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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

APPLICATION OF THE CHARTER IN GERMANY

3rd 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**

Part II

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 may decide to address to the Party concerned.

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

adopted by the Committee of Experts on 3 April 2008
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 and ratified it on 16 September 1998. The Charter entered into force in Germany on 1 January 1999.

2. The instrument of ratification of Germany is set out in Appendix I of this report. Germany declared at the time of ratification the regional or minority languages protected under the Charter were Danish, Upper Sorbian, Lower Sorbian, North Frisian, Sater Frisian, Low German and Romani.

3. 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 third periodical report to the Secretary General of the Council of Europe on 27 February 2007.

4. In its previous evaluation report on Germany (ECRML (2006) 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 (2006) 1), which were addressed to the German authorities.

1.2. *The work of the Committee of Experts*

5. This third evaluation report is based on the information obtained by the Committee of Experts from the third periodical report of Germany and from replies to an additional questionnaire submitted to the German authorities in August 2007, as well as 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 from 5 – 9 November 2007. 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.

6. In the present third 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 and second evaluation reports 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 and second reports which set out the Committee of Experts’ reasoning,² before evaluating how the German authorities have reacted. The Committee of Experts will also look at the new issues detected during the third monitoring round.

7. 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 third 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).

8. This report is based on the political and legal situation prevailing at the time of the Committee of Experts’ third “on-the-spot” visit to Germany (5 – 9 November 2007).

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 second evaluation report appear as underlined sentences in the present third report.

9. The present report was adopted by the Committee of Experts on 3 April 2008.

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

10. 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 Danish, Upper Sorbian, Lower Sorbian, North Frisian, Sater Frisian, Low German and Romani.

Upper and Lower Sorbian

11. Based on the current trend of massive emigration from the regions where these languages are spoken, especially of young people, and a declining birth rate, forecasts predict an ageing and diminishing population. This has negative repercussions on both languages.

12. The multi-annual funding agreement for the Foundation of Sorbian People, involving the *Länder* of Saxony and Brandenburg as well as the Federation, expired on 31 December 2007. So far a new agreement has not been concluded because the federal authorities plan to reduce their share of the funding, and this is not acceptable to the two *Länder* (see paragraphs 34 - 35 below).

Low German

13. In 2007, the Institute for the Low German Language in Bremen (INS) carried out a representative survey "*Wer spricht Plattdeutsch*" ("Who speaks Low German") on the spread of the Low German language in northern Germany. The project was jointly funded by the federal government, Schleswig-Holstein and the Free and Hanseatic City of Hamburg. The last representative survey took place in 1984. The Committee of Experts asks the authorities to provide information on the main findings of this survey in the next periodical report.

North Frisian

14. The *Land* Schleswig-Holstein adopted the Frisian Act in Schleswig-Holstein in December 2004 which regulates the use of the North Frisian language in North Frisia and Heligoland in public life. A survey was conducted on the effect that the Frisian Act has had since its adoption. The Act especially had a positive effect on the visibility of the language in public life and it also gives the language a higher status (see paragraphs 23 and 39 below).

Romani

15. In July 2005, the *Land* Government of Rhineland-Palatinate reached a Framework Agreement with the Central Council of German Sinti and Roma which reaffirms its commitments under the Charter under Article 2 of the Agreement, and aims to apply Part III of the Charter to Romani in this *Land*.

16. There have been new developments with regard to the institutional representation of speakers of regional or minority languages on the federal level: Following the establishment of the consultative committees relating to Danish and Sorbian at the Federal Ministry of the Interior, such consultative committees have also been established with regard to Frisian and Low German. Representatives of federal and respective *Land* ministries participate in meetings held with the consultative committees. Furthermore, the position of an independent Minority Secretary in May 2005 was created, whose primary task is to develop the decision-making with the national minorities in Germany and improve communication with the federal government and parliament (see paragraphs 65 -68 below).

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

17. The Committee of Experts has taken this opportunity to review its approach to Article 11.1.b and Article 11.1.c in the light of developments in the field of broadcast media which have taken place since the Charter was adopted in 1992. The traditional distinction between a monolithic "public service broadcaster" and private broadcasters has eroded. By now, several categories of bodies exist which can be said to deliver a "public service mission" to a greater or lesser extent. Some are publicly owned or controlled, others are privately owned, yet others are joint ventures. Some are closer to the voluntary sector (eg the Open Channel). Furthermore, there is now a far greater variety in delivery methods and platforms (digital television and radio, internet broadcasting, etc.). Together these developments call for a more flexible interpretation of Articles 11.1. b. and c., in particular so as not to exclude public service broadcasting from its ambit.

Part II

18. The Committee of Experts was pleased to notice an increased pragmatism of the German authorities to the way in which the Charter is implemented. There are still, however, a number of issues where the interpretation of the Charter provisions by the German authorities differs from that of the Committee of Experts.

19. The division of competences between the federal and *Land* governments remains an issue in relation to practical implementation of the Charter. In those cases where the *Land* government takes inadequate steps to implement the Charter, the federal government argues that it is powerless to intervene, yet it is the federal government which is responsible as a matter of international law to ensure that the Charter is implemented.

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

20. 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 Romani on 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 Committee of Experts decided that Part II applied to these languages in these cases.

21. The Committee of Experts will focus on the provisions of Part II which were singled out in the second report as raising particular problems. It will therefore not comment in the present report on provisions where no major issues were raised in the second 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 5 (see paragraph 44 of the second 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;”

22. During its on-the-spot visit to Germany, the Committee of Experts was informed that the Federal Parliament was considering enshrining culture in the German constitution as a national objective. Representatives of all regional or minority languages in Germany demanded that in this regard, national minorities and regional or minority languages should be explicitly mentioned in the constitution as forming part of German culture.

North Frisian

23. With regard to North Frisian, the *Land* Schleswig-Holstein reinforced its official recognition of North Frisian through the adoption of the Act to promote Frisian in the Public Sphere (Frisian Act) in Schleswig-Holstein in December 2004. Therein North Frisian is recognised as “an expression of the *Land's* intellectual and cultural wealth” (Paragraph 1 of Section 1).

Romani

24. The Framework Agreement made between the Rhineland-Palatinate *Land* Government and the Central Council of German Sinti and Roma of July 2005 (see annex of the third periodical report) gives official recognition to the Romani language in Rhineland-Palatinate, reaffirming also its commitment to the undertakings of the Charter. The Committee of Experts welcomes this agreement.

“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

25. During its on-the-spot visit to Germany, the Committee of Experts was given examples by representatives of Low German-speakers of the repercussions of the abolishment of the administrative level of the government region (*Bezirksregierung*) in 2004 in Lower Saxony on the use of Low German. After the administrative reform, the *Land* Ministry, as the higher administrative authority with its seat in Hanover, took

over from the government region as the supervisory authority over the municipalities in the areas of administration and justice. According to the representatives of Low German, this reform led to a restriction in the use of Low German in the field of justice and administration, because speakers now addressed civil servants in Hanover, where only very few speak Low German.

Lignite mining and the Sorbian languages

26. In the second evaluation report (see paragraphs 22 -23), the Committee of Experts was deeply concerned over the effects of the resettlement of the inhabitants of the village of Horno, where the Lower Sorbian language had a strong presence, in order to allow lignite mining to occur. Furthermore, it was worried about other planned resettlements due to lignite mining in the region and therefore urged 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.

27. No further information is given in the third periodical report on this matter. In their additional information to the report, however, the authorities stated that the mining company Vattenfall planned to conduct more mining in Sorbian-speaking areas in future, although to date no procedures to obtain a permit have been initiated. During the on-the-spot visit to Germany, representatives of Lower Sorbian reported that although efforts were undertaken to retain the social network of the former inhabitants of Horno within the new settlement, 20% of the inhabitants decided not to resettle there.

28. The Committee of Experts was also informed by the speakers that, within the next two decades, several villages inhabited by about 1600 people in the Schleife region, where Upper Sorbian is spoken, will have to resettle due to lignite mining.

The Committee of Experts encourages the authorities to take active measures to compensate the difficulties in the protection and promotion of the Sorbian language caused by the lignite mining.

Upper Sorbian

29. The Free State of Saxony is undergoing an administrative reform, whereby the administrative districts are to be reduced. Thereafter, the Sorbian language area, apart from the Schleife municipality, will lie within one administrative unit, since the three districts of Bautzen, Kamenz and Hoyerswerda will merge into one new administrative district, Bautzen. The law will probably enter into force in July 2008. Representatives of the Upper Sorbian language estimated that the reform would in general have a positive effect on the Upper Sorbian language, but they were concerned that the decreased percentage of Sorbian-speakers in the total population of the new district (from 10% to 5%) would have a negative effect on political participation.

North Frisian

30. The Committee of Experts has been made aware of the planned reform of administrative districts in Schleswig-Holstein (*Kreisreform*) for the year 2013, which would reduce the districts (*Kreise*) in Schleswig-Holstein. The *Kreis* North Frisia would thus merge into a bigger unit. This may have a negative effect on the protection and promotion of North Frisian.

The Committee of Experts encourages the authorities to ensure that the mergers into fewer and larger administrative districts do not have a negative effect on the protection and promotion of the Upper Sorbian and North Frisian languages.

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

31. The Committee of Experts recalls that "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 (see paragraph 24 of the second evaluation report).

32. Of the regional or minority languages in Germany, Sater Frisian and Lower Sorbian in particular appear to suffer from a lack of resolute action. The Committee of Experts regrets this, since these two languages are particularly endangered and would merit serious attention and investment

33. With regard to the unclear criteria for federal funding of regional or minority languages (see paragraph 25 of the second evaluation report), the third periodical report states that these issues are dealt with in the annual Charter implementation conference. The report also states that federal funding must be allocated annually because of budgetary constraints.

Upper and Lower Sorbian

34. With regard to the Upper and Lower Sorbian languages, the authorities nevertheless state in their third periodical report (paragraph 40) that the multi-annual funding agreement for the Foundation of Sorbian People, involving the *Länder* of Saxony and Brandenburg as well as the Federation, shall be maintained. The previous agreement expired on 31 December 2007. So far a new agreement has not been concluded because the federal authorities plan to reduce their share of the funding, and this is not acceptable to the two *Länder*. In January 2008, representatives of the Sorbs and local authorities refused to accept the new proposed draft 2008 budget for the Foundation of the Sorbs, pending the presentation of a sustainable draft financial agreement for the Sorbs.

35. Furthermore, the Federal Audit Court gave its opinion in a report in March 2007 that generally questioned the competence of the federal authorities with regard to their financial contribution to the Foundation of the Sorbian People, despite the fact that split funding is laid down in the unification treaty. Another agency, the Federal Administrative Office (*Bundesverwaltungsamt*) voiced the opinion that the contribution of the federal authorities was too high.

The Committee of Experts urges the German authorities to reach an agreement that at least maintains the previous financial contribution of the federal authorities and the Länder.

36. In general, the speakers expressed the wish for the funding responsibility at the federal level to be concentrated in the hands of the Federal Ministry of Interior, because currently, the competence is shared between the ministry and the Federal Government Commissioner for Culture and Media (BKM), making communication with the authorities difficult.

Low German

37. In its second evaluation report (see paragraph 21), the Committee of Experts noted that the *Länder* had held consultation meetings following the Committee's suggestion to take measures to strengthen co-operation between the eight *Länder* where Low German is spoken with a view to its promotion. The Committee of Experts was informed that officials of these *Länder* met in Oldenburg in June 2006 together with representatives of Low German speakers, and in Magdeburg in June 2007 without the representatives, focussing mainly on Low German in the educational sector. While welcoming these meetings, the Committee of Experts observes that there have been few practical results to date. It looks forward to receiving information on the resolute action taken as a result of these meetings in the next periodical report.

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

38. During the on-the-spot visit, some concrete examples of the negative effect on the use of regional or minority languages through the privatisation of companies were brought to the attention of the Committee of Experts. In 2006, a private railway company announced the approaching station names in North Frisia in North Frisian as well as in German. However, due to some complaints of passengers, the company ceased announcing the names in North Frisian. A member of the federal parliament informed the Committee of Experts that the post code book changed its bilingual entries of Sorbian place names into monolingual German ones. The Committee of Experts asks the authorities to provide information on how the use of minority languages is secured in privatised services.

