication.

“The **Frisian Council** notes that significant progress has been made after the adoption of the Frisian Law (*Friisk-gesäts*). For the first time, the Frisian language has been acknowledged as an official language in North Friesland and on the isle of Helgoland. Before the Frisian Law was passed, the official German language and foreign languages were the only languages admitted in relations with public authorities. This has changed now, so that today Frisian is actually used in relations with and by public authorities. But the Frisian Law offers many more possibilities than are actually made use of at present, so the Frisian Council shares the view that there is still potential for development in this area. In a decision of 2003 the *Land* parliament of Schleswig-Holstein stipulated that knowledge of regional and minority languages can be taken into positive account when recruiting new public service staff. For the Frisians, this decision has become law with the adoption of the Frisian Law. The Frisian Council believes that this offers the possibility to enhance the multi-lingual capacity of public authorities, which would automatically encourage speakers to use the Frisian language.

The Frisian Council points out that an application has been submitted to the *Kreistag* of North Friesland concerning the use of the possibilities offered by the Frisian Law (*Friisk-gesäts*). It is suggested to make maximum use of these possibilities. This could include the use of bilingual signs in public buildings and public transport facilities, bilingual forms and publications, a “language map” for North Friesland or the regular report on minorities submitted by the *Kreis* North Friesland. This would enable the *Kreis* North Friesland to fulfil the recommendation no. 5 of the Committee of Experts by way of example for compliance with that recommendation at local level. The Frisian Council advocates that the *Kreis* North Friesland fulfils the provisions of the Frisian Law to the maximum extent possible.

The Frisian Council expressly supports the view of the Committee of Experts that a targeted structural policy encouraging the use of minority languages by organizational measures and personnel policies, for example, would be of great importance.”

“The **Danish minority** also has a great interest in a comprehensive and relevant structural policy which improves the acceptance and promotion of regional and minority languages. As a first step, such structural policy should be clearly defined, including feasibility considerations and an implementation schedule.

The Danish minority would, of course, be willing to contribute to such a “project”.

The **Free State of Saxony** raised the following objection against the observations of the Committee of Experts that led to the above-mentioned recommendation concerning the Sorbian language:

“The use of the Sorbian language when dealing with judicial or administrative authorities is governed by the Saxon Sorbs Act (*Sächsisches Sorbengesetz*), which provides for such a possibility. Therefore, claims to the contrary must be objected.

The very existence of some of the deficits referred to in the second evaluation report which, according to the Committee of Experts, could have been avoided by adopting a structural policy as recommended by the committee, is contested.”

With regard to the observations made by the Committee of Experts concerning compliance with Germany’s obligations under Article 10 paragraph 1 a) v of the Charter (possibility to validly submit documents in the Danish language), the *Land* of **Schleswig-Holstein** wishes to make the following comments:

“Under number 60 of the second evaluation report, the Committee of Experts revised its previous assessment and no longer regards this obligation as fulfilled.

The *Land* government of Schleswig-Holstein doubts that the extensive recommendation of the Committee of Experts still is within the scope of application of this provision. Article 10 para. 1 sub-para (a) (v) contains the obligation that speakers of the Danish language be allowed to validly submit documents written in the Danish language, as far as this is reasonably possible. This obligation is fulfilled. In this respect, reference is made once more to no. 287 of the second periodical report of the Federal Republic of Germany.”

Re recommendation no. 6:

“make the speakers of the regional or minority languages more aware that they have the possibility to avail themselves of the right to use their language before administrative and, where relevant, judicial authorities;”

Some awareness-raising activities have been undertaken, particularly in Schleswig-Holstein, which should be pursued. In some *Länder*, the efforts to make speakers of regional or minority languages aware of the possibility of using their language before the authorities have been too limited to have an impact on practical use.

“The **Frisian Council** shares the view of the Committee of Experts. Above all, the *Land* of Schleswig-Holstein has taken awareness-raising measures. But in the end, what matters is that the *Länder*, *Kreise* and municipalities act in a way that serves as an example for others, because, when dealing with public authorities, speakers of the Frisian language use their language only if they know that the other side also speaks this language. Therefore, measures that show that it is possible to use more than one language in public life in minority regions are of particular importance. In this regard, the use of bilingual signs in public places, the use of bilingual forms or the provision of language courses for public service staff are of more than symbolic value to the Frisian ethnic group.”

The **Danish minority** stated that it had always expressed its willingness to support the aim of promoting awareness of the possibilities for using minority languages, and declared that this task had not yet been completed.

Particularly in the view of the **Free State of Saxony** it has to be noted that the Charter does not require that parties involved in a trial are actively encouraged to use the Sorbian language in the courtroom.

“Perhaps a Sorbian dictionary would help encourage speakers of the Sorbian language to make greater use of their language. Unfortunately, there are no funds available for such a project at the moment. The same holds true for the Sorbian language training of judiciary staff.

However, the Saxon State Ministry of Justice will review the brochure „*Sächsischer Rechtswegweiser*“ (Saxon law guide) and add information explaining the rights under Section 9 of the Saxon Sorbs Act.“

Re recommendation no. 7:

“take a more active approach towards promoting the presence of the regional or minority languages in the media. “

Germany’s undertakings in the field of broadcasting media concern the encouragement and/or facilitation of the broadcasting of regional or minority language programmes in the private sector. While some regional or minority languages enjoy a certain presence in public service broadcasting, their presence is marginal in private broadcasting, and the authorities of the *Länder* concerned generally express the view that the State has a very limited scope for intervention. Nevertheless, there have been positive initiatives by the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

Cf. the comments below (re 3.2 R and S)

3.2. Re „Findings of the Committee of Experts in the second monitoring round“

A. The Committee of Experts compliments Germany on its continuing constructive dialogue with the Committee of Experts and its transparent approach to the implementation of the Charter. It notes, in particular, that the first evaluation report of the Committee of Experts and the second periodical report of Germany were discussed with representatives of regional or minority languages at an implementation conference and that the written comments of the language groups were appended to the second periodical report. The Committee of Experts commends the German authorities for the comprehensive information contained in the second periodical report and their response to requests for further information made by the Committee of Experts.

B. By adding further undertakings to its existing ones, Germany has demonstrated its long-term commitment to the protection and promotion of regional or minority languages. The Committee of Experts notes with satisfaction Germany’s dynamic approach to the instrument of ratification.

C. However, despite some positive developments, the situation of regional or minority languages has not changed significantly since the first monitoring round and the previous recommendations of the Committee of Ministers still remain valid. The Committee of Experts understands that the negative budgetary outlook has hampered progress to a certain extent. Nevertheless, it considers that Germany should take more determined steps to tackle the problems identified by the Charter’s monitoring mechanism.

According to the *Land* of **Saxony Anhalt**, the Committee of Experts is partly right in saying (cf. no. 36 of the report) that there “have not been noticeable changes in the situation regarding teaching and study of Low German in those *Länder* where Low German is only protected under Part II” as far as the “teaching” is concerned (there are no possibilities for study in Saxony Anhalt). The *Land* continues to

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say that this is a general phenomenon of school education, because even the most thorough structural changes would not result in immediate quality improvements, for teaching is much too complex an issue. "However, Saxony Anhalt has not only collected scientifically sound statistical data on teaching, but also launched structural measures creating the framework conditions for improving school education.

For example, the new Framework Curricula, especially of primary schools, provide for the possibility to integrate the Low German language in regular classroom instruction. As a rule, Low German speakers are involved in the revision of Framework Curricula, so that their comments and recommendations can be paid due heed.

The observation that "Low German is not systematically included in basic and further teacher training" does not apply to Saxony Anhalt. Much attention has already been given to the advanced training of teachers and the Working Group on Low German has made a vital contribution to this effect. New advanced training courses were offered in addition to "traditional" ones, such as a seminar presenting the new Low German reading book ("*Unsere niederdeutsche Fibel*") which has been fully financed from the public purse. This was an example for teacher training geared to actual needs which soon resulted in significant short-term quality improvements (which are very hard to verify). Claims of a lack of systematic basic training for teachers are also not justified. However, it has to be underlined once more that the *Land* has to respect the legally enshrined autonomy of higher education institutes with regard to study and research.

For two years, general official school statistics for the selection of Low German (mostly in activity groups or optional-subject courses) have been made in two supervisory school authority districts which are representative for the whole *Land*. Hence, there can be no talk of a lack of statistical information in Saxony Anhalt.

In all other respects, the Federal Republic of **Germany** wishes to express its thanks for the understanding of the Committee of Experts for the existing budgetary constraints and their effects on the protection of regional and minority languages; with regard to the Committee's call for more resolute action, Germany refers to its comments on recommendations no. 2 under 3.1 above. Germany asks the Committee to consider that maintaining the status quo under difficult circumstances could be seen as a positive sign.

D. The protection and promotion of regional or minority languages is mainly under the responsibility of the *Länder*. There is no federal language policy and the Federation mainly fulfils a co-ordinating role in this area. While some mechanisms of inter-*Land* co-operation are being put into place, the Committee of Experts considers that there is further scope for development in this area, in particular with regard to the Low German language, with the possible assistance of the federal level.

In the view of the **Federal Government**, the recommended inter-*Land* co-operation in protecting minority and regional languages may be considered especially where the settlement areas of speakers of such languages extend beyond the territory of one *Land*. In such cases, for example the Sorbian settlement areas in Brandenburg and Saxony, inter-*Land* co-operation already exists. The Federal Government can act as a mediator and encourage such co-operation in the Advisory Committee of the language group concerned. This is mainly the responsibility of the Federal Government Commissioner for Matters Related to Repatriates and National Minorities, who is always happy to consider proposals of the associations of the language groups.

The *Land* of **Saxony Anhalt** refers to no. 21 of the second evaluation report, in which the Committee of Experts asked for information on the status of inter-*Land* co-operation for the protection of the regional language of Low German, noting that co-operation plans set out in no. 122 of the second periodical report of Germany have been implemented and additional bilateral agreements concluded between individual *Länder*.

E. The attitude of the *Länder* towards regional or minority languages is on the whole very positive, although measures taken in favour of regional or minority languages vary significantly between the *Länder* concerned. Overall, the promotion of regional or minority languages is negatively affected, to varying degrees depending on the *Land*, by the lack of long-term, structured policies of language promotion and the absence of a pro-active approach to this promotion.

Please refer to the comments on recommendation no. 2 under 3.1 above.

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F. The German authorities have not adopted specific legal provisions in order to implement Germany's undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this situation was the adoption of the Frisian Law (see paragraphs 274-275 above) by the Parliament of Schleswig-Holstein, which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. The Committee of Experts welcomes this development and considers that similar measures are also needed in other *Länder* concerned. It considers, in particular, that it is not realistic to expect civil servants dealing with citizens on a day-to-day basis to apply the Charter directly of their own initiative or regional or minority language speakers to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter.

The Danish minority supports the comments in no. 3.2 of the second evaluation report and states the following: "We acknowledge the efforts of the German authorities to promote the Danish language in everyday life. Nevertheless, the Danish minority is of the opinion that general solutions are needed in some basic areas. Such areas include in particular the school education and the media. Therefore, the Danish minority welcomes the request of the Committee of Experts for legal provisions and a structural policy. The Danish minority will make the recommendation its own interest and raise the issue in discussions with the competent authorities.

In all other respects, reference is made to the **comments on recommendation no. 1 above** (re para. 3.1 of the monitoring report).

G. The absence of clear structured policies for regional or minority languages creates confusion among the speakers, as to the bodies and authorities responsible for the promotion of regional or minority languages at both the *Land* and federal levels on the one hand, and as to the availability and continuation of funding on the other. This situation combined with a shift from institutional funding towards project funding makes it particularly difficult for the speakers to develop and to implement long-term plans. This problem is particularly acute for the North Frisian, Sater Frisian and Low German languages, which have less developed institutional funding mechanisms.

The reiterated claim that confusion about the distribution of responsibilities would hamper the exercise of the rights of speakers of minority languages is not correct. The language groups concerned are extremely well organized and their associations know very well how to put forward the interests of their members.

With reference to no. 25 of the second evaluation report, **Saxony Anhalt** wishes to make the following comments:

"The allegation that speakers of regional or minority languages would not know which authorities at *Land* or federal level are responsible for the protection of regional or minority languages must be rejected as far as Saxony Anhalt is concerned.

Not only does the *Bundesrat Niederdeutsch* (federal council for Low German) take sufficient efforts to prevent such a situation, but the establishment of the working group on Low German in the Ministry for Cultural Affairs of Saxony Anhalt also rebuts the presumption.

The Working Group on Low German appointed by the Minister for Cultural Affairs in April 2002 is comprised of representatives of the Ministry for Cultural Affairs (Directorates-General for cultural and school matters), representatives of the speakers from the regions concerned (Altmark, Börde, Harz), a representative of the media and one scientist each of the Otto-von-Guericke University Magdeburg and the *Landesheimatbund Sachsen-Anhalt e.V.* (Saxony-Anhalt *Land* Union for Local and Regional Traditionals) and meets twice per year (spring and autumn). In addition to many other functions, its aim is to keep speakers of Low German informed about current developments at *Land* and federal level. The two representatives of Saxony Anhalt in the federal council on Low German, Dr Luther and Dr Lorenz, are also members of the working group on Low German in Saxony Anhalt and thus have the possibility to report about the work of the federal council on Low German and to spread information about matters at *Land* and federal level. In addition, the representatives of the Ministry of Cultural Affairs pursue this information policy anyhow.

A central task of the working group is to discuss all possibilities of financial assistance, which is also a central issue on the agenda of the group's autumn meeting, so that the Low German speakers in Saxony Anhalt will be very well informed about this issue.

Difficulties arising from the shift from "institutional funding" to "project funding" stipulated by budget law, as observed in the second evaluation report, have been acknowledged. But it is very unlikely that this development will change, all the more since it is not regarded as a failure to comply with obligations under the Charter.

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H. The Committee of Experts welcomes the fact that the Federation has accepted, on a voluntary basis, to maintain the level of its financial contribution to the Foundation for the Sorbian People. However, a lasting solution involving a long-term commitment by the Federation would be desirable. There are also some concerns about the internal organisation of the Foundation which need to be addressed in co-operation with the Sorbian-speakers.

The **Free State of Saxony** shares the view of the Committee of Experts that a lasting solution based on a long-term commitment of the Federal Government would be desirable. Therefore, the Free State of Saxony has tried to negotiate a funding agreement with the Federal Government for some time to ensure greater planning certainty. Of the three contracting parties, the Free State of Saxony is the only one that has made a constant financial contribution to the Foundation for the Sorbian People [*Stiftung für das sorbische Volk*] over many years.

Concerns regarding the internal organisation of the foundation should be explained in greater detail. The one in the second evaluation report is too blanket a statement as to allow detailed comments.

The **Federal Government Commissioner for Culture and the Media** wishes to make the following comments regarding the promotion of the Sorbian Institute:

“The first sentence in the above-cited statement of the Committee of Experts should be corrected as follows: “The Committee of Experts expects the Federal Government to maintain the level of its financial contribution to the Foundation for the Sorbian People.” It should be noted that as yet the Federal Government has not made any such declaration regarding the level of its financial contribution. After the second sentence “However, a lasting solution ... would be desirable”, the following sentence should be added: “Negotiations to this effect between the Federal Government and the *Länder* concerned are envisaged in the foreseeable future.”

I. The decision to extend Part III protection to the Romany language in Hesse was a very ambitious step. While welcoming this strong long-term commitment, the Committee of Experts is of the view that compliance with the selected undertakings requires a far more pro-active approach and sustained efforts from the German authorities, including a structured policy vis-à-vis the Romany language and the allocation of adequate financial resources. The Committee of Experts observes that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romany language of German Sinti and Roma has no standard written form, in accordance with the wishes of a number of speakers. In addition, some Romany-speakers do not wish their language to have a presence in public life outside the Sinti and Roma community. Given these circumstances, the Committee of Experts has some concerns as to how far implementation of many undertakings under Part III for Romany in the Land of Hesse is feasible in practice.

With regard to this statement of the Committee of Experts concerning difficulties in fulfilling the undertakings under the European Charter for Regional or Minority Languages, we first want to raise the **question** whether, in order to fulfil the undertaking, it is not sufficient that the *Land* as the responsible authority has taken all necessary steps even if it is not successful because the beneficiaries of the provisions under this undertaking do not agree with it. In case the undertaking is still not considered fulfilled, it has to be clarified which conclusions have to be drawn in view of the fact that it is impossible to fulfil the undertaking since measures taken against the will of the persons concerned are hardly imaginable.

The **Central Council of German Sinti and Roma** [*Zentralrat deutscher Sinti und Roma*], the umbrella organization for a part of the members of this language group, commented the more detailed remarks concerning the above statements in nos. 745 – 767 of the report as follows:

Concerning the statement on the scope of protection in no. 745 of the report it declares:

“Regarding the protection of the minority language of Romany as spoken by the German Sinti and Roma we would like to point out once more the special requirements arising from the basic principles of the European Charter for Regional or Minority Languages:

a) The Charter is intended “to protect and promote regional or minority languages as an endangered component of the European cultural heritage.” Taking this into account, a catalogue of various measures – in addition to a ban on discrimination – was set up. With due regard to the varying situations applying to the languages concerned, the measures have been formulated such as to allow the contracting states a greater scope in implementing the undertakings. The Charter’s objective is to preserve and develop these languages as an aspect of Europe’s cultural identity.

In this respect the special situation and status of the Romany language after the genocide of Sinti and Roma in Nazi-occupied Europe has to be taken into account. The consequences of the Holocaust still have an impact today. The German Sinti and Roma who had lived in the former *Reich* were to a particularly high degree the objects and victims of the Nazi “race researches” and so-called race hygienists of the *Reich* Security Main Office [*Reichssicherheitshauptamt, RSHA*]. In preparation for a comprehensive collection of data on the minority, these SS race researchers tried to gain confidence of the families by learning the minority’s language so they could trace their lineage back to the 16th century. These genealogies eventually formed the basis for the racial statements [*Rassekundliche Stellungnahmen*] of the RSHA on all members of minorities in the *Reich*. On the basis of the “race reports” [*Rassegutachten*] the Sinti and Roma – young and old and even 1/8 gypsies as they were called in Nazi jargon – were deported to Auschwitz and other concentration camps with the aim of total eradication of the minority. Except for few who were rescued by the allies, all were killed.

The members of the minority are still affected by the consequences of these dramatic events – also in view of preserving their own language, Romany, within the families. In this respect the situation of German Sinti and Roma is different from the situation of other minority languages of Roma minorities in eastern and southern Europe. The historical background – which cannot be blamed on the minority – must in no case constrain an equal protection of their minority language and its acknowledgement. Considering the historical facts, it is not acceptable that Romany should be regarded as inferior to other languages of national minorities in Germany. German Sinti and Roma have to be bindingly granted – just as the speakers of other minority languages – equal opportunities to maintain and promote their minority language according to Part III of the Charter.

b) In view of this historical background, the Federal Government and the *Land* governments accepted a joint declaration of the Central Council of German Sinti and Roma and the *Land* Associations of German Sinti and Roma. It states that “within the framework of the Charter any investigation on the minority and misapplication of present protective regulations is illegitimate.” All parties would vigorously oppose such attempts. With regard to this statement the *Land* authorities affirm that they will respect the wishes and requirements put forward by the *Land* associations within the scope of their policies and that no provision under the Charter may be applied against the interests and explicit wishes of the minority. Any provisions under the Charter – also in the field of education and culture – may be applied only on the initiative of the German Sinti and Roma minority or their representative institutions and may not be enforced by public authorities. The *Land* government coordinates the implementation of the Charter in all fields with the *Land* Association and promotes, if explicitly asked for, education measures carried out by teachers of the minority for minority members in order to preserve the minority language.

c) When ratifying the Charter, the Federal Government pointed out that the assumed undertakings become applicable upon the Charter entering into force. It emphasized once more that the implementation of specific measures can only be stipulated within the bounds of what is reasonable in the individual case concerned – as the explanatory report makes clear at several points. “Should, in connection with undertakings under Part III of the Charter, specific measures be submitted which require the development of an appropriate infrastructure, it cannot be inferred from the Charter that this infrastructure must be available upon the Charter coming into force. In this respect, especially concerning promotional measures to be implemented on request of parents, e.g. in education, an appropriate period of time necessary to prepare the implementation is not to be considered a breach of the undertakings under the Charter,” the Federal Government stated in 1997. The evaluation has to consider the fact that the Sinti and Roma genocide perpetrated by National Socialism was acknowledged by the authorities in charge only in the early 1980s, i.e. forty years later, and that the Sinti and Roma nowadays still suffer exclusion and discrimination resulting in many Sinti and Roma still denying their identity.

d) The *Land* government of Hesse has met the requirements in a commendable way by recognizing the quorum of altogether 35 provisions under Part III of the Charter. In its press release of 14 July 1998 the *Land* government explicitly stated that this decision determined the “equal protection of the minority language Romany”. This made Hesse “the first *Land* granting the highest protection for Romany according to the European Charter for Regional or Minority Languages”. As the reason for the Hessian initiative the government spokesperson stated the “massive drawback in maintenance and development the language of German Sinti and Roma experienced due to the Holocaust”. The aim is to “prevent any notion of discrimination compared to other regional or minority languages”. This was also unanimously agreed upon by the German parliament in May 1998.

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e) However, the offering made to the minority by the *Land* of Hesse in acknowledgement of the quorum is opposed by the negative attitude displayed by the other federal states. For Romany they accept measures of protection under Part III of the Charter only “below the quorum”, which is not only a blatant violation of the principles of the Charter. This attitude also impedes the political acceptance for the protection of the minority language Romany, promotes resentments within the minority and contradicts the responsibility for the minority on the basis of the protective measures adopted in Hesse.

In reaction to the Committee’s statements under nos. 746 – 750 substantiating its conclusions on the extension of the protection for Romany to Part III of the Charter concerning education, the Central Council of German Sinti and Roma notes:

“The Association of German Sinti and Roma / Hesse *Land* Association has submitted to the *Land* government of Hesse a draft public-law contract between the *Land* government and the *Land* Association as well as a concept for its work to implement the protection of minorities. This encompasses the maintenance of the minority language Romany and the legally binding obligation to protect and promote Romany. The 1997 draft contract of the *Land* Association of German Sinti and Roma also includes the provision that members of the minority may not be deterred from using their preferred language. As a “legal guarantee” the provisions of the *Land* Association’s draft contract are preceded by the following: “The *Land* government commits itself to protecting the national minority of German Sinti and Roma in Hesse and to promote conditions which allow the members of the minority to maintain and promote their culture and identity.” This includes all necessary measures to promote complete and effective equality between members of the national minority and members of the majority in all areas of political, economic, social and cultural life and to improve conditions for maintaining and developing the minority’s identity. Promotional measures also encompass education, media and administration as well as the maintenance of the minority language Romany.

To be able to conduct the required demand analysis and to make provisions for the actual implementation measures, the *Land* Association submits a detailed concept to the *Land* authorities. On local level, the *Land* Association at the same time seeks to conclude cooperation agreements with the authorities of cities and administrative districts [*Landkreise*] (in other federal states there are, as stated in Germany’s second periodical report, groups of Sinti pupils receiving homework assistance by minority members who also teach them the minority language).

So far, the *Land* government has not been willing to negotiate the conclusion of a public-law contract. At a panel discussion on 20 June 2005 dealing with “Acceptance and Participation or Continuity of Exclusion – Implementation of the Framework Convention for the Protection of National Minorities in Hesse” the leaders or representatives of the parliamentary parties in the Hessian *Landtag* declared that they would get briefed on the draft contract submitted by the *Land* Association of German Sinti and Roma by the *Land* government and then would further address the subject within the parliamentary groups.”