North Frisian

39. According to representatives of North Frisian, the adoption of the Frisian Act (see paragraph 23 above) has had a positive effect on the visibility of the language. To this end, there has been a noticeable increase in the amount of bilingual signposting on public buildings and the use of bilingual letterheads in official documents. The act regulates the use of North Frisian in public life in North Frisia and Heligoland.

Danish

40. The third periodical report (paragraph 1023) states that on 9 February 2006, in the frame of a language campaign a “Day of the Danish Language” took place under the auspices of the *Land* parliament's

president. The aim of this event was to learn more about the Danish language in the framework of a variety of activities.

Upper and Lower Sorbian

41. According to the information provided in the third periodical report (paragraph 2035), from 2004 to 2005, competitions *Sprachfreundliche Kommune* (language-friendly communities) were carried out in the *Länder* Saxony and Brandenburg under the auspices of the Free State of Saxony's parliament's president and organised by the Council for Sorbian Affairs. The aim of the competition was to promote the use of the Sorbian languages.

Low German

42. With regard to public radio broadcasting, the authorities informed the Committee of Experts in their additional information that the amendment of the inter-state treaty on the public regional broadcaster *NDR (Staatsvertrag über den Norddeutschen Rundfunk)* in May 2005 includes a section stating that its programming mandate should take into account the diversity of the regions, including culture and language. The third periodical report (paragraph 5123) states that between 1 – 8 October 2006, the *NDR* presented a Low German week on television which featured various cultural and regional programmes with a focus on Low German. The Committee understands that a Low German week also took place in October 2007. The Committee of Experts welcomes this information.

“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;”

Low German

43. The Council for Low German is an umbrella organisation that was set up in 2003 with a view to representing the speakers of Low German with one voice across all *Länder* where Low German is spoken. The Committee of Experts understands the importance of such an inter-*Land* organisation in order to intensify co-operation. However, the Committee of Experts has been made aware of the difficulties the Council faces, in particular through the fact that it does not receive any funding at all.

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

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

Low German

45. Part II only applies to Low German in the following *Länder*: Brandenburg, Saxony-Anhalt and North-Rhine/ Westphalia. Nevertheless, the German authorities have only provided limited information. In particular, information is needed in respect of education in Brandenburg and North Rhine-Westphalia. In relation to Saxony Anhalt, some degree of information is provided but the efforts towards education in Low German seem to be rather limited.

46. As mentioned above (see paragraph 37) officials of the *Länder* where Low German is spoken, met in Oldenburg in June 2006 together with representatives of Low German speakers, and in Magdeburg in June 2007 without the representatives, focussing mainly on Low German in the educational sector. While welcoming these meetings, the Committee of Experts observes that there have been few practical results to date. It looks forward to receiving further information on the results of these meetings in the next periodical report.

47. According to the third periodical report (paragraph 5007), an analysis of the situation of pre-school education in the *Land* of Saxony-Anhalt was carried out, which is to be followed up by a group of experts to discuss what measures to take to introduce Low German in pre-schools from 2007. The Committee of Experts looks forward to receiving further information in the next periodical report.

48. With regard to primary school education, the authorities give information on extra-curricular activities related to Low German (paragraph 5016 of the third periodical report). Statistical data was collected from 2003 – 2006 on the extent to which Low German is taught at schools. The Committee of Experts asks the authorities of Saxony-Anhalt to provide concrete information on this in the next periodical report.

Part II

49. The Committee of Experts also asks the authorities of Brandenburg and North Rhine-Westphalia to provide concrete information on the teaching and study of Low German in their territories.

50. Low German is covered by Part III in Lower Saxony, however, with regard to education the essential components of primary and secondary education are missing. The Committee of Experts underlines that there is a need for a structured policy to protect and promote Low German across all levels of education (see also paragraphs 597 – 620 below).

Sater Frisian

51. In its second evaluation report (paragraph 37), the Committee of Experts repeated its concern over the situation of Sater Frisian in education and especially noted a negative development at secondary level. Bearing in mind the endangered situation of Sater Frisian and the crucial role education plays in language maintenance, the Committee of Experts strongly urged the German authorities to take 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, paragraphs 1.b and c.

52. The third periodical report mentions the new curriculum of August 2006 that makes the inclusion of the presentation of *inter alia* Sater Frisian mandatory in all types of schools in Lower Saxony within the core curricula subjects of English and Low German. However, according to the precise text of the curriculum, this only applies in cases where a speaker of the respective language is a pupil of the class.

53. The authorities stated in their additional information that language encounter ("Sprachbegegnung") is part of the general curricula at primary and secondary level (see paragraphs 325 – 326 below). The authorities also referred to the possibility of offering Sater Frisian as an optional class. The authorities stated that no plans were envisaged to extend the scope of Part III protection to Sater Frisian in the field of education.

54. According to the information received during the on-the-spot visit, the teaching of Sater Frisian is still carried out by voluntary teachers, whereas not even their travel costs are paid for. One hour per week of Sater Frisian is also offered in the secondary modern school in Saterland.

55. The Committee of Experts is of the view that more can and should be done. Given the severely endangered nature of Sater Frisian and the well defined and compact nature of the language area, it is reasonable and necessary for the authorities to guarantee adequate resources to support a realistic offering of the language in both primary and secondary education (see also paragraphs 322 – 345 below).

The Committee of Experts again strongly urges the German authorities to take the necessary measures to develop teaching of Sater Frisian at primary and secondary levels of education.

Romani

56. The situation of Romani in Hesse is dealt with in Part III of this report.

57. As mentioned above (paragraph 15), a Framework Agreement was reached between the Rhineland-Palatinate *Land* Government and the Central Council of German Sinti and Roma in July 2005. Thereafter, the *Land* supports initiatives of the *Land* Association in educational institutions for the preservation of the culture and language. The Committee of Experts welcomes this and looks forward to receiving information on the teaching of Romani in Rhineland-Palatinate.

58. According to the information contained in the third periodical report (paragraphs 4016 – 4017), and information received during the on-the-spot visit, Romani is taught in Hamburg in optional courses, if a number of five pupils demand it. The Committee of Experts commends the Hamburg authorities on this initiative.

59. According to the comments given by the Central Council of German Sinti and Roma that are attached to the third periodical report, the *Land* Association in Bavaria provides homework assistance and extra tuition for one group of Sinti primary school pupils. This is carried out in the Romani language. As of the school year 2004/ 05, this project is subsidised by the Free State of Bavaria. It is planned to extend the projects to other towns and cities in Bavaria. The Committee of Experts welcomes this development and looks forward to receiving further information in the next periodical report.

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

60. In its second evaluation report (paragraph 41), the Committee of Experts expressed its concern over the continuing decline of study and research opportunities on regional or minority languages. It especially took the view that, in the context of Low German, increased inter-*Land*-co-operation in this area would be particularly useful and urged the German authorities to ensure that adequate facilities are provided for the study and research on Low German at universities or equivalent institutions.

61. A further issue which affects all regional and minority languages in Germany is the twin impact of budgetary pressures in Higher Education and the Europe-wide Bologna Process leading to standardised Bachelor and Master degree structure. Together, these mean that regional or minority languages are in danger of disappearing as higher education subjects.

62. The Committee of Experts observes that the number of possibilities to study Low German as a separate subject has decreased significantly since the last monitoring round. In many cases, Low German is now only offered as part of German studies, with an offer as low as one or two seminars per term. Other universities however, have managed to retain the offer.

63. Low German study and research takes place at three universities (Münster, Bielefeld and Paderborn) in North Rhine-Westphalia to a greater or lesser extent. The Committee of Experts asks the authorities to provide concrete information on the promotion of study and research of Low German at the universities in Brandenburg and Saxony-Anhalt. The situation in the other *Länder* are dealt with in Part III of this report.

“Paragraph 3

The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.”

64. The Committee of Experts recalls that the extent to which a regional or minority language is protected or promoted is, in many respects, linked to the majority language speakers' perception of regional or minority languages. Awareness raising among the majority population is therefore of utmost importance. As indicated by this provision, education and the media are especially relevant in this respect (see the first evaluation report on the implementation of the Charter in Spain, ECRML (2005) 4, paragraph 182 and second evaluation report on Sweden, ECRML (2006) 2, paragraph 63).

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.”

65. In its second evaluation report (paragraphs 42 – 43), the Committee of Experts acknowledged the establishment of consultative committees relating to Danish and Sorbian at the Federal Ministry of the Interior. In the meantime, such consultative committees have also been established with regard to Frisian and Low German. Therefore, the only regional or minority language which is not represented by a consultative committee is Romani. Representatives of federal and respective *Land* ministries participate in meetings held with the consultative committees. The meetings are chaired by the Federal Commissioner for National Minorities.

66. In addition, the Federal Ministry of the Interior holds an annual implementation conference on the Charter. It has also created the position of an independent Minority Secretary in May 2005, whose primary task is to develop the decision-making with the national minorities in Germany and improve communication with the federal government and parliament. The Committee of Experts commends the federal authorities for its continuous efforts to institutionalise the representation and consultation of bodies concerned with regional or minority languages at the federal level.

Part II

67. With regard to the representation at *Länder* level, language organisations in Lower Saxony have applied for a Low German/ Sater Frisian Council within the Lower Saxon Parliament. As mentioned in the previous evaluation report, Upper and Lower Sorbian are represented through councils at the respective *Land* Parliaments, whereas the interests of the Danish and North Frisian-speakers are represented by the political party SSW.

68. The Framework Agreement made between the Rhineland-Palatinate *Land* Government and the Central Council of German Sinti and Roma of July 2005 (see annex of the third periodical report) contains a provision that seeks to hold regular meetings between the *Land* and the Roma and Sinti. The Committee of Experts welcomes this agreement and looks forward to receiving information about these planned meetings in the next periodical report.

2.2. Evaluation in respect of Part III of the Charter

69. 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.

70. Following the focused approach which was explained above (see paragraph 21), the Committee of Experts will concentrate on the provisions of Part III in relation to which a number of issues were raised in the second report. It will evaluate in particular how the German authorities have reacted to the observations made by the Committee of Experts in the second 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.

2.2.1. Danish in the Land of Schleswig-Holstein

71. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Danish in Schleswig-Holstein, these provisions are the following:

- Article 8, paragraph 1.a.iv; b.iv; 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 4.c;
- Article 10, paragraph 5;
- Article 11, paragraph 1.e.ii;
- Article 12, paragraph 1.c; d; e; f; g;
- Article 12, paragraph 2;
- Article 13, paragraph 1.a
- Article 13, paragraph 2.c;
- Article 14.a; b.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

Article 8 – Education

72. In its second evaluation report (paragraphs 50 – 53), the Committee of Experts reported on the decision of the *Land* authorities to fund the running costs of Danish private schools on an equal footing with publicly funded schools. This decision has been settled by a specific provision for Danish private schools in the new Schleswig-Holstein School Act of January 2007 that comes into effect in August 2008. The Committee of Experts commends the Schleswig-Holstein authorities for this step. In the meantime, however, the Committee of Experts has been made aware of the recent criticisms of the *Land* Audit Court against these regulations of the school act for the promotion of the Danish schools. It calls for the abolishing of the re-established equality. The Committee of Experts urges the *Land* government to ensure that the new regulations remain in order to secure the future survival of the Danish schools.

73. The problem of school transport however is not yet resolved. Representatives of the Danish-speakers informed the Committee of Experts during its on-the-spot visit that pupils who attend Danish schools are affected harder by the decision of some districts to cancel their subsidies for school transport, because most pupils have a further travelling distance to the Danish schools than those pupils attending public schools. Danish-speakers have demanded the adoption of a legal provision on school transport. The Committee of Experts encourages the authorities to find a solution to the problem of transport costs for pupils attending Danish schools.

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:

- “c.i. to make available secondary education in the relevant regional or minority languages; or*
- c.ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or*
- c.iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or***
- c.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.”***

74. In its first evaluation report (paragraph 136), the Committee of Experts considered the undertaking fulfilled. The Committee of Experts was informed that a second Danish grammar school (*Gymnasium*) is in the process of being opened in Schleswig. The Committee of Experts welcomes this development and looks forward to receiving further information in the next periodical report. The undertaking remains 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.”