In addition, the Central Council of German Sinti and Roma – in reaction to the Committee’s statements on the protection of Romany in the field of education in no. 747 of its report – submitted a report by the Education division of its information centre. This report states to which extent the protection of Romany is desired in this field and how far it is already implemented:

“Their language – the German Romany – is an integral part of the identity of the Sinti and Roma. In the light of the experiences with the National Socialist dictatorship, this subject has to be addressed in every respect with utmost sensitivity. The so-called race researchers of the Third Reich misused the language to set up genealogies and “race reports” forming the basis for persecution, deportation and ultimately for the genocide. Besides the genocide, the severe breach of trust on the part of national authorities and the destruction of cultural values by the National Socialists continue to have an effect on today’s generations of Sinti and Roma.

Taking into account the historical facts as well as the special situation, the Education division, since its foundation in 2001, deals with the possibilities of promoting and maintaining the language. One of the major tasks of the division is to sensitize the minority for the significance of its own language. The division works to realize projects and provides support for this purpose.

In the school year 2003/04 the Bavarian *Land* Association in Nuremberg launched a pilot project giving Sinti children the opportunity of extracurricular classes and to use Romany at the same time. In the first year, a Sinti volunteer took charge of the project twice a week for two hours at a time. Since the beginning of the school year 2004/05 the project is funded by Bavaria within the scope of in-school

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midday care. However, a part-time position has not been approved. Due to the weak funding, this project as well as the launching of future projects is at risk. Nevertheless plans are made to establish homework assistance and catch-up tuition in the town of Fürth. In this respect, cooperation with the *Land* Association was set up (including sitting in on catch-up tuition).

In Bad Hersfeld/ Hesse, a promotional project – which takes place beyond regular classroom education – is currently being carried out. For this purpose, a minority member was granted a full-time position which is, however, limited to one year. This instruction – which is given in addition to regular classes only to children of the minority – is also provided in Romany. The responsible body for the project supervised by the Hesse *Land* Association is the Hersfeld-Rotenburg district.

The projects were preceded by discussions at the documentation centre, at board meetings in Kassel, at the Protestant Academy in Mühlheim and at the Tutzing Academy. In spring 2002 a conference of the Associations' boards took place at the Franken Academy [*Frankenakademie*] in Schey where the participants exchanged ideas and experiences. In May 2004 the participants met at the documentation centre in Heidelberg. In general it was noted that it is necessary to conduct demand analyses for the future conception of promotional projects but that public agencies have not yet granted the required funds.

In Rhineland-Palatinate, a framework agreement was signed between the *Land* government and the *Land* Association in July 2005. Its aim is to protect and promote the minority, considering in particular the negative consequences of the National Socialist genocide which are still not overcome, and to ensure equality and maintenance of the Sinti and Roma culture in Rhineland-Palatinate. The principles of the European Charter for Regional or Minority Languages will continue to play a significant role in this field. In the past years, minority members have repeatedly brought forward to the *Land* Association their interest in extracurricular instruction including their own language taught by members of the minority. At several occasions the possibilities for implementation were discussed with a staff member of the division. In this context the *Land* Association underscored that it will seek assistance by the Education division in case a relevant group of pupils can be assembled.

On the Internet and in various publications, the Education division sifts the emerging and intuitive application of the written German Romany. In addition, the division gathers information on the use of Romany in other European countries.”

In reaction to the Committee's statements under nos. 764 -767 substantiating its conclusions on the extension of the protection of Romany to Part III of the Charter concerning media, the Central Council of German Sinti and Roma notes:

“The initiative taken by the Hessian *Land* government on behalf of the public broadcaster *Hessischer Rundfunk* (HR) would also be applicable to private media in Hesse in order to fulfil the undertaking under the Charter. The supervisory body for private media in Hesse could inform private radio and TV broadcasters about Germany's obligations under the Charter and at the same time suggest them to enter into a dialog with the Hesse *Land* Association of German Sinti and Roma.

Since 1993 the *Land* Association of German Sinti and Roma has been striving towards a seat for a representative of the Hesse Sinti and Roma at the Broadcasting Board of the *Hessischer Rundfunk* (as a public body) as well as at the Control Body for private media. The draft contract between the Hessian *Land* government and the *Land* Association of German Sinti and Roma contains the following provision: “The *Land* government sees to introducing a representative of the minority to the HR Broadcasting Board and the respective public Control Bodies for private media and for corporations under public law in which the socially relevant groups have to be represented.

Furthermore, the *Land* government agrees to promote by reasonable means projects of the *Land* Association with the aim of creating and using own media and facilitating access to existing media.” However, this agreement has not yet been adopted (see passages concerning nos. 746 – 750 above). Although both, the *Land* Broadcasting Act as well as the Act on Private Media in Hesse, have been amended several times and the composition of the Control Bodies has changed, so far there has been no willingness to accept a representative of the Sinti and Roma. The exclusion of German Sinti and Roma from “socially relevant groups” in Germany is still a severe violation of the freedom from discrimination.”

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The **Sinti Alliance Germany** [*Sinti-Allianz Deutschland*], one of the umbrella organizations for German Sinti, formulates its more restrictive opinion on the issue, addressed by the Committee's statement as referred to above, of the scope of protection for Romany spoken by the Sinti as follows:

"The Committee pointed out that both German umbrella organizations – the Romany language group and the Hesse *Land* Association of German Sinti and Roma – have emphasized their rejection of a written form or standardization of Romany spoken by the Sinti (*Sintetickes*).

- This correct and important statement affects the implementation of numerous undertakings under Part III of the Charter for the *Land* Hesse – as the Committee also noted – as this attitude shared by the German Sinti and their umbrella organizations complicates or even prevents an effective practical implementation. The Sinti Alliance Germany sees its opinion affirmed that the public protection of Rommenes should be restricted to general standards acceptable to the Sinti and that the implementation of the assumed undertakings would in many cases contravene the interests and declared intentions of the Rommenes speaking Sinti. Waiving the undertakings in the fields of education, media, justice and administration would have facilitated focusing on general protection and promotion of private language learning and of cultural measures, in particular.

- The well-meant decision taken by the Hessian *Land* government to protect Rommenes in accordance with Part III of the Charter combined with the Committee of Experts' claim for full implementation, even of the controversial undertakings, bears the risk of initiating a totally undesired process which might lead to a violation of fundamental traditions of German Sinti. It has to be stressed that the Sinti not only generally reject a written form or standardization of their language but also its knowledge and use by non-Sinti, its introduction into state-run schools and its use in newspapers, for example. If German Roma should not share this opinion and seek practical implementation of the controversial undertakings, it would be necessary to ensure that the basis for a written form and standardization as well as its use in schooling and advanced training will be Romany as used by Roma in other countries and not the significantly different Rommenes spoken by the Sinti (*Sintetickes*). In this respect, the Free and Hanseatic City of Hamburg whose initiatives mainly focus on Roma – and consequently take into account their language – serves as an example. Referring to the Romany of German Sinti and Roma – whereas there are two separate languages with two different linguistic traditions – makes it more complicated for national authorities and the Committee to grasp the issue.

The Sinti Alliance Germany comments individual numbers of the report and subsequent claims or recommendations of the Committee of Experts as follows:

In no. 40 the Committee refers to the reticence of some families regarding the education initiatives for the use of Romany taken by the city of Hamburg. These are Sinti families who reject governmental action in this field due to their ancestral traditions whereas Roma families do not know this tradition.

In no. 747 the Committee refers to information given in Germany's second periodical report that the Education division of the Documentation and Cultural Centre of German Sinti and Roma does not develop any material for additional homework assistance and language classes and that it does not take any measures to support the introduction of Rommenes classes (*Sintetickes*) in Hesse but assumes other tasks. In this field there is an increasing consensus between the Sinti Alliance Germany and the Central Council of German Sinti and Roma who both agree that the traditions concerning Rommenes (*Sintetickes*) spoken by German Sinti have to be respected. Thus, relevant educational materials etc. have to be provided only for Romany speakers of the Roma living in the same region and wishing for schooling in their own language.

Regarding the statements of nos. 746 and 749 the Sinti Alliance Germany doubts – after some inquiries on the spot – the information in Germany's periodical report given by the *Land* Association of German Sinti and Roma and cited by the Committee that in several cities of Hesse, amongst others Darmstadt, Rommenes speakers asked for instruction in Rommenes in state-run schools as well as advanced training. Even if there were some individual requests – which we are not aware of – generally the opposite is true. Owing to the discussion of such potential measures the Sinti Alliance Germany received several requests expressing concerns about this kind of action. In this context the Committee should reassess its claims and recommendations to German authorities. They neglect the will of the group concerned – normally Rommenes speakers of the German Sinti.

Apart from the fundamental reservation concerning the use of Rommenes in schooling the Sinti Alliance Germany points out that – regarding the statements in no. 753 of the report – children of German Sinti

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and Roma should be taught only by regular teachers rather than Romany speakers without any educational training in order to prevent any educational gap. While welcoming the dedication of the Committee to employ trained teachers the Sinti Alliance Germany underlines its view that such measures should be restricted to extracurricular schooling for Roma children in their idiom of Romany. Sinti children are brought up with their traditional language in the families and family clans and do not need any assistance. If there are, contrary to our information, individual families wishing for assistance in this field, this could be provided – perhaps with State promotion – by local Sinti organizations without governmental action being required, e.g. by organizing holiday activities for Sinti children and teenagers.

The competent **Land of Hesse** comments the Committee's conclusion (see above) stating that extending the protection under Part III to the Romany language was an ambitious step, but that the assumed undertakings were not fulfilled convincingly enough as follows:

“The Council of Europe Committee of Experts acknowledges that the *Land Hesse* took an ambitious step by protecting the language of the SINTI and ROMA – Romany. There are about 7,500 Sinti and Roma living in Hesse. They are a protected group within the meaning of the Council of Europe Framework Convention for the Protection of National Minorities. Moreover, Romany is a protected language in Hesse within the meaning of the Council of Europe European Charter for Regional or Minority Languages.

In this context Hesse is so far the only *Land* of the Federal Republic of Germany that signed the quorum of 35 protective and promotional provisions of Part III of the Charter.

The Charter differentiates between simple protection of a minority language and special protection granted only to languages for which a country has adopted at least 35 of these protective undertakings. Since so far this kind of protection has been granted to Romany only in Hesse, the *Land* enjoys a good reputation on national and international level. This also holds true for the minority concerned as well as its respective organizations.

Thus, Romani Rose, Chairman of the Central Council of German Sinti and Roma (see Sinti und Roma in Deutschland, in: Zeitschrift bedrohte Völker_Program 225, 3/2004), states for example:

“One of the achievements of the civil rights movement was the acknowledgement of German Sinti and Roma as a national minority in May 1995 as well as of Danes, Frisians and Sorbs living in Germany. This resulted in precise claims for special protection and promotion as determined in international agreements such as the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages (...). For example, only the *Land Hesse* has adopted the 35 protective provisions of Part III of the Charter for German Romany, which is necessary for ratification.

Even the latest contractual agreement between the *Land* government of Rhineland-Palatinate and the local *Land* Association of German Sinti and Roma of 12 July 2005 – which has to be regarded as a positive development – does not reach that quality.

Against this background the *Land Hesse* reaffirms its intention to fulfil this voluntarily assumed undertaking as far as possible. This should be done irrespective of the fact that concerning Romany it is very difficult to put all plans into practice seamlessly. This particularly pertains to the non-existent standardization of Romany as a written language. In its evaluation report even the Committee of Experts admits this fact.

And this is also explicitly pointed out by representatives of the Sinti Alliance Germany. In their response to the evaluation report of 29 August 2005 they state, amongst others:

“ – The Committee has pointed out that both German umbrella organizations – the Rommenes language group and the Hesse *Land* Association of German Sinti and Roma – have emphasized their rejection of a written form or standardization of Rommenes spoken by the Sinti (Sintetickes). This correct and important statement affects the implementation of numerous undertakings under Part III of the Charter for the *Land Hesse* – as the Committee also noted – as this attitude shared by the German Sinti and their umbrella organizations complicates or even prevents an effective practical implementation.”

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The difficulties in fulfilling the quorum of 35 undertakings are also based on the position of the Central Council of German Sinti and Roma – often insisted on in the past – that certain undertakings should not be assumed by the state without the explicit assent of the linguistic minority so that the state-independent and self-governed sphere of the Sinti and Roma remains preserved.

In their self-definition, most Sinti and Roma regard their language – Romany – as a language of trust which may be passed on only within the ethnic group. This is another reason why many promotional measures of the *Land* cannot be taken into consideration or only to a certain extent.

The *Land* Hesse understands that the acknowledgement of Romany under Part III of the Charter takes priority over considerations on how to fulfil undertakings in a specific given case. Concerning the implementation of the Charter the *Land* Hesse reaffirms its willingness to enter into dialog with representatives of the Sinti and Roma.

However, the *Land* Hesse as signatory of the agreement regards the actual signing of the agreement as a landmark decision and future-oriented step which primarily aims at putting SINTI and ROMA on an equal footing with other speakers of regional or minority languages. The *Land* Hesse sticks to this claim. This is also reflected by the character of the *Land's* relationships to the local *Land* Association of Sinti and Roma.

Another proof is that there is a coordinating agency responsible for these relationships at the State Chancellery of the *Land* Hesse. The competent Head of Division also acts as chairman of this coordination agency which is composed of representatives of the Hessian Ministry of Social and Cultural Affairs. Due to this central role of the Hessian State Chancellery the protection of minorities is being brought to the attention of the concerned *Land* government's departments. In addition, it facilitates discussions at the highest level between the *Land* and Sinti and Roma representatives, e.g. also between the Minister-President and the Head of the State Chancellery.

Thus, the Hessian State Chancellery fulfils a coordinating and guiding function for the departments. However, the departments are the first bodies responsible for the implementation of the Charter. This includes the allocation of substantial funds – compared to other *Länder* – to the *Land* Association of Sinti and Roma. For the institutional sector, funds are allocated by the Hessian Ministry of Social Affairs and for the field of project promotion by the Hessian Ministry of Education and Cultural Affairs. This issue will be dealt with more closely later on.

A closer analysis of the situation in Hesse reveals that there is a significant gap between the requirements of the Charter and actual needs. Most undertakings – even though with certain restrictions – are not considered to be fulfilled. Some undertakings, especially in the social field, are considered to be fulfilled. Several criteria are to be evaluated in the next report.

Apart from that, the funding of the minority by the *Land* – which should also be assessed in the light of the currently tight economic and financial situation – has still to be strongly highlighted. This applies to public budgets in particular.

Nevertheless, the *Land* Hesse funds the Hesse *Land* Association of Sinti and Roma with € 156,000 p.a. to support the Association's office as well as various projects (see draft budget 2006: sec. 08, chap. 0806 product no. 12).

At the request of the *Land* Association these funds are managed largely by the Association itself. Furthermore, the *Land* funds the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] in Marburg. Funds cover salary and project work (one employee of pay grade A 13 and resources). Its major aim is to establish the subject of (advanced) training for teachers. The Bureau was founded in 1998 by the Hessian Ministry of Education and Cultural Affairs as a measure to implement the assumed undertakings. The topic has been introduced to the curricula. At Hessian schools, Sinti and Roma history as well as their current situation are addressed. The aforementioned Bureau as well as numerous projects and measures also contribute to this aim by promoting an education of empathy on the basis of Human Rights.

The *Land* Association of Sinti and Roma has neither taken nor announced any measures in the field of language promotion.

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The *Land* government and *Land* Association agree upon the available funds being allocated to projects aiming at the integration (particularly at schools) of minority members as well as to publications and exhibitions focusing on the Sinti and Roma genocide during National Socialism (see website of the Hesse *Land* Association of Sinti and Roma).

Regarding some minor integration problems, e.g. in education, this focus seems sensible.

In addition, the implementation of the Charter is – as stated above – complicated by the fact that Romany spoken by German Sinti and Roma does not have a standardized written form and that the minority regards it as a kind of ‘insider language’ which is not to be taught by national institutions.

It has to be concluded that so far teaching in Romany is not promoted comprehensively at Hessian schools and that progress within the meaning of the Charter seems very unlikely as such action is neither practicable nor wished for by the minority concerned.

The final conclusions and recommendations of the Committee of Experts explicitly point out this situation (e.g. no written form, insider language).

Against this background the implementation of the Charter’s aims should be adapted to the actual needs of Sinti and Roma.

In this context it seems to be more sensible to continue striving for constructive cooperation with the *Land* Association as Hesse already does – also inspired by the Charter. The available funds should continue to be allocated to integrative measures enabling Sinti and Roma to attend Hessian schools, integrating them into economic life and sensitizing pupils for the situation, language and cultural heritage of Sinti and Roma.

It has to be noted that about 12 million native speakers of Romany live in Europe. In Germany, there are about 50,000 German Sinti and Roma, in Hesse about 7,500.

The Committee of Expert’s evaluation has to be seen under this aspect, too.
Since the Sinti and Roma do not live in a well-defined territory, e.g. like the Sorbs in the Free State of Saxony, many of the Charter’s – basically right – intentions are hard, if at all, to implement in Hesse, also for quantitative reasons.

Often, the financial and organizational effort would be disproportionate to the expected results. In the end, this could be counterproductive to the basic intentions of the *Land* government.

Finally, we would like to address some of the undertakings evaluated by the Committee of Experts in order to clarify the previous statements.

The issue of implementation becomes predominant in Article 8 (Education) paragraph 1 of the Charter. The Committee of Experts notes that none of the educational measures takes into account Romany, neither as the language of instruction nor as contents of instruction, even though there is a demand for it in some cities. Demand analyses are to be conducted as soon as funds will be available.

The Committee of Experts calls upon the authorities to establish Romany in the Hessian education system in cooperation with the Sinti and Roma.

The *Land* has established dealing with individual differences and socio-cultural diversity as a main focus in its new education plan for children of 0 to 10 years. This plan also applies to Sinti and Roma. At Hessian day care centres, children of different cultural backgrounds experience an appropriate attention and consideration within educational processes. The Hessian education plan attributes a high importance to the native language of children who learn German as their second language. In this regard, the native language not only has to be respected but is also the basis for learning the German language.

As mentioned above, Hesse funds the Hesse *Land* Association of Sinti and Roma with € 156,000 p.a. which they can largely use at their own discretion. Moreover, the Land funds the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] in Marburg (one A 13 employee, resources) which is mainly active in the field of (advanced) training for teachers.

The positively evolving agreements with the *Land* Association of Sinti and Roma clearly show that the available funds are to be used for projects aiming at informing the majority population, particularly in the fields of (advanced) training of teachers and individual promotion. Topics are the integration of Sinti and Roma children into the Hessian education system, but also measures to inform their fellow pupils about the history and culture of Sinti and Roma in the context of regular classes in order to create an open-minded atmosphere. So far the discussion did not allude to the topic of establishing educational and language offers and we understand that the representatives of the linguistic minority do not desire any action in this field at the moment. In order to reliably establish such an offer – adequately adapted to the individual level of education – in all parts of the *Land* it would be necessary, in addition to fundraising, to consider the special need for measures of integration for the learning groups. At any rate, it has to be kept clearly in mind that Romany – unlike other minority languages – is a language passed on orally and that such measures can be introduced only with the absolute assent of the minority. This idiom cannot be mastered by establishing it as a language or content of instruction just as any other subject taught at Hessian schools. It is far more important to take integration measures as mentioned above by a) supporting measures to promote Sinti and Roma and b) drawing attention to the particularities of the ethnic group and sensitizing children for its culture and language within the scope of regular classes.

In view of limited resources, implementation of these measures could affect the current efforts if projects to promote Romany – for which there is no apparent demand – were introduced as well. In order to implement the undertakings under the Charter as requested by the Committee of Experts, it would be possible to extend the scope of current integrative measures and to review their further development. Thus, the Educational Bureau in Marburg, for example, will continue its work as described above. The Sinti and Roma can decide themselves – if there is a demand – whether they want to extend these exemplary offers to other places as well.

The Hesse *Land* Association of German Sinti and Roma also informed the Council of Europe about some cities where there seems to be a demand for adult training. Again, a demand analysis is to be conducted as soon as funds are available. Supposedly, there is a concrete demand in Darmstadt but it has not been taken into consideration by the competent authorities. The Sinti Alliance doubts this demand. The Committee of Experts asks the authorities to provide appropriate funds in order to meet this demand for adult/advanced training opportunities. Basically, the aforementioned applies to this case as well. Only if the Sinti and Roma wish for it, an efficient educational offer can be established. Such an educational offer, if established, would not have anything in common with school-based promotion. The most sensible area where to establish such an offer would be adult education centres.

Regarding history and culture the Committee of Experts states that the undertakings are fulfilled. Sinti and Roma history and culture are sufficiently taken into account through the efforts of the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] which was established by the Hessian Ministry of Education and Cultural Affairs, but also through the curricula and advanced training measures for teachers. The Committee of Experts commends these efforts.

They will be carried on in the future.

In the field of (advanced) teacher training Hesse fulfils the undertakings. The acknowledgement by the Hessian Ministry of Education und Culture of the Hesse *Land* Association of German Sinti and Roma as an accredited agency for advanced training of teachers has not been mentioned, yet. It was acknowledged on 14 June 2005. This shows that the minority takes its responsibility in this field seriously. Although the Ministry of Education and Culture conceded the possibility to employ Romany speakers even without a state examination as teachers of language courses, this theoretic possibility is not made use of in practice.

However, teaching practice indicates that professional action is indispensable in order to grant effective teaching. If teachers are not sufficiently qualified, disappointments in teaching and learning will be inevitable. This is also noted in the statement of the (aforementioned) Sinti Alliance. In cooperation with the minority qualification actions could be taken in this field.

In view of the revision and evaluation of measures concerning the promotion of language acquisition the Committee states that Hesse did not fulfil the assumed undertakings. It has to be noted, however, that in the course of quality assurance and enhancement such evaluation will become more common. The

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Institute for Quality Development [*Institut für Qualitätsentwicklung*] attached to the Hessian Ministry of Education and Culture could also assume such a task, if necessary.

Through this institute, the required infrastructure for the evaluation of instruction processes is available and applicable, provided that there is demand and need for it.

The evaluation report basically states that the undertaking to include Romany in the curricula is not or only insufficiently fulfilled at Hessian schools.

Admittedly, such an offer cannot be provided region-wide due to the lack of an organizational infrastructure, resources and personnel. Only in individual regions regularly inhabited by a larger group of members of this linguistic community such an offer could be established – provided that there are appropriate financial resources and staff, i.e. also appropriate teachers.

Anyhow, the major aim must be to support all children and teenagers who attend Hessian schools in achieving qualified graduation and to integrate them into everyday school life. A vital prerequisite to this aim is a firm spoken and written command of the German language the acquisition and promotion of which is also one of the central concerns of the Hessian educational policy. This must also be taken into account when claiming state-provided teaching – which of course would be desirable – of a minority language such as Romany.

The undertakings under Article 9 are basically considered to be fulfilled. However, again we are confronted with the issue of a written form of Romany regarding documents etc. This is another example for the actual possibility of implementation of the Charter regarding official documents in everyday life.