75. In its second evaluation report (see paragraphs 54 – 57), the Committee of Experts considered that this undertaking was not fulfilled at the time of the report. It observed that the contents and frequency of the reports issued by the *Land* Government did not meet the requirements needed to fulfil this undertaking.

76. In its third periodical report the authorities argue that the public and the authorities are sufficiently informed about the implementation of the Charter. In the minority report of the *Land* Government Schleswig-Holstein it is furthermore argued that there was no need to set up a separate supervisory body, especially as this would be contrary to the current general trend of deregulation and de-bureaucratisation of administration.

77. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

78. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Danish language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

79. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

80. In the absence of such periodic reports, the Committee of Experts concludes that the undertaking remains 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;”***

81. In its second evaluation report (see paragraphs 58 – 60), the Committee of Experts noted that the present legislation allowed the submission of documents in a “foreign language” only as an exception. It therefore concluded that the undertaking was not fulfilled and encouraged the German authorities to ensure that documents in Danish can be submitted to administrative authorities in practice.

82. According to additional information provided by the German authorities, translation costs for documents submitted in Danish would not be incurred where Danish-speaking staff were available. As outlined in the explanatory report to the Charter (see paragraph 104), however, this undertaking automatically entails a commitment to make the necessary resources and administrative arrangements available, which also include the costs for translating documents. Consequently, the authorities are obliged to ensure implementation of this undertaking regardless of whether there are Danish-speaking staff available, eg, by the use of translators. According to the representatives of the Danish-speakers, there are a growing number of Danish-speakers working in administration. On the other hand, according to another representative, many documents such as labour contracts and documents dealing with pension, health insurance and financial matters, must be submitted in German or translated into German, whereby the applicant covers the translation costs.

83. The Committee of Experts considers that the undertaking remains not fulfilled.

<p><i>The Committee of Experts urges the German authorities to ensure that documents in Danish can be submitted to administrative authorities in practice.</i></p>

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;”***

84. In its second evaluation report (see paragraphs 65 – 67), the Committee of Experts observed that the existing offer of Danish programmes on private radio was limited and therefore considered the undertaking to be not fulfilled. It encouraged the German authorities to take measures to encourage and/ or facilitate the broadcasting of radio programmes in Danish on a regular basis.

85. The third periodical report (paragraph 1026a) states that the Open Channel (*Offener Kanal*), became an independent legal entity with the entry into force of the Act on establishing a corporation under public law “Offener Kanal Schleswig-Holstein” in October 2006. This act contains a provision on the promotion of minority languages as part of the broadcaster’s duties and responsibilities. Furthermore, the act states that one of the five board members of the Open Channel is appointed by the Commissioner for Minority Issues of Schleswig-Holstein. Currently, a representative of the Danish minority is member of the advisory board. The Committee of Experts welcomes these positive developments.

86. The Open Channel is a citizens broadcasting channel under public law and supervised by the independent media authority that supervises private broadcasters. In March 2007, the media authority ULR

(*Unabhängige Landesmedienanstalt für das Rundfunkwesen*) merged with HAM (*Hamburgische Anstalt für neue Medien*) to form the new media authority *Medienanstalt Hamburg/ Schleswig-Holstein* (MA HSH).

87. The Open Channel model could, in the opinion of the Committee of Experts, serve as a basis for fulfilling this undertaking. At present, however, according to evidence received from the Open Channel through a representative of the *Land* authorities, programmes in Danish are currently broadcast only sporadically on the Open Channel *OK Westküste*. Danish language programming is needed also in those areas where the Danish language is strong, and should be provided there on a regular and frequent basis.

88. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Danish.

89. With regard to public broadcasting, according to representatives of the Danish-speakers, there are no radio programmes in Danish on public radio.

90. The Committee of Experts therefore must conclude that the undertaking remains not fulfilled.

The Committee of Experts urges 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;”

91. In its second evaluation report (see paragraphs 68 – 71), the Committee of Experts found that, although some positive steps had been taken by the authorities towards the broadcasting of television programmes in Danish, it had no indication of any regular programming. It therefore considered the undertaking not fulfilled at the time of the report, and encouraged the German authorities to take measures to encourage and/ or facilitate the broadcasting of television programmes in Danish on a regular basis.

92. According to additional information from the Open Channel through a representative of the *Land* authorities, since June 2007, a one-hour Danish television programme is broadcast monthly on the Open Channel Flensburg, obtained through an exchange of programmes with the television channel TV Abenraa based in Denmark. It is planned to extend the coverage via the Open Channel Kiel. Also, since April 2007, there is another fortnightly programme. The Open Channel conducted several training courses for Danish-speaking teachers and pupils on how to use a video camera and other related projects.

93. The comments made in relation to private radio broadcasting (see paragraph 88 above) apply equally to private television broadcasting.

94. With regard to public broadcasting, according to representatives of the Danish-speakers, there are no television programmes in Danish on public television.

95. While welcoming the developments on the Open Channel, the Committee of Experts observes that the current coverage is too limited in terms of area covered, regularity and amount of broadcasting to lead to a fulfilment of this undertaking.

The Committee of Experts urges 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;”

96. The undertaking was considered fulfilled in the second evaluation report (paragraphs 72 -76) on the basis that the media supervisory authority *ULR* provided funds for a project to produce Danish language

television programmes which was enabled through a contract with a private media office in 2002. However, according to the third periodical report (paragraph 1028) the contract was of limited duration and ended in 2003/04.

97. The Committee of Experts regrets the termination of this contract and considers that the undertaking is no longer fulfilled.

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

98. In its second evaluation report (see paragraph 77), the Committee of Experts had received no indication that the existing measures for financial assistance were designed in such a way that productions in Danish could qualify for them in practice.

99. Unfortunately, the Committee of Experts has received no information on how the subsidy fund allows for the qualification of productions in Danish in practice. The Committee of Experts must therefore revise its previous conclusion and considers that the undertaking 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.”

100. The third periodical report states that in 2006, the *Land* Parliament negotiated a contract between the Danish broadcasters and German cable providers to guarantee a continued reception of two Danish television channels through the cable network (see paragraph 98 of second evaluation report with regard to Denmark, ECRML (2007) 6). The Committee of Experts commends the authorities for this step.

101. However, representatives of the Danish language expressed their concern over the time lag between the switch to digitalised television broadcasting in Denmark and Schleswig-Holstein which from 2009 could discontinue the reception of Danish language programmes from Denmark.

102. The Committee of Experts is conscious of the fact that many regional or minority language speakers across Europe face this problem. While maintaining its assessment that this undertaking is fulfilled at present, the Committee of Experts would like to draw the attention of the German authorities to the fact that this undertaking may require some positive action on their part in the future if the digitalisation process makes it impossible for the Danish-speakers to receive Danish television programmes. As stated in paragraph 111 of the Charter’s explanatory report, “the undertaking to guarantee freedom of reception relates not only to obstacles deliberately placed in the way of the reception of programmes broadcast from neighbouring countries but also to passive obstacles resulting from the failure of the competent authorities to take any action to make such reception possible” (see also paragraph 98 of the second evaluation report with regard to Denmark, ECRML (2007) 6).

Article 12 – Cultural Activities and Facilities

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.”

103. In its second evaluation report (see paragraphs 78 – 81), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Danish language in Germany's cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad.

104. According to additional information provided by the authorities, the Federal Foreign Office has granted funding to groups that reflect the culture of regional or minority languages for cultural events abroad through the Goethe Institute, especially traditional dance groups and choirs. However, so far the Committee of Experts has not been made aware of any concrete examples of how the Danish language has been represented through the funding scheme. In the opinion of the German federal authorities, a presentation abroad depends on the filing of applications of the Danish-speakers themselves and should therefore also be their responsibility.

105. The authorities argue in their third periodical report that if the undertaking is fulfilled at *Länder* level, then it is also fulfilled at federal level, as in a federal state responsibility for regional aspects of the cultural policy abroad is predominantly assumed by the *Länder*. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe Institutes. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe Institute (compare, for example, the promotion of Spain's regional or minority languages through the Cervantes Institutes).

106. The Committee of Experts concludes that the undertaking is not fulfilled.

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;”

107. The undertaking was considered fulfilled in the second evaluation report.

108. In August 2006, a federal anti-discrimination act entered into force (*Allgemeines Gleichbehandlungsgesetz*) which prohibits among other things racial discrimination or ethnocentrism, the latter implying discrimination against members of a national minority and in certain circumstances their language. The Committee of Experts is pleased to note that the national minorities are represented by one member in the Advisory Council of the Federal Anti-Discrimination Bureau.

109. The Committee of Experts considers that this undertaking remains fulfilled.

2.2.2. *Upper Sorbian in the Free State of Saxony*

110. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Upper Sorbian, these provisions are the following:

- Article 8, paragraph 1.e.ii; f.iii; g;
- Article 9, paragraph 1.b; c; d;
- Article 9, paragraph 2.a ;
- Article 10, paragraph 1.v ;
- Article 10, paragraph 2.a; 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.b; c; d; e; f; g; h;
- Article 12, paragraph 12.2 ;
- Article 13, paragraph 1.a; d.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

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;”***

111. In its second evaluation report (paragraphs 88 – 90), the Committee of Experts considered that the undertaking was fulfilled, although it noted a lack of qualified teachers at certain pre-schools (see also paragraphs 131 – 137 below).

112. By virtue of the revised Ordinance on Children’s Day-Care Centres in the German-Sorbian Region (SorbKitaVO) which entered into force in Saxony in January 2007, Sorbian and bilingual day-care centres receive additional funds to the amount of € 5 000 per group. Furthermore, the aim of the day-care centres is to ensure bilingualism and the teachers must have a mother tongue level command of Sorbian. Representatives of the Upper Sorbian-speakers informed the Committee of Experts that they welcomed these developments. However, despite a growing demand for Sorbian pre-school education, including outside the core-areas where Upper Sorbian is spoken, there were considerable obstacles preventing the establishment of new Sorbian pre-school groups or day-care centres, due to the staffing ratio specified in the day-care ordinance and the lack of resources for extra staff. Furthermore they raised their concern that the decree was monitored by the youth welfare office (*Jugendamt*) whose staff is largely non Sorbian-speaking. The Sorbian language education centre Witaj informed the Committee of Experts that it would be prepared to help the youth welfare office in this respect.

113. According to the information provided by the representatives of Upper Sorbian, there are currently 13 Upper Sorbian day-care centres, 5 of them run by Witaj. There are 10 day-care centres with Witaj groups. Altogether there are approximately 750 children receiving Upper Sorbian education.

114. The Committee of Experts considers this undertaking fulfilled. It nevertheless encourages the authorities to take measures to ensure that the growing demand for pre-school education in Upper Sorbian is met with the supply of appropriate resources, especially with regard to pre-school teachers.

- “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;”**

115. In its second evaluation report (see paragraphs 92 – 95), the Committee of Experts was concerned about a number of problems with regard to primary education: that Sorbian mother tongue speakers might suffer from the change from Sorbian-medium education to bilingual education, that outside the core areas the teaching of Sorbian could vary considerably, or the absence of a guideline for a minimum number of pupils required to set up a class. The Committee therefore considered that the undertaking was only partly fulfilled and encouraged the authorities to find solutions to the problems in co-operation with the Upper Sorbian-speakers.

116. The Committee of Experts has been informed by representatives of the Upper Sorbian language that there are currently six Upper Sorbian primary schools and a further four schools where Upper Sorbian is taught following the new bilingual teaching model “2 plus” (*Schulartübergreifendes Konzept³ ‘2 plus’*). The representatives drew the Committee of Experts’ attention to the continuing concern of the parents that the introduction of the new model in the six Upper Sorbian primary schools would harm the language competence of mother tongue pupils. According to the authorities, the advantage of the new model is the possibility to introduce a Sorbian stream into mainstream schools, with a maximum of five hours’ teaching through the medium of Sorbian. However, representatives of the Sorbian-speakers claimed that the criteria to demand the introduction of this model were not clear and that the number of hours taught in Sorbian was relatively low.