The implementation issue is also reflected in Article 10. It provides for the possibility to use Romany in the framework of local authorities. The Committee of Experts considers this undertaking to be only formally fulfilled. However, in practice this issue is of little importance. Since the linguistic minority does not live in a well-defined territory it cannot be represented as a group at local authorities, as for example the German speaking South Tyroleans at their respective authorities. In case the problem arises somewhere in Hesse, solutions would be found in cooperation with the local Sinti and Roma representatives. We are not aware of such a wish. The *Land* can take actions in this field only on the basis of a concrete demand as otherwise the efforts would be disproportionate to the benefits. Another point of criticism is that it is not possible to submit applications to authorities in Romany. Since this issue has already been discussed in detail we will abstain from further comments in this report. However, we would like to point out once more that there is no territory in the sense of a well-defined settlement area, which renders practical implementation difficult.

The *Land* comments the statements made by the Committee of Experts regarding Article 11 concerning broadcasting as follows:

“The Committee states that – except for very occasional broadcasts of songs – Romany is not being used on radio or television. Furthermore, it noted that it had not been informed about measures taken by the authorities to encourage private broadcasting stations to broadcast programmes in Romany.

4.

5. Both statements do not sufficiently allow for the rule of governmental non-intervention in broadcasting as determined by the German constitutional law and also reflected in Article 11.1 of the Charter (“respecting the principle of the independence and autonomy of the media”). Under the constitutional rule of governmental non-intervention in broadcasting the state is not allowed to take influence on the choice, contents and form of the programmes of public-service or private broadcasters. Therefore, the public authorities cannot supervise programmes and evaluate individual broadcasts.

The undertakings under Article 11.1 of the Charter are based on the respective provisions of the Act on Private Broadcasting of the *Land* of Hesse and the Act on the *Hessischer Rundfunk*.

Section 13.1 of the Act on Private Broadcasting of the *Land* of Hesse states that: “Broadcasting programmes are subject to the constitutional order. The programmes shall respect human dignity as well as the moral, religious and ideological creeds of other people. They should encourage solidarity within reunited Germany as well as international understanding and contribute to social integration of foreign citizens, to realizing equal rights for women and men, to the protection of ethnic, cultural and linguistic minorities as well as to the respect for and protection of the environment.”

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Section 3.3 of the Act on the *Hessischer Rundfunk* states: “The presentations must not violate the Constitution or the laws or hurt moral and religious sentiments. Any broadcasts containing prejudice or abasement for reasons of nationality, race, colour or ideology directed towards an individual person or a group are inadmissible.”

Concerning the measures listed by the Committee of Experts to encourage private broadcasting of programmes in Romany we would like to remind of the Open Channels established by the *Hessische Landesanstalt für privaten Rundfunk* [Hessian *Land* Institution for Private Broadcasting] in several regions of the *Land*. Through Open Channels social groups, organizations, institutions and individuals have the opportunity to publish their own contributions. Thus, Open Channels also offer the opportunity to broadcast programmes in Romany.

However, there were no requests for broadcasts in Romany on the radio or on Open Channels.

It is expected that the next periodical report of the Federal Government will provide some information regarding Article 12. In general, the existing applicable provisions for the promotion of free theatres and literary projects in Hesse also allow for the promotion of projects in Romany. Thus, cultural projects as described in this Article and carried out by Sinti and Roma in their own language can generally be funded by the Hessian Ministry of Scientific Affairs and Arts.

Moreover, the aforementioned Educational Bureau in Marburg is responsible for the coordination and accompaniment of regional and local projects (e.g. literature, renting of materials and films, organization of cultural events).

Since in this field, the Sinti and Roma representatives insist on not publishing written documents in Romany (see no. 771) it is unlikely that there are any literary works in this language.

With the funding provided by public authorities the *Land* Association of German Sinti and Roma can organize cultural projects which are mostly planned independently. To list all these projects would, however, go beyond the scope of this document. In this context we would like to draw your attention to the information provided on the website www.sinti-roma-hessen.de describing several cultural activities which are also supported by the *Land*.

The Committee stated that it had not received any information regarding the steps taken by Hesse in pursuing their cultural policy concerning Sinti and Roma abroad. In this respect the *Land* notes that it is the federal authorities who bear the responsibility for foreign cultural relationships.

Concerning Article 13 paragraph 1.d, the Committee of Experts (under nos. 783 et seqq. of the report) does not consider that the undertaking – to facilitate and/or encourage the use of regional or minority languages through additional measures in the meaning of the aforementioned provision – is fulfilled by the promotional measures taken for the speakers of the minority language Romany. In this context, the *Land* is willing to review further measures provided that the group concerned wishes for it. “

J. The situation regarding education in Danish at all levels remains satisfactory.

Notwithstanding this conclusion, the **Danish minority** would like to refer to its own comments in the last periodical report.

It also points out that it supports the recommendation of the Bundestag Inquiry Commission on “Culture in Germany” to enshrine the protection and promotion of culture in the Basic Law, but that protection and promotion must also include the autochthonous national minorities. This would give language protection for minorities a constitutional basis and represent an important development within the context of obligations arising from the Charter.

K. Provision for teaching in or of Upper Sorbian is relatively well developed. However, the rationalisation programme in rural schools in territories where Upper Sorbian is traditionally used may be having an adverse effect on the maintenance of the language. The Committee of Experts is especially concerned about the minimum number of 20 pupils required to open and maintain a class in secondary education, which it considers too high. This high threshold has already resulted in the closing-down of the Sorbian secondary

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school in Crostwitz. A lower minimum number would be appropriate for Lower Sorbian⁵, especially considering the precarious situation of this language and the general demographic trend in Saxony.

The **Free State of Saxony** comments on these fears by the Committee as follows:

“In the Sorbian technical secondary schools – and at the Sorbian Grammar School – the task of these schools to foster and develop the Sorbian language and culture is taking a secondary role, at least in some areas where it is behind the general educational purpose of these types of school. Minimum pupil numbers are necessary to be able to organise the statutory courses; these numbers are adhered to in principle, including in the Sorbian secondary technical school sector.

After the closure of the Sorbian secondary technical school in Crostwitz in 2003 there are still five Sorbian secondary technical schools in the Free State of Saxony; three in the Kamenz *Landkreis* (district) and two in the Bautzen *Landkreis*.

By a Decision of 27 May 2005 the Saxon State Ministry for Education revoked the participation of the Free State in the maintenance of grades 5 and 7 of the Sorbian secondary technical school in Panschwitz-Kuckau with effect from the 2005/2006 school year and in the maintenance of the whole school after the 2006/2007 school year. The background to this was forecasts of pupil numbers which predict only enough pupils for two classes each year at the Sorbian secondary technical schools in the Kamenz *Landkreis*. The need for location concentration cannot yet be excluded in the Bautzen *Landkreis* either.

In the past, the Saxon State Ministry for Education made an exception in order to deviate from the statutory minimum distance and pupil numbers – and, in many Sorbian schools, still does so. However, the mere fact that lessons are offered in the Sorbian language at a particular school does not necessarily mean that an exception has been made without examining the individual case.

All decisions about the Sorbian school system are taken against the background of the rights of the Sorbian People enshrined in Article 6 paragraph 1 of the Constitution of the Free State of Saxony and Article 2 and Article 4a paragraph 4 sub-paragraph 4 of the Schools Act (SchulG). Fostering and developing traditional culture, language and customs can be ensured at a reasonable distance and in good quality at the remaining Sorbian secondary technical schools in the Sorbian settlement area, even if there is a further reduction of secondary technical school locations.

The network of Sorbian schools will definitely continue to be so tightly structured that the reasonable accessibility of the Sorbian secondary technical schools remains in place – and only they are under discussion. The Free State of Saxony also ensures this with generous rules for exceptions – none of the Sorbian schools continuously meets the requirements of Article 4a paragraphs 1 and 3 of the Schools Act. Nevertheless, the existence of the Sorbian language and culture is not threatened if fellow pupils continue to attend the Sorbian secondary technical school in their local town, as in the 2005/2006 school year. A moderate adaptation of the school network that does justice to the constitutional requirement according to Article 6 of the Constitution of the Free State of Saxony, is not only possible, it is also necessary for the existing resources to be deployed in the best possible way.”

L. There have been no noticeable changes regarding Lower Sorbian education. The shortage of teachers at all levels of education, in particular, is a problem that has to be dealt with urgently in order to secure the future of Lower Sorbian, which the Committee of Experts already identified as a particularly endangered language in its first evaluation report.

The Lower Sorbian speakers are of the view that the definition of the traditional Lower Sorbian settlement area by the legal framework and administrative practice in the *Land* of Brandenburg, which has repercussions in the field of education among others, does not coincide with the territory where Lower Sorbian has traditionally been used. There seems to be a need for the German authorities to examine this question and take the necessary steps, in co-operation with the speakers.

The **Land Brandenburg** would like to correct the latter conclusion of a supposed invalid definition of the Lower Sorbian settlement area; this was also notified in no. 164 of the Monitoring Report:

“Admittedly, the Committee of Experts accurately notes that the statutory protection of various protection and promotion measures in favour of the Sorbian language is linked to a municipality’s membership of the traditional Sorbian settlement area. However, the assumption of the Consultative Committee that the legal definition or legal application in administrative practice reduces the Sorbian settlement area in some way does not do justice to the state of affairs and makes us concerned that the

⁵ The Saxon authorities noted that this must be a mistake. *The right sentence would be: „A lower minimum number would be appropriate for Upper Sorbian ...“*

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Committee is misjudging the structure of the statutory regulation. We therefore once again refer to the presentation re Article 10 paragraph 2 lit. g) in the second periodical report, according to which a municipality is assigned to the traditional settlement area of the Sorbian people by virtue of the law and does not leave any room for arbitrary decisions.

The *Sorben-Wenden-Gesetz* [Act on Sorbs and Wends] describes the Sorbian settlement area in such a way that it is represented according to the findings of the *Land* Government and the *Land* parliament; the Council for Sorbian Affairs at the Brandenburg *Land* Parliament and the Sorbian associations were included in the legislative process and did not raise any objections to the legislative definition of the settlement area. However, it is true that the existence of Sorbian traditions has subsequently been claimed with respect to two municipalities outside the area defined in the law. The *Land* Government is investigating whether this assumption is correct and, thus, if a supplement to the law is necessary.

The Ministry of Science, Research and Culture does not keep any list along the lines of the report conclusions. Only a list of those municipalities that count themselves in the traditional settlement area was officially published to inform the participants of the legal relations. However, this official publication has no constitutive significance with regard to membership of the traditional settlement area and is, otherwise, not definitive.”

The competent **Land Brandenburg** has sent the following responses to the above critical assessment of education in Lower Sorbian by the Committee of Experts, which is elaborated in more detail in nos. 169 to 180 (marginal numbers that are referred to are those in the Monitoring Report):

“With regard to the criticism under no. 169 of the Report that language promotion is hampered by the decentralised arrangement of responsibility, an explanation of the subsidies for Sorbian pre-school education is announced for the next periodical report and the following is notified in advance:

Pre-school education is the responsibility of local authorities in the *Land* Brandenburg. In addition to general funding, the *Landkreise* (rural administrative districts) and *kreisfreie Städte* (unitary authorities) receive earmarked subsidies under the *KitaG* (Children’s Day-Care Centre Act) from the *Land* to promote children’s day-care centres. For this reason, among other things, the *Land* Brandenburg has not assumed any obligation in Article 8 paragraph 1 lit. a) under i., ii. or iii., but rather under iv. because we feel that this provision best does justice to the decentralised administrative structure and widespread distribution of powers in Brandenburg and also assesses the promotion of Sorbian pre-school education within the context of a state and administrative structure of this kind. The extent to which centralisation in the distribution of funding could be sensible in this context is a complex question where many considerations have to be taken into account; the *Land* Government believes that the legal distribution of powers is appropriate. However, this side considers that central distribution of funding would not be absolutely necessary in the area of application of this Charter provision and the Brandenburg route probably does not contradict complete compliance with this standard.