117. The “2 plus” model, as propagated by the European Union, can be enough to fulfil this undertaking if the number of teaching hours of the minority language is sufficient to ensure language maintenance and/ or acquisition. Unfortunately, the model as adapted to the Sorbian situation prescribes a maximum of five hours Sorbian education per week, with no minimum number. The only evidence of practical implementation is from the speakers and it appears that they are dissatisfied with the number of hours taught.

118. As to the minimum number of pupils required to set up a Sorbian class, the authorities repeat in the third periodical report that the school act contains a provision that allows exceptions to lower the minimum number for Sorbian education. This is decided on a case by case basis. No examples concerning primary education were given.

119. At another twelve primary schools, Upper Sorbian is taught as a subject.

120. In its previous report, the Committee of Experts has found the provision of primary education in Upper Sorbian to be patchy outside the core area. The Committee of Experts is concerned that replacing Sorbian-medium education with a variety of the “2 plus” model further weakens the provision of education in Upper Sorbian. The Committee of Experts maintains its conclusion that the undertaking is only partly fulfilled.

³ *Interschool concept ‘2plus’.*

Part III

- “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;”**

121. In its second evaluation report (see paragraphs 96 – 100), the Committee of Experts regretted the withdrawal of public co-funding for the Sorbian secondary school in Crostwitz which led to its closure. The Committee of Experts considered the undertaking only partly fulfilled, as the required number of 20 pupils to open a class in secondary education was very high. It encouraged the German authorities to reduce the minimum number of pupils required to open and maintain an Upper Sorbian class within secondary education.

122. In response, during the on-the-spot visit, the authorities gave examples of cases where they were handling the issue of a minimum number to set up a class in *Mittelschulen* with a certain degree of flexibility in accordance with the regulation mentioned in paragraph 118 above.

123. Regarding the closure of schools, the Committee of Ministers addressed the following recommendation to the German government: **“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; (...);”**(RecChL(2006)1, Recommendation 2).

124. According to the third periodical report and evidence received from representatives of the Upper Sorbian-speakers, the *Mittelschule* in Panschwitz-Kuckau closed down in July 2007 and was consolidated with another Sorbian school in Räckelwitz in the same district. Therefore, there are now only four Sorbian *Mittelschulen* in Saxony (Räckelwitz, Ralbitz, Radibor, Bautzen). According to a representative of the Saxon Government whom the Committee of Experts met during its on-the-visit, there would be no further closures until 2020, even if there was a decrease in the number of pupils. Apart from the schools mentioned above, there is a Sorbian grammar school in Bautzen and two *Mittelschulen* that offer the model ‘2plus’ (see paragraph 116 above).

125. According to the authorities, the decision to close the Sorbian school in Panschwitz-Kuckau is connected to the general demographic and budgetary situation in Saxony. To this end, according to evidence received by representatives of the speakers, mainstream *Mittelschulen* have also closed down and pupils from neighbouring municipalities have been transferred to the Sorbian school in Radibor. This has led to a decrease in the proportion of Sorbian education.

126. In spite of the negative developments outlined above, the Committee of Experts concludes that the undertaking remains partly fulfilled.

- “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;”**

127. In its second evaluation report (see paragraphs 101 – 104), the Committee of Experts observed that there was only one technical school in Bautzen that offered a special Sorbian course of study at a technical

school for social welfare. This offer alone did not seem to meet the demand either from the speakers or from employers. Therefore the Committee of Experts concluded that the undertaking was only partly fulfilled.

128. According to the information received by representatives of the Upper Sorbian-speakers, the course in the above-mentioned school was extended by two to three hours of Sorbian classes. The attempt to introduce a similar offer in other areas of vocational training failed due to a lack of applicants.

129. The third periodical report states that since 2005, the Saxon authorities have been co-operating with the Sorbian umbrella organisation Domowina, in order to provide information about funds for additional apprenticeships in Sorbian companies. Domowina has recently been involved in two pilot projects. One of them aims at providing school graduates with language skills related to their vocational training.

130. The other project is carried out with an association for employment in Hoyerswerda where pupils training in the field of tourism follow a Sorbian language programme. It consists of one year of Sorbian-medium education and employing the language in the companies. The project is funded by the relevant district. According to the information provided by the representatives of the speakers, two to three pupils are currently participating in this pilot project.

131. The Committee of Experts welcomes the efforts made and the positive developments and considers the undertaking fulfilled at present. It encourages the authorities to continue the proactive step to identify other areas where vocational training in Upper Sorbian might be offered.

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

132. In its second evaluation report (paragraphs 105 – 108), the Committee of Experts noted a shortage of qualified pre-school teachers. It also noted that the limited admissions policy (*Numerus Clausus*) at Leipzig University for certain subjects could create difficulties for those following Sorbian studies to combine it with other teaching subjects.

133. With regard to the training of pre-school teachers, as mentioned above, by virtue of the revised Ordinance on Children’s Day-Care Centre, the teachers must have a mother tongue level command of Sorbian. Of the €5 000 additional funding awarded to each Sorbian group, 12% is dedicated to further training and counselling. Representatives of the Upper Sorbian-speakers informed the Committee of Experts that three to four native Sorbian-speakers received qualified vocational training as pre-school teachers. However, this supply does not seem to meet the growing demand.

134. According to the information contained in the third state report, Bachelor and Masters degree courses were introduced at Leipzig University in 2006/ 2007 which also applies to the Institute for Sorabistics. Every year about four to six school graduates enter Sorbian studies. During the on-the-spot visit, representatives of the Upper Sorbian-speakers informed the Committee of Experts that the revised law on limited admissions policy would lower the *Numerus Clausus* for those students who study the subjects concerned in combination with Sorbian.

135. The Committee of Experts was informed that the revised law should be in place by the winter semester 2008/2009. It was also informed that the Ministry of Education entered into an agreement with students of Sorbian that after graduation they were guaranteed a teaching position. Pupils are informed about this agreement on special information days during the final two years of grammar school.

136. During the on-the-spot visit, the representatives of the Saxon authorities informed the Committee of Experts that due to a general oversupply of teachers, Saxony has introduced a compulsory part-time employment regulation for all teachers. Although exceptions were made to this rule for Sorbian teachers, representatives of the speakers were concerned about the fact that there were still non Sorbian-speaking teachers at Sorbian schools which led to a reduced offer of Sorbian-medium education.

137. Finally, according to the information contained in the third periodical report (page 40), a regional school authority in Bautzen offers a two-year specialised advanced training course in Upper Sorbian for teachers in cooperation with Leipzig University.

138. Although certain problems remain, the Committee of Experts notes the positive initiatives from the authorities and considers that the undertaking remains 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.”

139. In its second evaluation report (see paragraphs 110 – 113), the Committee of Experts considered that the content of the existing monitoring bodies' reports on Sorbian education did not correspond to the requirements of this undertaking and that the undertaking was therefore not fulfilled.

140. In their third periodical report, the German authorities confine themselves to repeating that a report is presented by the Saxon Government to the Saxon Parliament at least once every legislative period, disagreeing with the view taken by the Committee of Experts.

141. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

142. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Upper Sorbian language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

143. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

144. In the absence of such periodic reports, the Committee of Experts concludes that the undertaking remains 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.”

145. In its second evaluation report (paragraphs 114 – 116), the Committee of Experts encouraged the authorities to examine whether the number of users of Upper Sorbian in Dresden justified the offer of education in or of this language. In its additional information, the authorities answered that the competent Dresden Regional Office of the Saxon Education Agency reported that there had been no demand for setting up a class.

146. The Committee of Experts is of the view that, if an offer of Sorbian education is in principle possible, then the speakers should be made aware of this possibility. The encouragement of offering such education is all the more important considering the continuing migration of speakers away from the Sorbian language area (see paragraph 11 above). The Committee of Experts therefore encourages the authorities to take measures to make available Upper Sorbian education in a pro-active manner in those places where a number of users would justify such an offer.

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;”

147. In its second evaluation report (see paragraphs 117 – 120), the Committee of Experts maintained its previous conclusion that these undertakings were only formally fulfilled on the grounds that the right to use Upper Sorbian in court proceedings was not followed by any degree of practical implementation. The Committee of Experts encouraged the German authorities to take the necessary measures to ensure that the possibility to use Upper Sorbian in court proceedings is guaranteed in practice.

148. The third periodical report states that a Saxon Law Guide brochure published by the Saxon State Ministry of Justice expressly mentions the possibility of using the Sorbian language in court proceedings, based on the Saxon Sorbs Act. No information was given on the practical implementation of these undertakings.

149. The Committee of Experts was informed by representatives of the Upper Sorbian-speakers during the on-the-spot visit that, although there were currently no Sorbian-speaking judges, the number of Sorbian-speaking lawyers, however, was increasing.

150. The Committee of Experts maintains its previous conclusion that the undertaking is only formally fulfilled.

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

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;“***

151. In its second evaluation report (see paragraphs 123 – 126), the Committee of Experts considered the undertaking formally fulfilled as there were not sufficient conditions in place to enable the use of Upper Sorbian in dealings with the administration, especially the lack of Upper Sorbian-speaking civil servants. The Committee of Experts encouraged the authorities to implement positive measures, such as those mentioned in the second periodical report.

152. The third periodical report states that the Academy of Public Administration and the College for Public Administration in Saxony review the requirements for language training and upon demand would also offer Sorbian language training for public service employees of the *Land*.

153. With regard to the federal administrative level (for example the Federal Employment Agency), the authorities state in their third periodical report that it is only possible to submit written applications to these bodies. The representatives of the Upper Sorbian-speakers informed the Committee of Experts during the on-the-spot visit that an increasing number of state administrative bodies accepted written applications in Sorbian and replies are given in German. According to representatives of the Upper Sorbian-speakers, however, there are problems with *Land* administrative bodies physically situated outside the Sorbian language areas, but which nevertheless have responsibilities within those areas. The speakers considered that these bodies would not accept applications in Upper Sorbian. The Committee of Experts notes, however, that they are obliged by law to do so and would therefore welcome further information in the next periodical report.

154. The Committee of Experts nevertheless considers the 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;“***

155. In its second evaluation report (see paragraphs 129 – 131), the Committee of Experts observed that it was rare for Upper Sorbian to be used in those areas where the speakers did not constitute the majority. The Committee of Experts considered the undertaking fulfilled in the core area, and only formally fulfilled in other parts of the Upper Sorbian language area.

156. The Committee of Experts has not received any further information and therefore maintains its previous conclusion.

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;“***

157. In its second evaluation report (see paragraphs 132 – 134), the Committee of Experts considered the undertaking only formally fulfilled since it had not been made aware of how public services make provision for the use of Upper Sorbian in practice.

158. The third periodical report contains no information in this respect. According to the information provided by representatives of Upper Sorbian-speakers during the on-the-spot visit, there are an increasing number of public bodies that accept written applications in Upper Sorbian. However, replies would be given in German.

159. In the light of this new information, the Committee of Experts considers the undertaking partly fulfilled and encourages the authorities to achieve complete fulfilment by ensuring that replies are given in Upper Sorbian.

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.”***

160. In its second evaluation report (see paragraph 135), the Committee of Experts was unable to conclude on this undertaking at the time of the report due to a lack of information on positive practice or a structured approach.

161. The third periodical report contains no information in this regard. The Committee of Experts must therefore conclude that the undertaking is not fulfilled. The Committee of Experts encourages the authorities to provide information on this undertaking in the 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;”***

162. In the second evaluation report (see paragraphs 136 – 139), the Committee of Experts noted that a good public service radio provision in Upper Sorbian existed, however, in view of the fact that the undertaking concerns private radio broadcasters, it concluded that the undertaking was not fulfilled.

163. No information with regard to private broadcasting is provided in the third periodical report.

164. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Upper Sorbian.

165. With regard to public broadcasting, there continues to be a good coverage of radio programmes in Upper Sorbian on public channels. The broadcaster *MDR 1 Radio Sachsen* broadcasts a daily three hour programme, a Sunday programme and a weekly youth programme. During the on-the-spot visit,

representatives of Upper Sorbian informed the Committee of Experts that progress is being made with the public regional channel *MDR* which involves young Upper-Sorbian speakers creating their own programme and programmes are also accessible via the internet. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17) the Committee of Experts concludes that the undertaking is fulfilled.

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

166. In its second evaluation report (see paragraphs 140 – 143), the Committee of Experts considered that, in view of the fact that the undertaking concerns private television broadcasters, the undertaking was not fulfilled.

167. No information with regard to private broadcasting is provided in the third periodical report. It seems that programmes in Upper Sorbian are very sporadically aired on the private television channel *Punkteins Oberlausitz TV* (Sorbian features produced by the Saxon training channel *SAEK*).

168. The comments made in relation to private radio broadcasting (see paragraph 164 above) apply equally to television broadcasting.

169. With regard to public broadcasting, there continues to be a coverage of television programmes in Upper Sorbian on public channels. The broadcaster *MDR* broadcasts a monthly magazine and a weekly children’s programme in Upper Sorbian. As stated above (see paragraph 165 above), *MDR* has improved its programming with regard to Upper Sorbian.

170. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. c (see paragraph 17 above) the Committee of Experts concludes that the undertaking is partly fulfilled.

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

171. In its second evaluation report (see paragraphs 144 – 146), the Committee of Experts noted that a number of audiovisual productions in Upper Sorbian were financed through different organisations, however, there appeared to be no financial assistance through existing measures, nor were they designed in a way that programmes in Upper Sorbian could qualify for them in practice. The Committee of Experts considered the undertaking formally fulfilled.

172. The third periodical report mentions the Saxon training channels (*SAEK*) funded mainly by the Saxon Supervisory Authority for Private Broadcasters. The Bautzen Branch cooperates with Sorbian schools and institutions and carries out specific projects in Upper Sorbian. While of course welcoming this initiative, the fulfilment of this undertaking requires financial assistance to audiovisual productions in a broader sense, including for instance mainstream documentary and drama.

173. The Committee of Experts asks the German authorities to provide information on audiovisual productions financed by the Supervisory Authority for Private Broadcasters or other competent bodies in their next periodical report.

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;”*

174. In the first evaluation report (paragraph 462), the Committee of Experts considered this undertaking fulfilled on the basis that the state funded Foundation for the Sorbian People subsidised different kinds of cultural activities.

175. The representatives of the Upper Sorbian-speakers informed the Committee of Experts during its on-the-spot visit, that they were concerned about the insecure situation of the future funding of the foundation (see paragraphs 34 - 35 above). In this context, further funding of the Sorbian National Ensemble is threatened. The undertaking is still fulfilled at present, but the Committee of Experts observes that there is a risk of this undertaking not being fulfilled unless steps are taken to ensure the level of funding of the foundation and the continuity of the Ensemble, given its particularly significant position in Sorbian culture.

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.”

176. In its second evaluation report (see paragraphs 150 - 153), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Upper Sorbian language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany was reflected when presenting and promoting Germany abroad.

177. No relevant information is given in the third periodical report (in fact, the authorities argue that the federal level must not necessarily implement this undertaking). As mentioned in the second evaluation report (paragraphs 150 – 153), the representation abroad is based on projects for which the regional or minority language speakers must apply via the Goethe Institute. During the last monitoring cycle, a Sorbian folk dance group was granted funding for performances at a festival in Canada.

178. The Committee of Experts refers to its comments with regard to Danish (see paragraphs 103 – 106 above) and considers that the undertaking remains not fulfilled as regards the federal level.

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;”*

179. In its second evaluation report (see paragraphs 154 – 156), the Committee of Experts reported on the prohibition of the use of Sorbian in a private ecclesiastical establishment which provides social services. It did not conclude on this undertaking and encouraged 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.

180. In August 2006, a federal anti-discrimination act entered into force (*Allgemeines Gleichbehandlungsgesetz*) which prohibits among other things racial discrimination or ethnocentrism, the latter implying discrimination against members of a national minority and in certain circumstances their language. The Committee of Experts is pleased to note that the national minorities are represented by one member in the Advisory Council of the Federal Anti-Discrimination Bureau.

181. In their third periodical report, the authorities report that the prohibition was reviewed by the Saxon authorities which was followed by an adaptation of the establishment’s regulations on language use. However, the Saxon authorities state that the issue has not been sufficiently settled and needs to be followed up.

182. While acknowledging the efforts made by the Saxon authorities, the Committee of Experts is still not in a position to conclude on this undertaking pending information on the outcome of the above-mentioned case and about measures taken to oppose any practices discouraging the use of Upper Sorbian in connection with economic or social activities.

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;”***

183. In the second evaluation report (see paragraphs 161 – 163), the Committee of Experts considered the undertaking only partly fulfilled on the grounds that a bilingual human resources policy for hospitals was essential for the fulfilment of this undertaking. As a result it encouraged the German authorities to take measures to ensure that social care facilities can receive and treat the persons concerned in Upper Sorbian.

184. In the third periodical report, the authorities confine themselves to repeating that there was no reason to employ Sorbian-speaking staff, on the grounds that the Upper Sorbian-speakers all have a command of German and that it was more a matter of chance than design that the homes and hospitals employed Sorbian-speaking staff. The Committee of Experts received no information with regard to measures taken by the authorities to ensure that these institutions have staff with the necessary Sorbian language skills, whether by recruitment or training. The Committee of Experts underlines that the current undertaking requires the authorities to *ensure* that Upper Sorbian is used in these establishments which can only be achieved by a bilingual human resources policy.

185. The Committee of Experts therefore revises its previous conclusion and considers the undertaking not 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.

2.2.3. *Lower Sorbian in the Land of Brandenburg*

186. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Lower Sorbian, these provisions are the following:

- Article 8, paragraph 1. f.iii;
- Article 9, paragraph 1.b; c;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.g;
- Article 10, paragraph 4.a;
- Article 10, paragraph 5;
- Article 11, paragraph 1.d; e.i;
- Article 11, paragraph 2;
- Article 12, paragraph 1.b; c; d; e; f; g; h;
- Article 12, paragraph 2;
- Article 13, paragraph 1.a; c.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

187. In its second evaluation report (paragraphs 164 – 166), the Committee of Experts was informed that the City of Lübben wanted to be recognised as part of the traditional settlement area defined by statutory law (*Sorben(Wenden)-Gesetz*) but that it would be necessary to amend the law. In administrative practice, this protection is limited to municipalities contained in an official list drawn up by the Ministry of Science and Culture.

188. The Committee of Experts noted that the definition of the traditional settlement area has an impact on the implementation of several undertakings under Part III of the Charter and urged the German authorities to ensure that legal and administrative obstacles do not hamper the implementation of the undertakings in areas where Lower Sorbian is traditionally used.

189. According to the third periodical report (paragraph 2008), the *Land* Government and Parliament examined the possibility of extending the territory to include municipalities with a tradition of Sorbian language *or* culture instead Sorbian language *and* culture, as currently required under paragraph 3.2. of the *Sorben(Wenden)-Gesetz*. However, in the end it was decided not to amend the law since they were of the view that culture and language were inseparable and interdependent, and because of the high cost that would have been implied.

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;”***

190. In its second evaluation report (see paragraphs 167 – 171), the Committee of Experts identified a number of problems with regard to Lower Sorbian in pre-school education, in particular concerning financial support and lack of qualified bilingual pre-school teachers. It therefore considered the undertaking partly fulfilled and encouraged 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.

191. From the information contained in the third periodical report, it seems that the authorities have not addressed the problems detected by the Committee of Experts, nor have attempts been made to adopt a more structured education policy.

192. The authorities argue that the municipal authorities provide advice to interested parents about the Witaj-project and the funding connected to it. They also argue, however, that they do not know who would be potentially interested so they do not reach out to them. This undertaking requires the authorities to take proactive steps so that parents are at least made aware of the possibilities through, for instance, a public information campaign.

193. According to the information received by the representatives of the Lower Sorbian-speakers during the on-the-spot visit, there are a growing number of privatised day-care centres. These centres tend to have a smaller number of children which makes the formation of Lower Sorbian groups within these centres more difficult, although there is a demand for bilingual education and the teachers in these centres would be willing to attend further language training. However, according to the speakers, there is no funding available for such training, the municipalities are not in a position to cover the costs, and the funding procedure for financial support from the *Land* under the *Land* Youth Plan is unclear to the speakers, especially in this context.

194. There seem to be good opportunities for the municipal authorities to work together with representatives of the speakers to improve the situation of Lower Sorbian in pre-schools. According to the speakers, the main problem lies in the lack of pre-school teachers and the insufficient degree of Sorbian education within the professional training courses. Notwithstanding these difficulties, new Witaj pre-schools are opening due to the growing demand.

195. The Committee of Experts concludes that the undertaking remains partly fulfilled.

The Committee of Experts urges 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;”***

196. In its second evaluation report (see paragraphs 172 – 176), the Committee of Experts detected some problems relating to primary school education in Lower Sorbian, namely a shortage of qualified teachers, lack of continuity from pre- to primary schools and the lack of provision in some territories where Lower Sorbian is spoken but which lie outside the traditional settlement area as defined by law (*Sorben(Wenden)-Gesetz*). The Committee of Experts considered the undertaking only partly fulfilled and encouraged the

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.

197. With regard to the matter related to the traditional settlement area, see paragraphs 187 – 189 above. According to the information received from representatives of the Lower Sorbian-speakers, Sorbian education is also offered in schools that lie outside the traditional settlement area, if there is a demand.

198. Problems with regard to the teaching of Lower Sorbian have evolved from a new curriculum in primary education. According to the information received from representatives of Lower Sorbian-speakers during the on-the-spot visit, the introduction of new subjects such as English from third class onwards has led to a shift of Lower Sorbian classes to outside core school hours (“Randstunden”). This shifting has also led to a problem with school transport.

199. In some cases, Lower Sorbian is only offered from third class onwards. The representatives also noted a deterioration in the knowledge of Lower Sorbian among the pupils. The Committee of Experts is also concerned about the remaining shortage of teachers able to teach in Lower Sorbian which is likely to have a negative effect on the continuity from pre-school to primary school.

200. In the light of the apparent shift of Lower Sorbian teaching outside core school hours, the Committee of Experts is concerned that this undertaking may now be not even partly fulfilled. The Committee of Experts asks the authorities to clarify in the next periodical report the extent of this trend and in the meantime to make efforts to ensure that Lower Sorbian is taught as an integral part of the curriculum.

The Committee of Experts urges the authorities to take immediate efforts to ensure that Lower Sorbian is taught as an integral part of the curriculum throughout primary education in all areas where there is a sufficient demand.

- “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;”***

201. In its second evaluation report (see paragraphs 177 – 181), the Committee of Experts noted that the number of pupils receiving classes in or of Lower Sorbian was very low. Also, the exclusion of territories where Lower Sorbian is spoken but which lie outside the traditional settlement area as defined by law also affected the extent to which Lower Sorbian can be offered in the *Land* Brandenburg. The Committee considered the undertaking only partly fulfilled.

202. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Lower Sorbian speakers that there is an increasing demand for Lower Sorbian education in lower secondary schools as a consequence of the success of the Witaj schools.

203. A concern was raised in the context of the general teacher supply at schools in Brandenburg. The Committee of Experts understands that due to a general surplus of teachers, non-Sorbian speaking teachers are employed at the Lower Sorbian grammar school. The representatives therefore requested that only Sorbian-speaking teachers should be employed. Representatives also requested to be involved in the decision-making process in this respect.

204. Unless the non-Sorbian-speaking teachers receive training which enables them to teach through the medium of Sorbian, the deployment of such teachers in the only Lower Sorbian grammar school seems to the Committee of Experts to be a further negative trend.

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

The Committee of Experts urges the authorities to take immediate efforts to ensure that Lower Sorbian is taught as an integral part of the curriculum throughout secondary education in all areas where there is a sufficient demand.

- “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;”***

206. In its second evaluation report (see paragraphs 182 – 185), the Committee of Experts reported on a shortage of lecturers and professors specialised in Lower Sorbian, with particular reference to practical language use. Also, the higher education provision for Lower Sorbian at Leipzig University did not seem adequate for Lower-Sorbian speaking teacher candidates. The Committee therefore considered that the undertaking was only partly fulfilled. It urged 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.