The *Land* Government concurs with the conclusion under no. 174 of the Monitoring Report that Article 8 paragraph 1 lit. b) iv applies to the whole area in which the Sorbian language is currently spoken and it welcomes the circumstance that the Consultative Committee apparently no longer adheres to its demand in the first Evaluation Report for Sorbian language lessons also to be offered outside the Sorbian language area. However, the *Land* is also meeting its obligation to make provisions for the Sorbian language area in the intended way considering the comments to no. 164.”

Re no. 177-180: “According to Article 8 paragraph 1 lit. c) iv. the *Land* is required to apply one of the measures cited under i.-iii. to those pupils whose families so wish and if there are considered to be adequate numbers of them. Within the area in which the Sorbian language is used, the *Land* provides a secondary education for the pupils who want it (i.) and has made provision for the accommodation of the minority language in the curriculum in the way described in the second periodical report (iii.). This corresponds to the substance of the obligation.

The sections of the Report on Lower Sorbian education that concern the *Land* Brandenburg do not reveal any deficits in compliance – except for the disputed matter of the extent of the Sorbian settlement area, see above. In particular, this means that the change in providing body of the Lower Sorbian Grammar School in Cottbus should not be considered an infringement of the Charter provision because the Charter does not demand that the *Länder* be the providers of the schools concerned. Furthermore, the change in providing body is not associated with a deterioration in the Sorbian language offer.”

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The fear that the Committee of Experts expressed concerning a shortage of teachers for Lower Sorbian at all levels of school, upon which it bases its critical assessment of Lower Sorbian education, should be seen in conjunction with its criticism of university-level studies of Lower Sorbian, expressed in nos. 181 to 194.

The *Land* Brandenburg responds to this criticism as follows:

“Re nos. 184-185. Only a very few students take the opportunity to study the Sorbian language and culture in depth in Leipzig. The cultural components of the course are taught by various lecturers to all students together (Upper and Lower Sorbian), and a full-time lecturer’s post is available to teach those students who wish to specialise in Lower Sorbian for the language component. A larger number of lecturers to teach the students specialising in Lower Sorbian language and linguistics would not be sensible given the low numbers involved. The *Land* Government will make further reaching comments on this in the third periodical report.

Moving the in-depth course to Cottbus, as demanded by the Sorbian associations, cannot be considered; the synergetic effects achieved by the concentration of Sorbian studies in Leipzig would be completely negated.

Re nos. 182-188 (190). In the third periodical report the *Land* Government will provide the desired information about basic and further training for teachers.

Re no. 191. The *Land* Government shares the view of the Consultative Committee that the shortage of Sorbian teachers is of key importance to the survival of the Sorbian language given the importance of teaching languages in schools. It will continue to aim to halt the shortage of teachers and will report on this in the next periodical report.”

M. North Frisian education remains on the whole below the level envisaged by the undertakings chosen by Germany with respect to this language. Nevertheless, there have been certain improvements since the last monitoring round and there are ongoing plans and initiatives that offer positive prospects for this language. The Committee of Experts particularly welcomes the development of a coherent and realistic educational model by the speakers, and the political support pledged by the authorities of Schleswig-Holstein for its implementation, and trusts that this support will be followed by concrete action.

“**The Frisian Council** concurs with the comments made with respect to the general situation and to the specific situation of the minority language Frisian and notes that the work of the Committee of Experts has greatly helped to improve the opportunities for promoting the Frisian language. Nevertheless, the Frisian Council believes that the promotion of a national minority also falls under the responsibility of the Federation, in spite of the cultural sovereignty of the *Länder*. In this connection, the Frisian Council explicitly welcomes the support by the Federation on the basis of project funding. But, at the same time, the Frisian Council points out that there are still considerable deficits in the provision of funding to the *Nordfriisk Instuut* (the only academic institution of the Frisian ethnic group) and the structural organisation of the Frisian Council, the umbrella group of Frisian associations and institutions. Here, financial support comes only from the *Land* Schleswig-Holstein. In addition to the comments and suggestions made in items 3.2 and 3.3, the Frisian Council would like to make a further recommendation and the following comments:

- In addition to the recommendations of the Committee of Experts, the Frisian Council proposes examining the extent to which the “Frisian Law” (*Friisk-gesäts*) complies with new, additional provisions of the Charter. These provisions should then also be listed for the Charter.
- The Frisian Council explicitly welcomes that in 2005 an advisory body for matters relating to the Frisian ethnic group has been set up within the Federal Government as well as a working party of all four national minorities (Danes, Frisian, Sorbs and Sinti & Roma) at the Bundestag.
- By the same token, the Frisian Council welcomes the establishment of a secretariat of the Minorities’ Council at the Federal Ministry of the Interior even though the measure is initially limited until the end of December 2005.
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These are important steps to improve communications between the Frisians and the political and administrative decision makers at Federal level.”

However, the **Federal Government’s Commissioner for Culture and Media (BKM)** has the following comment on the above Frisian Council’s suggestion that the Federation should extend its funding for Frisians’ institutions:

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“The BKM funds cultural projects of the Frisian ethnic group to the tune of around € 250,000 per year. As the umbrella organisation of the Frisian associations and institutions the Frisian Council proposes these projects that are then finally agreed between the Frisian Council, the *Land* Schleswig-Holstein and the BKM. In recent years, projects of the Nordfriisk Instuut have also been supported within the scope of this funding. Furthermore, the BKM has made further funding available in special cases. The BKM has always rejected permanent institutional funding for Frisian institutions. During his last visit to Schleswig-Holstein the Federal Chancellor reiterated that the Federation would adhere to its past funding until 2008.”

In contrast to the comments by the Frisian Council on the notifications under nos. 238 et seqq. of the Report, which define the above comment by the Committee (North Frisian education remains on the whole below the level envisaged by the undertakings chosen by Germany), the **Land Schleswig-Holstein** makes the following comment:

“The Committee of Experts continues to view the undertaking according to Article 8 (1) a) iv. for North Frisian to be only partially met. It urgently requests the German authorities to enable Frisian pre-school education systematically with institutional and financial support for pupils whose families want it (cf. no. 245).

With reference to no. 244 and the comments during the “on-the-spot” visit, it must be added that the change to the Children’s Day-Care Centres Act mentioned then has not been adopted, with the result that the *Land* does not directly fund Frisian or the other minority and regional languages (Low German and Danish). Much rather, the Children’s Day-Care Centres Act will be amended in 2005/2006 so that the local providers of public youth welfare, the *Kreise* and the *kreisfreie Städte* receive *Land* funding to manage themselves. As the competent authority, they can use the *Land* funding to promote the minority and regional languages in their area.

The Committee of Experts also still considers the undertakings under Article 8 (1) b) iv and Article 8 (1) c) iv to be only partially met for North Frisian (cf. no. 250 and 256). It draws the German authority’s attention to the fact that Frisian should at least be available optionally as a class subject alongside the usual subjects or as an optional core subject within secondary education.

The *Land* Schleswig-Holstein has undertaken to offer Frisian and thus make it an option only where the parents want it. However, it is always an additional offer. In the interests of aiming towards acceptance as an optional compulsory subject in years 7 – 10, a project has been running since August 2005 at the basic and intermediate secondary school in Westerland that started with pupils in year 5.

According to Article 6 paragraph 3 of the Senior Level Code [*Oberstufenverordnung* (OVO)] Frisian can be offered as an optional core subject with the approval of the school supervisory authority and if certain conditions are met.

In conjunction with the duty arising from Article 8 (1) h) for North Frisian, the Committee of Experts regrets the low number of trained teaching staff who can teach Frisian, recognises the problems associated with the existence of several North Frisian dialects and welcomes that it is still possible to study North Frisian. In spite of the appreciable efforts by the *Land*, the Committee still considers that the undertakings have only been partially met. The Committee encourages the authorities to offer relevant training opportunities and supports initiatives to increase the number of teachers who can teach Frisian. It can also be said that, in addition to the *Land* specialist advisor, who advises schools and teachers, at the start of this school year the Institute for Quality Development at Schools, Schleswig-Holstein (IQSH) has appointed a part-time member of staff who is responsible for advising schools, developing teaching materials, conducting language courses, competitions, etc.”

N. The level of provision for teaching in and of Sater Frisian, another language which the Committee of Experts identified as being particularly endangered in its first evaluation report, is not satisfactory. The Committee of Experts regrets that provision for this language has actually deteriorated since the adoption of its first evaluation report, including some fields covered by Germany’s Part III undertakings. At the same time, the lack of continuity of the teaching, as evidenced by the fact that Germany has not chosen any Part III undertakings with respect to primary and secondary education, continues to be a source of concern. Teaching and study of Sater Frisian needs to be strengthened as a matter of priority, in accordance with Germany’s obligations under Article 7, paragraph 1.f and Article 8 of the Charter, in order to ensure the transmission of this language to future generations.

The **Land Lower Saxony** has the following to say about the Committee’s comments:

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“Participation in Sater Frisian lessons is on a voluntary basis in Lower Saxony. The offer is available on the part of the schools, appropriate teaching staff are in place. The required teaching material is drawn up by approved teachers with the support of the Education Ministry. However, take-up of the offer is subject to the way in which pupils and/or their parents/guardians make use of options and is thus subject to fluctuation.

We feel that the accusation of a lack of continuity in the teaching is not applicable. Lower Saxony meets the undertakings it has entered into in the schools sector. Part III undertakings, which do not exist for Lower Saxony, but which the Committee of Experts complained were absent, should not therefore be used as a justification for criticism.

Lower Saxony continues to try to implement the Charter.

- In February 2005 the Lower Saxon *Land* Parliament decided on even more intensive promotion and support for regional and minority languages. The decree applicable to schools, “The Region in Education”, ceased to be in force in January 2005 and is currently being revised against the background of the *Land* Parliament decision. The aims include giving Low German and Sater Frisian greater respect and consideration in everyday life at school.
- Within the context of drawing up new curricular for the subject of German in the primary sector and level I of secondary education, references to regional or minority languages will be mandatory.
- The application of the Saterland general and intermediate secondary school for setting up the optional compulsory subject of “Sater Frisian” is supported and currently given positive consideration to.

With regard to teacher training for Sater Frisian, cf. the comment by the *Land* Lower Saxony to 3.1 Recommendation no. 4 above.

O. Overall, Low German continues to be treated as a variant of German. While there have been considerable improvements in some *Länder* as regards the place of Low German in the Framework Curricula, in the overwhelming majority of cases Low German is taught as an element in other subjects (mainly German), rather than as a subject in its own right. In the absence of clear guidelines regarding the minimum number of teaching hours devoted to Low German, provision for the teaching of this language remains highly variable, depending on the willingness of the schools, teachers and pupils, and generally too limited to be considered an integral part of the curriculum. The lack of continuity in the teaching of Low German in Lower Saxony is a source of special concern. The Committee of Experts is worried about the reduction of the available facilities for the study of and research into Low German due to budget cuts since the adoption of its first evaluation report. This tendency needs to be reversed as a matter of urgency, given that the availability of an adequately trained specialised teaching staff is crucial for all the efforts in this field.

The Federal Council for Low German supports this comment as follows:

“In its work to date, the Federal Council for Low German has supported a clear setting of focuses in the field of education”. We are pleased to note that the Expert Report also takes this position. But we regret to note that individual *Länder* are deliberately not meeting their Charter obligations in the sector of “education”. It therefore appears all the more urgent to draw up a set of instruments or catalogue of measures with which the representatives of the language group can counter such infringements.

For the Federal Council for Low German, the Report by the Committee of Experts is an important means of continuing the dialogue with the groups involved in the process of implementing the Languages Charter and of working towards removing deficits and disadvantages in language protection in the medium term.”

By contrast, the **Free and Hanseatic City of Hamburg** states:

“In Hamburg, too, the specialist department “German” in the Authority for Education and Sport is responsible for Low German because it is a German language. In the framework curricula for the subject of German – as noted here in the Report – there is no stipulation on the time to spent teaching Low German. But this is also the case for the other mandatory content of the subject because they are largely taught in an integrative fashion. But the content requirements for Low German are so extensive that a considerable amount of time is spent on implementing them.”