207. According to the information displayed on the university’s website there are at least two university professors specialised in Lower Sorbian and courses on Lower Sorbian are offered.

208. According to the representatives of Lower Sorbian-speakers, the transfer of Sorbian studies for training of teachers from Potsdam University to Leipzig University has been in a transition phase over the past four years.

209. The Committee of Experts was also informed of the new agreement between the *Land* Brandenburg and the Free State of Saxony with regard to the *Numerus Clausus* (passing level) needed for entering certain university subjects at Leipzig University. By virtue of the new university admission law, students who wish to take Sorbian studies, are exempted from the passing level required for the other subject or subjects they intend to study from the winter semester 2008 onwards (see also paragraph 134 above).

210. Since the information received indicates that there is a possibility to study Lower Sorbian at university level and research on Lower Sorbian is carried out, the Committee of Experts considers this undertaking fulfilled.

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

211. The amended Brandenburg Teacher Training Act of May 2007 includes a provision stipulating that the history and culture of the Sorbs should be adequately considered during teacher training at university level. The Committee of Experts welcomes this amendment and considers that the undertaking remains 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;”***

212. In its second evaluation report (see paragraphs 186 – 191), the Committee of Experts detected shortcomings with regard to teacher training at all school levels. It considered the undertaking partly fulfilled and urged 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. On the basis of this observation, the Committee of Ministers addressed the following recommendation to the German government: **“take action to improve provision and allocate adequate**

resources for regional or minority language teaching and in particular (...) – remedy the existing shortage of Lower-Sorbian-speaking teachers; (...)" (RecChL(2006)1, Recommendation 2).

213. In their third periodical report, the authorities admit to the shortage of Lower Sorbian teachers and state they will report about the measures taken in the next periodical report. So far, therefore, it does not seem that the authorities have taken any steps to redress the shortage by providing incentives for teacher training, apart from the agreement with regard to higher education (see paragraph 209 above) and the support from the Ministry of Education for the Information days for grammar school pupils in their final two years to attract them to the teaching profession (see paragraph 135 above). Therefore, as mentioned in the relevant paragraphs above, there is still a shortage of teachers at all levels of education.

214. In order to remedy the lack of Lower Sorbian teachers, the representatives of the speakers suggested interim solutions, and the Committee of Experts encourages the *Land* Brandenburg to take a flexible approach in order to alleviate the shortage of teachers on a short-term basis, in co-operation with the speakers.

215. According to the comments received by representatives of the speakers, there are further training offers for teachers that have little or no knowledge of Lower Sorbian.

216. In spite of some positive developments, the Committee of Experts observes that there is still a lack of Lower Sorbian teachers at all levels of education and there are no specific and dedicated efforts to increase the training of teachers qualified in Sorbian. It therefore considers that the undertaking remains only partly fulfilled.

The Committee of Experts urges the authorities to adopt a structured policy to tackle the present shortage of Lower Sorbian 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.”

217. In the second evaluation report (see paragraphs 192 – 194), the Committee of Experts concluded that this undertaking was not fulfilled, as the Committee of Experts had not been made aware of any periodic reports drawn up on the teaching of Lower Sorbian and made public by the existing supervisory bodies.

218. In the third periodical report, the Brandenburg authorities state that the Ministry of Education as well as the regional supervisory school authority continue to carry out supervisory functions. They also claim that they have reported extensively to parliamentary interpellations which the authorities considered sufficient. However, these parliamentary interpellations only seem to target certain aspects of education, such as the teaching of or research into the history and culture of the Sorbs. The current undertaking, however, goes beyond merely reporting.

219. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

220. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Lower Sorbian language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

221. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

222. In the absence of such periodic reports, the Committee of Experts concludes that the undertaking remains 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;”

223. In its second evaluation report (see paragraphs 195 – 198), the Committee of Experts observed that the right to use Lower Sorbian in court proceedings was not followed by any degree of practical implementation. The Committee of Experts therefore concluded that these undertakings were only formally fulfilled.

224. In their third periodical report, the authorities indicate that no changes have occurred since the last monitoring round. During the on-the-spot visit, a representative of the Brandenburg authorities informed the Committee of Experts that the *Land* Parliament had issued information material on legal issues concerning the Sorbian people.

225. While acknowledging the measures taken by the authorities, in the absence of any practical implementation, the Committee of Experts considers that the undertakings remain only formally 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;”

226. In its second evaluation report (see paragraphs 201 – 205), the Committee of Experts considered that the undertaking continued to be only formally fulfilled because there were not sufficient conditions in place to enable the use of Lower Sorbian in dealings with the administration, especially the lack of Lower Sorbian-speaking civil servants. The Committee of Experts encouraged 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.

227. In their third periodical report, the authorities reiterate their view that no practical measures are taken in relation to this undertaking and that it is a legal right to submit an application in Sorbian.

228. As the Committee of Experts pointed out in its last report, the undertaking goes beyond merely removing legal restrictions to the use of Sorbian, but requires the creation of conditions so that it becomes practically possible to use the language and the need to make the speakers aware of this possibility (see second evaluation report, paragraphs 201 – 209).

229. According to the evidence received from representatives of the Lower Sorbian speakers, the relevant administrative authorities have not taken any steps to make speakers aware of the possibility to submit applications in their language.

230. One way towards ensuring the possibility to submit oral and written applications in practice is to give preference to job applicants with a knowledge of Lower Sorbian/ or to state this as an asset or a requirement in the job announcement. According to representatives of the speakers, this has so far only happened very occasionally and there is a need to make it part of the job requirement in the job description. The Brandenburg Minister of the Interior, however, has given instructions to review the demand for further training in Sorbian language skills for employees.

231. The Committee of Experts welcomes this initiative and looks forward to receiving further information on the follow-up in the next periodical report. In the meantime, however, the Committee of Experts considers that the undertaking remains formally fulfilled.

The Committee of Experts urges 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;”

232. In its second evaluation report (see paragraphs 206 – 209), the Committee of Experts observed a lack of practical implementation of this undertaking and no apparent active encouragement on behalf of the authorities to enable communication in Lower Sorbian. Also, the legal right to the use of Lower Sorbian in this field was confined to those territories defined by law. The Committee of Experts therefore considered the undertaking was only partly fulfilled.

233. In their third periodical report, the authorities reiterate their view that no practical measures are taken in relation to this undertaking and that it is a legal right to submit an application in Sorbian.

234. As the Committee of Experts pointed out in its last report, the undertaking goes beyond merely removing legal restrictions to the use of Sorbian, but requires the creation of conditions so that it becomes practically possible to use the language and the need to make the speakers aware of this possibility (see second evaluation report, paragraphs 201 – 209).

235. According to the evidence received from representatives of the Lower Sorbian speakers, the relevant administrative authorities have not taken any steps to make speakers aware of the possibility to submit applications in their language.

236. One way towards ensuring the possibility to submit oral and written applications in practice is to give preference to job applicants with a knowledge of Lower Sorbian/ or to state this as an asset or a requirement in the job announcement. The Committee of Experts was informed by representatives of the speakers that, following a request made by the Council for Sorbian Issues, the State Ministry of the Interior sent a letter in August 2007 to the relevant regional and local authorities to remind them of their obligations under Article 10 of the Charter and recommended to consider the knowledge of the Sorbian language as an asset in job announcements. According to representatives of the speakers, this has so far only happened very occasionally and there is a need to make it part of the job requirement in the job description. The Minister also gave instructions to review the demand for further training in Sorbian language skills for employees.

237. The Committee of Experts welcomes this initiative and looks forward to receiving further information on the follow-up in the next periodical report. In the meantime, however, the Committee of Experts considers that the undertaking remains partly 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:

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

238. In the second evaluation report (see paragraphs 210 – 211), the Committee of Experts was not in a position to conclude on this undertaking due to a lack of information and invited the German authorities to provide further information and practical examples in the next periodical report.

239. The *Land* authorities did not provide any information in the third periodical report. The Committee of Experts must therefore assume that the 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.”

240. In its second evaluation report (see paragraph 215), the Committee of Experts was unable to conclude on this undertaking due to lack of information on positive practice or a structured approach.

241. According to the information provided in the third periodical report, the *Land* authorities were not aware of any demand and did not feel the need to take a structured approach to an implementation of this undertaking.

242. In the light of this information, the Committee of Experts considers the undertaking not 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;”

243. In the second evaluation report (see paragraphs 216 – 219), the Committee of Experts noted that a good public service radio provision in Lower Sorbian existed, however, in view of the fact that the undertaking concerns private radio broadcasters, it concluded that the undertaking was not fulfilled.

244. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Lower Sorbian.

245. With regard to public broadcasting, according to the information at the disposal of the Committee of Experts, there are 6.5 hours of broadcasting per week in Lower Sorbian on the regional public channel *RBB*.

246. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17 above) the Committee of Experts concludes that the undertaking is fulfilled.

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

247. In its second evaluation report (see paragraphs 220 - 223), the Committee of Experts considered that, in view of the fact that the undertaking concerns private television broadcasters, the undertaking was not fulfilled.

248. With regard to public broadcasting, the Committee of Experts is not aware of any television programmes in Lower Sorbian.

249. The Committee of Experts has received no further information on the broadcasting of television programmes in the private or public media, nor of any measures taken by the *Land* authorities to encourage and/ or facilitate the broadcasting of television programmes. The Committee of Experts must therefore maintain the conclusion that the 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:

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;”

250. With regard to this undertaking, the Committee of Experts refers to the paragraphs 174 - 175 above.

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.”

251. In its second evaluation report (see paragraphs 227 - 230), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Lower Sorbian language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad.

252. The Committee of Experts refers to its comments with regard to Danish (see paragraphs 103 – 106 above) and considers that the undertaking remains not fulfilled.

Article 13 – Economic and social life

Paragraph 1

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

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

253. In its second evaluation report (see paragraphs 234 – 237), the Committee of Experts considered the undertaking not fulfilled, as it was not informed of any measures of encouragement within the meaning of this undertaking.

254. According to the information contained in the third periodical report, the *Land* authorities provide some financial support to promote the use of Lower Sorbian at church services.

255. In the light of this information, the Committee of Experts considers the undertaking partly fulfilled.

2.2.4. North Frisian in the Land of Schleswig-Holstein

256. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of North Frisian, these provisions are the following:

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

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;”***

257. In its second evaluation report (see paragraphs 239 – 245), the Committee of Experts noted that there was no mechanism systematically ensuring the provision of pre-school education in North Frisian in all places where there was a need and in this context asked for more information on the new law on day-care centres (*Kindertagesstättengesetz*). Due to the planned shift of funding of day-care centres from the *Land* to the local level, the Committee of Experts urged the authorities to ensure that these changes did not have a negative impact on the current provision of pre-school education in North Frisian. The Committee was also concerned about the lack of Frisian-speaking teaching staff. The Committee considered the undertaking partly fulfilled and urged 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.

258. In the third periodical report, the authorities confine themselves to pointing to the existing guidelines on the implementation of the 2005 amended law on day-care centres that places particular emphasis on the regional or minority languages of Schleswig-Holstein. However, the amended act itself does not seem to

contain any reference to regional or minority languages. The periodical report also states that the responsibility for day care centres lies at the municipal level. According to additional information provided by the authorities, the transfer of funding of day-care centres from the *Land* to the local level did not require any specific measures to ensure the teaching of North Frisian.

259. However, during the on-the-spot visit, representatives of the Frisian-speakers drew the Committee of Experts' attention to the fact that pre-school institutions that offer North Frisian do not receive any additional subsidies, and all additional arising costs are borne by associations. The representatives of the authorities admitted during the on-the-spot visit that the *Land* gave no specific financial incentives with regard to Frisian pre-school education. Although the federal authorities support further training of pre-school teachers in North Frisian in weekend seminars, most of the teaching still seems to be carried out on the basis of voluntary helpers. There is still a lack of trained pre-school teachers.

260. The Committee of Experts regrets that the recommendation of the Committee of Ministers for the adoption of a systematic policy for North Frisian education has not been implemented by the authorities in relation to pre-schools. Such a policy is needed in order to meet the evident demand for pre-school education in North Frisian. The authorities should urgently adopt and implement a systematic policy of support for North Frisian pre-school education, taking account of the fact that an improvement for regional or minority language education requires special measures and additional funding.

261. The Committee of Experts considers that the undertaking is still only partly fulfilled.

The Committee of Experts again 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;”***

262. In its second evaluation report (see paragraphs 246 – 250), the Committee of Experts observed that, despite some improvements, the provision of North Frisian education at primary schools was still patchy and therefore considered the undertaking only partly fulfilled. It encouraged the German authorities to make available North Frisian teaching at least as an optional subject in the normal curriculum.

263. In their third periodical report, the authorities confine themselves to statistical information, according to which there has been a slight decrease in the number of pupils receiving Frisian education since the last monitoring round.

264. According to the information received by representatives of the Frisian-speakers, North Frisian is still offered as an additional extra-curricular subject and not within the normal curriculum. Furthermore, it is often only offered in third and fourth class.

265. According to the representatives of the *Land* authorities during the on-the-spot visit, there was no minimum number of pupils required to set up a class. However, no steps have been taken to identify the demand and offer North Frisian in a more pro-active way. The representatives further informed the Committee of Experts about the difficulty of offering North Frisian alongside the offer of English classes.

266. The Committee of Experts regrets that the recommendation of the Committee of Ministers for the adoption of a systematic policy for North Frisian education has not been implemented by the authorities in relation to primary schools. Such a policy is needed in order to meet the evident demand for primary school education in North Frisian. The authorities should urgently adopt and implement a systematic policy of

support for North Frisian primary school education, taking account of the fact that an improvement for regional or minority language education requires special measures and additional funding. In particular primary education in/of North Frisian must be provided across all ages and during regular school hours as part of the curriculum.

267. Given the information received in the third monitoring round, it seems that the minimum conditions for fulfilling the undertaking chosen by Germany for primary school education in relation to North Frisian are not met, namely that it be offered as an integral part of the curriculum. The Committee of Experts therefore revises its previous conclusion and considers that the undertaking is not fulfilled.

The Committee of Experts urges 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
- 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;”

268. In its second evaluation report (see paragraphs 251 – 256), the Committee of Experts noted in particular that North Frisian was generally offered merely as an additional subject outside the normal curriculum. In its second evaluation report, the Committee of Experts took note of the *Land* authorities' plan to make North Frisian a *Wahlgrundkurs* (an optional core subject) and to give it the same status as other optional languages. It therefore considered the undertaking only partly fulfilled at the time of the report and encouraged the German authorities to pursue their efforts to make North Frisian an optional core subject (*Wahlgrundkurs*) within secondary education.

269. Based on the information contained in the third periodical report and the information received during the on-the-spot visit, apart from two pilot projects carried out on the island of Sylt, the status of North Frisian in the education system has remained unchanged. North Frisian organisations therefore demand a legal basis for North Frisian as a matter of raising its status in education and ensuring a continuous provision, for example by giving North Frisian the status of a *Wahlpflichtfach* (optional compulsory subject).

270. There is a still lack of Frisian teachers at secondary schools.

271. The Committee of Experts regrets that the plans for improving the position of North Frisian within secondary education have not been further pursued, particularly in the light of the Committee of Ministers' recommendation. The Committee of Experts regards the inclusion of North Frisian in the regular curriculum as a basic precondition for fulfilling this undertaking.

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

The Committee of Experts urges the German authorities to make available North Frisian teaching at least as an optional subject within secondary education.

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

273. In its second evaluation report, the Committee of Experts noted that a general reform of the university education system could have a negative impact on the study of North Frisian at university level. It

considered the undertaking fulfilled, but nevertheless urged the German authorities to ensure that an adequate provision with respect to this undertaking is maintained.

274. The Committee of Experts is pleased to note that despite the reform of university education, the study of North Frisian as a higher education subject remains at Kiel University within the new system. The study of North Frisian also forms part of the teacher training course at Flensburg university (see paragraph 277 below).

275. The Committee of Experts considers the undertaking 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;”

276. In its second evaluation report (see paragraphs 260 – 266), the Committee of Experts observed a lack of qualified nursery school teachers, as well as a teaching staff shortage at primary and secondary school level. While acknowledging the efforts of the German authorities, the Committee of Experts nevertheless considered the undertaking only partly fulfilled. It encouraged 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.

277. According to the information provided in the third periodical report (paragraph 3009), the restructuring of the university system led to the abolition of the State Examination courses of studies (ie the traditional teacher training courses) at the University of Flensburg. These courses have been replaced by a bachelor degree course as the first part of the teachers studies under the Bachelor's/ Master's programme. Under this programme, North Frisian is not available as a subject in its own right, but the attendance of at least one course in North Frisian or Low German is a compulsory part of German as a subject. Although the representatives of the speakers welcome the fact that this applies to all prospective teachers of German, they criticised that this offer was insufficient from the point of view of teaching North Frisian.

278. This new structure seems inadequate to supply the teachers required to fulfil the undertakings under Art. 8. Furthermore, there is a danger that North Frisian studies in Flensburg will disappear completely unless decided action is taken to strengthen its position.

279. Representatives of the North Frisian-speakers informed the Committee of Experts that there is a lack of young teachers to fill the posts of retired teachers (examples were given for schools in Fahretoft and Bredstedt) which leads to a disruption or limitation of the offer of North Frisian education at these schools.

280. The Committee of Experts considers that teacher training is an essential component in ensuring an adequate offering of North Frisian at all levels of education. Planning for teacher training should be regarded as an integral part of the support policy for North Frisian in education as envisaged by the Committee of Ministers' recommendation. The Committee of Experts is concerned that there may in future be no meaningful North Frisian education at primary or secondary education because there will be no one to teach it. The Committee of Experts considers the undertaking partly fulfilled at present. However, there is a risk that if the current trend continues the undertaking will not be fulfilled at all.

The Committee of Experts urges 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.”

281. In its second evaluation report (see paragraphs 267 – 270), the Committee of Experts considered that the frequency and the content of the reports of the existing supervisory bodies did not correspond to the requirements of this undertaking. It therefore concluded that the undertaking was not fulfilled and encouraged the envisaged moves by the authorities towards drawing up periodic reports and making them public.

282. During the second monitoring round, the Committee of Experts was also made aware that Schleswig-Holstein was considering appointing a staff member of the North Frisian Institute to monitor and report on the relevant developments and asked for further information in the next report.

283. The third periodical report contains no relevant information with regard to the above-mentioned envisaged moves towards the fulfilment of this undertaking.

284. As mentioned in the second evaluation report, school supervision is carried out by the Ministry of Education and there is a supervisory officer who is responsible among other things for monitoring and reporting on North Frisian education. However, according to the evidence received by representatives of the speakers, supervision is restricted to data collection and the employment of teachers but does not monitor the measures taken and the progress achieved with regard to the teaching of North Frisian. Nor has the Committee of Experts been made aware of a report produced by the Ministry of Education.

285. The Committee of Experts therefore maintains its previous conclusion that the 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.”

286. In its second evaluation report (paragraphs 271 – 273), the Committee of Experts took note that North Frisian teaching took place at a *Hauptschule* (secondary school) in Husum which is in North Frisia but outside the traditional language area. It therefore considered the undertaking partly fulfilled and encouraged 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 lived, such as Kiel.

287. In its additional information to the Committee of Experts, the authorities state that they have no statistics on the number of North Frisian-speakers outside the traditional language area and that they had reacted to demand for North Frisian education. The Committee of Experts has received no complaints that any demand for teaching in or of North Frisian elsewhere has been denied. The Committee of Experts therefore considers the undertaking fulfilled.

Article 10 – Administrative authorities and public services

288. In its last evaluation report (paragraphs 274 – 275), the Committee of Experts commended the *Land* authorities for the adoption of the law on the use of North Frisian in the public sphere and asked for further information on the implementation of the law in the next periodical report.

289. According to the information received by the representatives of the speakers, the law on the Frisian language especially had an impact on the visibility of the language in terms of new bilingual signposting on buildings, and bilingual letterheads used by public authorities and place-name signs (see also paragraph 39 above).

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;”***

290. In its second evaluation report (paragraphs 276 – 279), the Committee of Experts observed that North Frisian was used on a more informal basis in the communication with administration, rather than in

official documents or written applications. It stressed that, also with a view to the Frisian Law, it was important to ensure that all relevant administrative authorities in the Frisian-speaking areas had the capacity to deal with documents submitted in North Frisian. The Committee of Experts did not draw a conclusion on this undertaking, pending information on the practical implementation of the new law.

291. The *Land* authorities state in their third periodical report (paragraph 3025) that they had conducted a survey to that effect, according to which North Frisian was used in oral communication with administrative bodies on the *Land* and local level, but that there were no reports on written use. Other findings of the survey related to the scarcity of Frisian-speaking staff members and the apparent lack of knowledge of several authorities of the geographical scope of application of the law.

292. In this respect, an example was brought to the Committee of Experts' attention by representatives of the North Frisian-speakers during the on-the-spot visit that a document in North Frisian to register the newly founded youth organisation was rejected by the district court whose competency in this regard had been shifted from Niebüll to Flensburg which lies outside the Frisian-speaking area. The law on the Frisian language has no effect on this, since it only applies to the district of North Frisia.

293. The Committee of Experts concludes that the undertaking is formally fulfilled but there remain practical problems with regard to the implementation of this undertaking which must be addressed.

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.”***

294. The undertaking was considered fulfilled in the last evaluation report. The third periodical report lists fifteen local authorities that have put up bilingual place names since January 2006. This seems to have occurred as a result of the coming into force of the Frisian Law which, under Section 6, provides that the use of bilingual signs in the North Frisia Kreis should be promoted. In addition, bilingual railway station signs between Husum and Sylt have been installed, with the financial support of the Federal Government. The Committee of Experts is pleased to note these positive developments and continues to consider 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;”***

295. In its second evaluation report (see paragraphs 289 – 294), the Committee of Experts observed that the existing offer of North Frisian programmes on private radio was very limited and sporadic and therefore considered the undertaking to be not fulfilled at the time of the report. It encouraged the German authorities to take measures to encourage and/ or facilitate the broadcasting of radio programmes in North Frisian on a regular basis.

296. According to the information contained in the third periodical report and additional information provided by the authorities, the Frisian Association “Friisk Foriining” has been carrying out a pilot project

since April 2005 in the form of an internet radio programme in North Frisian which is a weekly two-hour live programme. The programme is also transmitted on FM broadcasting over the *Offener Kanal Westküste*.

297. During the on-the-spot visit, representatives of the North Frisian-speakers informed the Committee of Experts that many households do not have access to the internet radio programme and the broadcasting of *Offener Kanal Westküste* cannot be received in most of the North Frisian language area. Also, it seems that the radio programme is currently not broadcast on a regular basis.

298. The technical equipment and the training of journalists required in order to realise this project have been partly subsidised by the Federal Government Commissioner for Culture and Media (BKM). However, the journalists work on a voluntary basis and expenses are covered with the help of "Friisk Foriining" itself, with the support of funds from the Frisian minority.

299. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of North Frisian.

300. With regard to public radio broadcasting, there is a weekly three-minute broadcast in North Frisian.

301. The authorities do not seem to have taken measures to encourage and/ or facilitate the broadcasting of radio programmes. The Committee of Experts concludes that the undertaking remains not fulfilled.

The Committee of Experts urges 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;"

302. In its second evaluation report (see paragraphs 295 – 298), the Committee of Experts considered the undertaking not fulfilled due to the absence of regular broadcasting of North Frisian programmes, and encouraged the German authorities to take measures to encourage and/ or facilitate the broadcasting of television programmes in North Frisian on a regular basis.

303. No information in this respect has been provided by the authorities. It does not seem that any programmes are currently broadcast in North Frisian on either private or public television. According to the representatives of the North Frisian-speakers, there is some coverage of the Frisian minority and information about their language on public television, however, there are no programmes in the language itself.