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Moreover, the Free and Hanseatic City of Hamburg responds to the individual comments in the Report concerning the conditions in Hamburg upon which the above critical assessment of the promotion of the Low German language by the Committee of Experts is based and refers to the following:

“The Directive for Education and Instruction in Pre-School Classes mentioned in the Report at nos. 467 – 469 (re Article 8 paragraph 1 lit. a iv – Pre-School Education) entered into force in Hamburg on 1 August 2005. The Directive requires “that especially where the Low German language is spoken by sizeable groups of children there shall be an accommodation with this language and its importance for the Northern German language area shall be addressed in a way that is appropriate to children. Access to Low German shall also be promoted in an age-appropriate manner even if the kindergarten teachers are not active speakers, e.g. using rhymes, poems, counting verses and songs.”

This means that the undertakings that Hamburg entered into with respect to promoting Low German in pre-school education have been met.

Contrary to the assessment expressed by the Committee of Experts under nos. 470-473 (on meeting the obligation of Article 8 paragraph 1 lit. b iii) that Hamburg’s obligations with respect to the primary stage and the promotion of Low German in the primary stage are “partially” met, Hamburg takes the view that the expectations have been met. The framework curriculum for German for 2003 stipulates that the Low German language is “incorporated in conversational situations and that its usage be considered”. Low German literature is the subject of the lessons in the “Reading” segment with at least one poem or a short story or a song in every school year. The teaching staff are supported by a further training course in Low German by the *Land* Institute for Teacher Training and School Development (*Landesinstitut für Lehrerbildung und Schulentwicklung*).

The Free and Hanseatic City of Hamburg counters the following to the assessment of the Committee of Experts under nos. 474-477 of the Report that the duty according to Article 8 paragraph 1 lit c iii to ensure that Low German is an integral part of the curriculum in secondary education has been met only partially:

“The framework curricula for German, since 1 August 2003 and 1 August 2004 mandatory foundations for teaching and instruction in the secondary stages, declare the Low German language and literature to be mandatory components of German teaching. With explicit reference to the European Charter for Regional or Minority Languages, the framework curricula for German have ruled for secondary stage I in all forms of schools that the Low German language and literature be thematically integrated in German teaching. The framework curriculum for German for the senior level of grammar schools makes provision for the mandatory handling of the Low German language, its history and literature in order to draw attention to its importance for the Northern German language area in an integrative way in teaching – i.e. in conjunction with the central themes of the subject – and to promote the Low German tradition. In German lessons, access to this language and its diverse literature of the present and past should be opened up using selected examples, even if neither the pupils nor the teachers are active speakers of Low German.

The teaching staff are supported by a further training course in Low German by the *Land* Institute for Teacher Training and School Development (*Landesinstitut für Lehrerbildung und Schulentwicklung*). From the point of view of the Authority for Education and Sport, Hamburg has thus also fully met the undertakings resulting from Article 8 paragraph 1 c) iii.

The Free and Hanseatic City of Hamburg rejects the Committee’s comment under nos. 481 – 484 that the undertaking according to Article 8 paragraph 1 lit. h to ensure further training for teachers has been met only partially:

“Contrary to what is stated under no. 481, Hamburg offers special events for Low German in further training for teachers. These include the “*Schoolmeesterkrink*”, as well as further training courses for specific school stages that are associated with the “*Schrievwark*” hand-out. Low German is not a separate school subject and will not become one, either. Much rather, it is a part of German teaching. That is why no teaching staff are trained for the subject of Low German. The relevant qualification is part of teacher training in German.

The following is stated to supplement the comments under no. 482 of the Report: The training curricula of the 2nd phase of teacher training (practical teaching experience phase) is being revised. Information about the European Charter of Regional or Minority Languages and, as a skill to be acquired, the ability

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to teach pupils basic knowledge of the Low German language and literature are being included as mandatory content in the new training curricula for the subject of German. Furthermore, student teachers can also take part in the further training events of the *Land* Institute for Teacher Training and School Development.

The *Land* Institute regularly (once a month) offers a further training event in Low German and has drawn up an extensive hand-out for teaching staff. The courses are aimed both at teachers who want to learn more about Low German and at those who speak Low German themselves and are more interested in didactic-methodological tips. Participants receive a certificate of attendance. From the 2006/2007 school year on, within the context of the agreements on objectives and performance with the Authority for Education and Sport, the *Land* Institute will offer a further training event for Low German in which proof of performance will be provided, which will lead to certification if the requirements are met.

The Free and Hanseatic City of Hamburg corrects the Committee's comments under no. 483 as follows: There is no separate school subject of Low German alongside German; neither is one planned. This is not necessary within the context of the undertakings into which Hamburg entered by signing the European Charter for Regional or Minority Languages.

Contrary to the Committee's comments under no. 484, from the point of view of the Authority for Education and Sport, Hamburg has thus met the undertakings resulting from Article 8 paragraph 1 lit c iii."

For the promotion of the regional language Low German, cf. the comment of the **Land Lower Saxony** above on the comments on Sater Frisian under 3.2 N of the Report and on teacher training for Low German also above the comment of the *Land* Lower Saxony re 3. 1 Recommendation no 4.

With respect to the above-mentioned criticism by the Committee under O that there is insufficient promotion for the regional language Low German in the educational system, the **Land Schleswig-Holstein** refers to the following:

"In conjunction with the duties of Article 8 (1) b) iii and with Article 8 (1) c) iii for Low German, the Committee of Experts draws the German authorities' attention to the fact that Low German is taught across the board in primary and secondary education and that attention should be paid to clear guidelines and measures in teaching.

However, according to the undertakings entered into, Low German in Schleswig-Holstein explicitly does not have the status of a subject ordinarily included in the timetable. For this reason there are no curricula and thus no guidelines and measures for teaching. There are no plans for language teaching comparable with teaching a foreign language. To this extent, the *Land* will not be able to follow the Committee of Experts' request to teach Low German across the board, even in the future."

P. The absence of supervisory bodies within the meaning of Article 8, paragraph 1.i continues to be a problem. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education, with corresponding reports which are made public, are still lacking. This makes it difficult to assess the development and shortcomings of regional or minority language education, and thus to develop and implement long-term strategies for improving it.

The **Free and Hanseatic City of Hamburg** has the following response to these comments and the defining comments of the Report under nos. 485 – 487 concerning the undertaking under Article 8 paragraph 1 lit. i to use supervisory bodies to secure the educational offer in the regional language Low German, etc.:

"The Authority for Education and Sport has now commissioned a staff member from the school supervisory section to coordinate the measures to promote the Low German language and literature in education and in school activities in cooperation with all school supervisory sections and the department responsible for this subject. Regular reporting is planned. The *Land* Institute for Teacher Training and School Development will also regularly report to the Authority for Education and Sport on its measures to promote Low German in teacher training and further training. Many activities to promote Low German are already published on the Internet on the Hamburg education server.

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Contrary to the Committee's comments under no. 487 of the Report, from the point of view of the Authority for Education and Sport, Hamburg has thus also met this part of the undertakings."

Q. The use of regional or minority languages before administrative authorities (and before judicial authorities in the case of Upper and Lower Sorbian) remains marginal. In the opinion of the Committee of Experts, in addition to the problem concerning the legal framework mentioned above, this is due to the fact that structured policies and relevant organisational measures to ensure the implementation of Germany's undertakings are often missing. Good practice that prevails elsewhere includes, for example, taking account of civil servants' skills in regional or minority languages, providing facilities and incentives for them to improve these skills, creating an adequate framework for, and allocating resources to, translation and interpretation. Not enough is done to make the speakers aware of the possibility to use their language before the authorities.

The evaluation of these comments by the competent **Länder** is critical on the whole, but varies in detail.

The **Land Brandenburg** provides the following information in this respect with reference to the comments under nos. 195 to 204 of the Monitoring Report, substantiating the critical comments of the Committee of Experts on the use of minority languages before administrative and judicial authorities:

"The *Land* Government agrees with the comment of Committee of Experts under no. 197 that the provisions of the Charter also need to be implemented in practice. However, this cannot mean that the *Land* must encourage parties in criminal proceedings to use the Sorbian language in court proceedings on the basis of Article 9 paragraph 1 lit. a) ii. and iii. (article numbers refer to the Charter). Where the Charter demands state measures to encourage and promote the use of the Sorbian language, this is explicitly stated in the relevant provisions. The lack of such a regulation within the context of Article 9 justifies the assumption that such measures cannot be demanded within the context of criminal proceedings.

Article 9 paragraph 1 obliges the parties to allow the free use of the Sorbian language in criminal proceedings; this right is guaranteed. The encouragement for the use of the Sorbian language exceeds what is required to implement this provision and its lack should not stand in the way of deeming this provision to have been met.

Re no. 203,204,208: We agree with the representation that, in line with the comment of the Explanatory Report, accepting an undertaking according to Article 10 also obliges the provision of the funding needed to implement these measures and to take the necessary measures. But this does not mean that the *Land* has to ensure that the Sorbian language really is used orally and in writing in contact with the authorities, but that it can be use if citizens want to do so.

The Report does not reveal that an attempt to make contact in the Sorbian language has failed. Against this background, there is no justification to assume that the practical opportunities to use the Sorbian language are not adequately guaranteed. There appears to be no evidence for the assumption that the low demand for the use of the Sorbian language in administrative contact is due to discouragement of citizens because of inadequate provision of Sorbian-speaking staff and linguistic aids in the authorities. The demand for informing interested groups of the opportunity to use the Sorbian language can be found neither in the Charter nor the Explanatory Report."

"Contrary to the defining comments under nos. 488-504, from the point of view of the **Free and Hanseatic City of Hamburg** it does not appear necessary to take special administrative measures to ensure the protection for the Low German language in Hamburg described in Article 10 paragraph 1 a) v. and c), paragraph 2 a), b) as well as paragraph 4 c). No cases are known in which documents written in the Low German language or oral requests in Low German have been rejected by the authorities. Neither are there any indications of inadequate implementation of the Charter provisions within the authorities. The lively use of Low German, even at the level of the constitutional body, is also proved by various major and minor requests in the Low German language that the Senate also replied to in Low German.

The Financial Authority in Hamburg responsible for district matters notes that there are no instructions or formal regulations for the departments of the Hamburg district offices concerning the use of Low German, but that it is left to the initiative of the staff to indicate their expertise in the Low German language in individual cases by using appropriate stickers/notices on their door name plates."

The **Free State of Saxony** responds to the deficits in measures to promote the use of minority languages in authorities commented on by the Committee by informing of the following measure:

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“Under the auspices of the Council for Sorbian Affairs and under the patronage of the President of the Saxon *Land* Parliament, the competition “Language-Friendly Local Authority” was conducted from 2004 to 2005 as a special measure. The local authority activities to increase the presence of bilingualism were to the fore here. A town or municipality is language-friendly if, with the help of the Sorbian language, it makes bilingualism visible as intellectual-cultural wealth, draws attention to it and encourages it.”

R. With regard to broadcasting, Germany has chosen only Part III undertakings pertaining to private broadcasters (Article 11, paragraph 1, sub-paragraphs b.ii and c.ii), despite the fact that a commendable effort is being made for some regional or minority languages in public service broadcasting. For these languages, the Committee of Experts encourages the German authorities also to ratify Article 11, paragraph 1.a.iii.

“**The Frisian Council** welcomes the willingness of the NDR (public broadcaster) to report on activities of the Frisian ethnic group. Equally, the Frisian Council views the Internet presentation of Frisian on the homepage of NDR1 Welle Nord as a positive example of the inclusion of the Frisian national language by the competent public broadcaster (www.ndr.de/wellenord/).

Nevertheless, the Frisian Council believes that the media presence of the Frisian language is inadequate. In the electronic media, North Frisian is probably the minority language with the smallest presence in Europe. Here, in particular, there is an obligation of the fee-financed public-sector media to protect and promote national minorities and to take account of their languages in their programmes. Three minutes of radio per week (0.03 % of the broadcast volume) on the public broadcaster NDR and no Frisian language programmes at all on NDR television show that much remains to be done here in order to reach national and international standards. As a short-term measure, the Frisian Council therefore proposes that more bilingual editors should be hired so that they can be used both for German-language and Frisian-language programmes. The Frisian Council would welcome it if at least short regular Frisian-language programmes could be seen in fixed slots on NDR television. The Frisian Council does not believe that this counters the principle of non-intervention in broadcasting to which a public broadcaster is obliged.

The Frisian Council informs that since 1 April 2005 a Frisian-language Internet radio station (www.nfradio.de) has been on air; it broadcasts daily from Monday to Friday for three hours from 7 to 10 pm. This broadcaster is also transmitted by *Offener Kanal Westküste*, which – unfortunately – can barely be received in the Frisian language area. The Frisian Council welcomes this initiative by the Frisians and points out that two things are necessary for the permanent establishment of this broadcaster, both as an Internet radio station and as a terrestrial radio station: Firstly, the financial basis of this broadcaster must be sustainably and permanently improved, because so far NF-Radio is only a project and is thus formally limited to a set period. And secondly, it would be desirable if *Offener Kanal Westküste*, and thus the Frisian-language programmes, could be received terrestrially in the whole Frisian language area. The finance could come from the fees raised by the public broadcasters, for example.”

The Danish minority announces its intention to continue to seek talks with the private and public media organisations in order to reinforce the Danish language in the media. “It is also about developing whole contributions in the Danish language. The Danish minority will also address this problem in connection with the introduction of the DVB-T standard.

It also points out the following problem associated with the reception of Danish broadcasters upon the introduction of digital television (DVB-T):

It can be seen that after the nationwide introduction of digital television there may be reception problems for the previous Danish stations (in the cable network) in this part of the *Land*. For the Danish minority it is important to be able to receive Danish television and radio stations in digital quality. The Danish minority will therefore turn to the Danish Ministry of Culture so that this problem can be addressed in the forthcoming international frequency negotiations in the spring of 2006. We understand that both the Danish and the German side are aware of this problem. It must be ensured that minorities north and south of the border can continue to receive television and radio stations from the respective neighbouring country.”

However, without prejudice to this, the **Free and Hanseatic City of Hamburg** has the following to say about the above comments and the comments under no. 523 of the Report:

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“Although the programme of study in Journalism/Media/Communications Science set up at Hamburg University does not contain any specific training content on regional languages, students have the opportunity to take courses with a Low German subject matter that are offered at the same faculty of the University.”

According to a notification from the **Land Lower Saxony**, the Committee’s comment above that regional and minority languages barely feature in the programmes of the private commercial broadcasters is true, but the *Land* draws attention to the following in this connection: “Since the target area of these broadcasters usually extends well beyond the language area of a regional or minority language, contributions in these languages are not usually worth their while, not even in the regional windows. Promotion always requires financial commitment by the broadcaster that cannot be forced. Film and media promotion in Lower Saxony is usually within the context of nordmedia, the media company of the *Länder* Lower Saxony and Bremen. Private broadcasters are not involved in the company, which makes promotion much more difficult. In the past, *Land* funding from outside nordmedia was available for film and media promotion, which was sometimes also invested in cooperations with private commercial broadcasters. But this funding has been scrapped due to the difficult budgetary situation. The supervisory authority for private broadcasters of Lower Saxony (*Niedersächsische Landesmedienanstalt*) is happy to take up initiatives by private broadcasters to strengthen the presence of regional and minority languages in the programming, but this would also require an initiative by the broadcaster in the form of an application for funding. There are many initiatives of this kind in the sector of non-commercial private broadcasters (citizens’ media), where the *Land* makes full use of its scope.”

Lower Saxony also points out that the ratification of Article 11 I a.iii of the Charter recommended by the Committee of Experts is out of the question because it irrevocably contradicts the constitutionally guaranteed non-intervention in broadcasting. “This also comprises the right of the broadcasters to make programmes under their own responsibility without government influence. We cannot imagine how appropriate measures could be taken to ensure that public broadcasters offer programmes in the regional or minority languages without specifically interfering in programming.”

In the **view of the Federation**, the willingness to ratify other articles from the Charter could also meet with the worry that some of the undertakings arising from the Charter have been relatively broadly interpreted, with the consequence that the addressee of the undertaking is then exposed to the accusation of not or only partially meeting the undertaking in question. This could also be one reason for the relatively low number of State Parties to the Charter.

S. Regional or minority languages remain largely absent from the private media, due to the lack of positive measures to promote their visibility there. The authorities claim that they have a very limited scope for intervention in this area on account of the constitutional guarantee of the freedom of the media. The Committee of Experts reiterates its view that this freedom is not compromised by facilitating or promoting the use of regional or minority languages in the media, and that it is necessary for their relative disadvantage in terms of economic and political weight to be redressed by positive measures in the media. There have nonetheless been positive initiatives involving the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

The **Land Brandenburg** has the following to say concerning the above-mentioned comments of defining statements under nos. 219 and 223 that the undertakings pursuant to Article 11 paragraph 1 lit. b ii and c ii have not been met, according to which the broadcasting of Lower Sorbian radio and television stations should be encouraged or facilitated: “In the next periodical report the *Land* Government will outline the *Land*’s remaining means of influence under the current legal framework and the actual situation with respect to the use of the Sorbian language in private radio and television media and provide the requested information to the Consultative Committee.”

In this connection, the **Land Schleswig-Holstein** has the following to say for the promotion of the Danish language:

“The factual and (constitutional) legal position as well as the resulting opportunities and limits of official action have already been outlined in detail several times. This means we will dispense with supplementary comments to nos. 67 and 71.”

The **Land Saxony-Anhalt** has provided the following information on the defining comments for Low German for the above-mentioned comments on the use of minority languages in the media under nos. 30 and 31 of the Report:

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“There is no need for a new assessment with regard to the constitutionally guaranteed freedom of the media in the Federal Republic of Germany.

Irrespective of this, the *Land* Saxony-Anhalt (Ministry of Culture) has directly contacted media representatives of the relevant media “*Volksstimme*” and MDR, mainly in the north of the *Land*, i.e. in the speech area of Low German; this is also an initiative that was discussed and evaluated in detail in the “Low German” working group in the Ministry of Culture.

The opportunities and limits of placing Low German in the media were discussed in detail in these highly constructive talks with media representatives. It became clear that, against the background of profits, the media (also, but not only) are happy to include contributions in Low German if they are well-received by the public – in the “Low German” working group this was discussed in great detail on the speakers’ side. Various strategies were developed that allow rapid and uncomplicated information about Low German events vis-à-vis these media. But the media representatives also made it clear that attractiveness to the public and the quality of the contributions – which are unfortunately not always guaranteed – are immovable criteria for publication or broadcasting.

T. The conditions for the use of regional or minority languages in the field of culture remain favourable in Germany. However, the federal authorities still make very limited provision for regional or minority languages and the cultures they reflect in pursuing their cultural policy abroad.

In connection with this comment, **the question arises** as to the extent to which and under which provision of the Charter the Committee believes duties should be accepted to make regional or minority languages and the cultures they reflect part of government policy abroad.

If, in this connection, the Committee (under no. 786 of its Report) feels that it is unable to ascertain the application of Article 14 lit. a) of the Charter for the Romany language in Hesse by means of bilateral or multilateral agreements to promote transfrontier contacts between the speakers of the various forms of Romany, reference is made to the fact that the cited provision demands such agreements only to the extent that it is necessary for transfrontier contacts between speakers of at least related language groups. If such contacts already exist, as the Committee itself noted for the speakers of Romany, there is no need for government regulation in every case. However, if the umbrella organisations of the German nationality speakers of minority languages or the regional language Low German establish such a need, corresponding proposals within the context of the undertakings entered into under the Charter will be examined.

Reference is also made to the Bonn-Copenhagen Declarations for the transfrontier contacts between the speakers of Danish.

U. More determined measures are needed to encourage the use of regional or minority languages in economic and social life. There is considerable scope for increasing the use of regional or minority languages in economic activities. Positive initiatives, such as the project “*Plattdütsk bi d’ Arbeit*” (see paragraph 673 above), could serve as a model for future action in this field. Regarding social care facilities, structured policies and corresponding measures, such as a bilingual human resources policy, are needed for the fulfilment of Germany’s undertakings with respect to the use of regional or minority languages.

Specifically with regard to the field of old people’s and nursing homes, the **Free and Hanseatic City of Hamburg** resolutely confirms the comments under nos. 543-546 and the position expounded under no. 544:

“The Authority for Social and Family Affairs, which is competent here, refers to the fact that to date neither representatives of the elderly nor providers of facilities have expressed a particular need for regulation to secure care offers in the Low German language. Since the undertaking of the State Parties under Article 13 paragraph 2 c) explicitly refers to what is reasonably possible, the evaluation and demand by the Committee of Experts (under nos. 545, 546) is rejected.”

The **Free State of Saxony** comments as follows on the Committee’s finding that measures are needed to promote the use of the languages in economic and cultural life:

“It can certainly be advantageous if Sorbian experts were to use their linguistic-cultural expertise to a greater extent in the economic exchange with Poland, the Czech Republic and other Slavic countries. If necessary, the bodies and chambers to promote the economy in Saxony should address this potential

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and help to develop it. But the impetus should come from the Sorbian economic alliance. In the field of tourism, the linguistic and cultural skills could also be used to a greater extent in order to attract more visitors from Poland and the Czech Republic. However, extending the compulsion to bilingualism would only impose a further burden on companies and would not be in the general interest. This means that the recommendation of the Committee of Experts can be partially positively evaluated in this respect.”

Re 3.3. Re the proposals for recommendations on the basis of the results of the second monitoring round

The Committee of Ministers is invited to draw its conclusions in the light of these comments.

B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Germany

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation RecChL(2006) 1 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Germany

*(Adopted by the Committee of Ministers on 1 March 2006
at the 957th meeting of the Ministers' Deputies)*

The Committee of Ministers,

In accordance with Article 16 of the European Charter for Regional or Minority Languages;

Having regard to the instrument of ratification submitted by Germany on 16 September 1998;

Having taken note of the evaluation made by the Committee of Experts on the Charter with respect to the application of the Charter by Germany;

Bearing in mind that this evaluation is based on information submitted by Germany in its second periodical report, supplementary information given by the German authorities, information submitted by bodies and associations legally established in Germany and the information obtained by the Committee of Experts during its "on-the-spot" visit,

Having taken note of the comments made by the German authorities on the contents of the Committee of Experts' report;

Recommends that the German authorities take account of all the observations of the Committee of Experts and, as a matter of priority:

1. adopt specific legal provisions, where these are still lacking, in order to ensure the practical implementation of the undertakings which Germany has entered into under the Charter;
2. take action to improve provision and allocate adequate resources for regional or minority language teaching and in particular:
 - ensure that the current schools rationalisation programme in Saxony does not jeopardise the provision of education in Upper Sorbian;
 - remedy the existing shortage of Lower-Sorbian-speaking teachers;
 - develop and implement the educational model for North Frisian proposed by the North Frisian speakers;
 - adopt measures to improve teaching in and of Sater Frisian as a matter of urgency and ensure continuity in educational provision in this language;
 - increase the number of hours devoted to, and provide clear guidelines for, Low German teaching in the *Länder* concerned;
 - adopt a structured policy with respect to Romany in the field of education, in co-operation with the speakers;
3. reverse the decline in study and research opportunities for Low German, Sater Frisian and Lower Sorbian and improve facilities for teacher training;
4. ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III;
5. take resolute action to establish a structured policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;
6. create incentives to increase the provision for regional or minority languages in private broadcasting.