304. Representatives of the North Frisian speakers said during the on-the-spot visit that the speakers would welcome a monthly television programme in North Frisian.

305. The comments made in relation to private radio broadcasting (see paragraph 299 above) apply equally to private television broadcasting.

306. In the absence of any indications of measures taken to encourage and/ or facilitate the broadcasting of television programmes of North Frisian on a regular basis, the Committee of Experts concludes that the undertaking remains 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.

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

307. In its second evaluation report (see paragraphs 303 – 304), the Committee of Experts observed that the existing newspaper articles in North Frisian were either irregular or monthly, and it had not been made aware of any concrete measures to encourage and/ or facilitate the publication of newspaper articles in North Frisian on a regular basis. Consequently, it considered the undertaking not fulfilled.

308. In the additional information provided to the Committee of Experts, the *Land* authorities state that newspapers published in North Frisia by the publishing company *Schleswig-Holsteinischer Zeitungsverlag* feature a page in Frisian/ Low German about once per month.

309. The Committee of Experts has not been made aware of any form of encouragement or facilitation towards a more frequent publication of newspaper articles. These forms of encouragement or facilitation need not interfere with the freedom of press (as the *Land* argues) but can take the form of supporting journalist training, of providing different kinds of indirect financial assistance, for example via the Frisian language associations.

310. The Committee of Experts maintains its previous conclusion that this undertaking is not fulfilled.

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

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

311. In the second evaluation report (see paragraphs 306 – 308), the Committee of Experts considered the undertaking only formally fulfilled at the moment of the report, since it had 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*), were designed in such a way that programmes in North Frisian could qualify for them in practice.

312. Unfortunately, the Committee of Experts has received no information on how the subsidy fund allows for the qualification of productions in North Frisian in practice. The Committee of Experts must therefore revise its previous conclusion and considers that the 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:

“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;”

313. In its second evaluation report (see paragraph 309), the Committee of Experts maintained its previous conclusion that the undertaking was only partly fulfilled, since it had no new evidence that bodies, other than North Frisian cultural organisations, had North Frisian-speaking staff at their disposal.

314. In the third periodical report, the authorities argue that bodies other than the Frisian associations may make use of the state subsidies to, *inter alia*, employ staff with Frisian language skills. However, the Committee of Experts has not been made aware of how these subsidies are used in practice or how the authorities promote measures to ensure that Frisian-speaking staff is employed.

315. The Committee of Experts considers that the undertaking remains 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.”

316. In its second evaluation report (see paragraphs 310 - 313), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the North Frisian language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad.

317. The Committee of Experts refers to its comments with regard to Danish (see paragraphs 103 – 106 above) and considers that the undertaking remains not fulfilled.

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;”***

318. In the second evaluation report (paragraphs 317 – 319), the Committee of Experts considered the undertaking fulfilled on the basis of information on ongoing negotiations of the conclusion of a cultural agreement between Schleswig-Holstein and the Netherlands.

319. The third periodical report (paragraph 3050) states that the negotiations came to an end in 2004, in agreement with the Frisian Council. The option to resume talks has been left open, and could be raised in the framework of the North Sea Co-operation.

320. Since the Committee of Experts has no information about current negotiations, the Committee of Experts is not in a position to conclude on this undertaking. It looks forward to receiving information on possible further talks, for example in the context of the North Sea Cooperation, in the next periodical report.

2.2.5. *Sater Frisian in the Land of Lower Saxony*

321. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Sater Frisian, these provisions are the following:

- 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; c; d.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

Article 8 – Education

322. The German Part III ratification for Sater Frisian under Article 8 is unusual in that it covers only pre-school and higher education. The essential components of primary and secondary education are missing. The Committee of Experts has already referred to the need for a structured policy to protect and promote Sater Frisian across all levels of education in this particularly endangered language (see paragraphs 52 – 55 above).

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;”***

323. In its second evaluation report (see paragraphs 320 – 323), the Committee of Experts was concerned with the lack of resources and the limited extent (one hour per week) to which Sater Frisian was taught in pre-schools by voluntary helpers. The Committee therefore considered that the undertaking was not fulfilled. It urged 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. On the basis of this observation, the Committee of Ministers addressed the following

recommendation to the German government: “take action to improve provision and allocate adequate resources for regional or minority language teaching and in particular (...) – adopt measures to improve teaching in an of Sater Frisian as a matter of urgency and ensure continuity in educational provision in this language (...)” (RecChL(2006)1, Recommendation 2).

324. The Committee of Experts is disappointed to observe that the authorities did not react positively to these recommendations. The conditions under which Sater Frisian is taught in pre-schools remains the same as during the last monitoring round. In additional information to the Committee of Experts, the authorities of Lower Saxony state that no financial or institution-based support is provided by the authorities.

325. According to the new orientation plan of January 2005 on elementary education, as stated in the third periodical report, “in those regions where a regional language is spoken (for example Low German), multilingualism is a good way of enhancing the children’s comprehension skills and language competence”.

326. Although the Committee of Experts acknowledges the new plan, it does not seem to have affected the situation of Sater Frisian in education in any way.

327. In the opinion of the Committee of Experts, Sater Frisian is a particularly endangered language and requires urgent financial and practical support from the authorities in the field of education if it is to survive at all as a living language. The Committee of Experts regrets that the recommendation of the Committee of Ministers for the urgent adoption of suitable measures for Sater Frisian education has not been implemented by the authorities in relation to pre-schools. Such measures are needed as a matter of extreme urgency.

328. The Committee of Experts maintains its previous conclusion that this undertaking is not fulfilled.

The Committee of Experts strongly 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;”

329. In its second evaluation report (324 – 327), the Committee of Experts observed that there were no facilities for the study of Sater Frisian as a university or higher education subject. It was also concerned that the only research post on Sater Frisian at Oldenburg University had been abolished. Consequently, the Committee concluded that the undertaking was not fulfilled and urged 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.

330. According to the information provided by the *Land* authorities in the third periodical report and during the on-the-spot visit, in the context of the assignment of a new professorship for German Philology at the University of Oldenburg, a focus on Low German has been assigned to the new professor, including a teaching position in Sater Frisian. According to the representatives of the authorities, the holder of the chair will establish a language centre for Dutch, Low German and Sater Frisian.

331. While welcoming the initiative taken, the Committee of Experts still considers the undertaking not fulfilled at present and asks the authorities to provide further information in the next periodical report on the establishment and activities of the above mentioned language centre and the exact extent to which Sater Frisian is offered.

“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;”

332. In its second evaluation report (see paragraphs 328 – 330), the Committee of Experts considered the undertaking not fulfilled as adult courses in Sater Frisian were no longer offered at the moment of the report, and the offer of future courses was uncertain.

333. In the third periodical report (paragraphs 3504 – 3505), the authorities provide the information that one beginners' language course took place in 2006 upon the initiative of the Sater Frisian association.

However, it is unclear to the Committee of Experts in which respect the authorities have favoured and/ or encouraged the offering of this or other courses. Furthermore, no adult courses appeared to have been offered in 2007.

334. The Committee of Experts concludes that this undertaking is not fulfilled and encourages the authorities to take measures to re-establish an offer of adult education in Sater Frisian.

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

335. In the second evaluation report (see paragraphs 331 – 334), the Committee of Experts noted that the authorities had taken some positive steps with regard to this undertaking, which included the creation of teaching materials on the history, culture and language of Saterland. However, the topic was not an integral part of the mainstream school curriculum in the Sater Frisian language area. Therefore the Committee of Experts considered the undertaking only partly fulfilled.

336. The new curriculum mentioned by the authorities in the third periodical report in this respect is not relevant for this undertaking (for more about the curriculum, see paragraphs 50 – 54 above). This undertaking does not primarily concern making first acquaintance with the specificities of the language itself, but rather with the teaching of the history and specific traditions related to the languages which is often separate from that of the majority language (see explanatory report to the Charter, paragraph 86).

337. Nevertheless, the new core curriculum could be seen as a step towards the fulfilment of this undertaking if it also applied to classes in which there is no speaker of Sater Frisian, which does not seem to be the case.

338. The Committee of Experts encourages the authorities to look into the possibility of including the teaching of the history and culture related to the Sater Frisian language in the mainstream curriculum so that the majority population on a larger scale also learn about Sater Frisian.

339. The Committee of Experts considers that the undertaking remains partly fulfilled and encourages the authorities to extend the teaching of the history and culture reflected by Sater Frisian to all schools in Saterland.

“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.”

340. In its second evaluation report (see paragraphs 338 – 340), the Committee of Experts considered the undertaking not fulfilled, since it had not been informed of the publication of any periodic reports based on the monitoring of the Specialist Adviser for Sater Frisian.

341. In the third periodical report (paragraph 3509), the authorities provide information about the recent general restructuring of school administration that took place in Lower Saxony. During the on-the-spot visit, the representatives of the *Land* authorities informed the Committee of Experts that the Specialist Adviser is still posted within the Ministry. However, the Committee of Experts has not been informed of the publication of any periodic reports.

342. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

343. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Sater Frisian language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

344. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

345. In the absence of such periodic reports, the Committee of Experts concludes that the undertaking remains not fulfilled and asks the authorities to provide pertinent information in their 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;”

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

346. In its second evaluation report (see paragraphs 338 – 343), the Committee of Experts was informed that the authorities would examine the possibility of issuing directives or formal guidance to the relevant bodies with a view to encouraging speakers to use Sater Frisian and with regard to authorities drafting documents in Sater Frisian. The Committee of Experts was not in a position to conclude on these undertakings since it was lacking information regarding the competent State administration for Saterland.

347. The Committee of Experts underlines that these undertakings concern administrative bodies and public services responsible for Saterland that are answerable to the *Land* of Lower Saxony or the Federal authorities (such as employment offices).

348. In their third periodical report (paragraph 3515), the authorities state that issuing directives or formal guidance would require additional legislation which is not desirable with regard to the current aim of reducing bureaucracy and widening the local authorities’ scope for action.

349. The Committee of Experts underlines that issuing directives or formal guidelines is one possible way of securing the implementation of these undertakings. There are also other possibilities, for example issuing informal guidelines or other ways of reminding the competent authorities of their obligations under the Charter. However, as long as current legislation prescribes German as the official language of administration, an explicit clause allowing for the use of Sater Frisian in appropriate circumstances is needed.

350. According to the information supplied by the representatives of the speakers during the on-the-spot visit, no documents have been drafted in Sater Frisian.

351. The Committee of Experts considers these undertakings not fulfilled.

The Committee of Experts urges the German authorities to take the necessary steps to ensure that the users of Sater Frisian may validly submit a document in Sater Frisian and to allow the administrative authorities to draft documents in Sater Frisian.

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;”

352. In its second evaluation report (see paragraphs 344 – 346), the Committee of Experts considered this undertaking only formally fulfilled, as there was no practical implementation of the possibility to submit applications to the Saterland municipality.

353. During the on-the-spot visit, representatives of the Sater Frisian-speakers confirmed that it was possible to submit applications to the municipality in Sater Frisian. However, the Committee of Experts is still unclear about the actual practical implementation of this undertaking and asks the authorities to clarify this issue in the next periodical report.

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

354. In its second evaluation report (see paragraph 347), the Committee of Experts considered the undertaking was not fulfilled, since no publications within the meaning of this undertaking had been made at the regional administrative level.

355. In the third periodical report (paragraph 3521) the *Land* authorities argue that a comprehensive publication of official documents by regional authorities would be out of proportion and would go beyond what is reasonably practical and possible.

356. The Committee of Experts underlines that, in order to comply with this undertaking, a certain degree of practical implementation must follow the mere “allowing” of publications in Sater Frisian. It also points out that not all publications need to be published in Sater Frisian, but for example, key documents or documents related to Sater Frisian.

357. In the absence of reports of such practices, the Committee of Experts concludes that the undertaking remains not fulfilled.

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

358. In its second evaluation report (see paragraph 348), the Committee of Experts was not in a position to conclude whether this undertaking was fulfilled, as it had received no information on any publications by local authorities.

359. In the absence of any positive evidence that documents are published in Sater Frisian by the local authorities, the Committee of Experts must conclude that the undertaking is not 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;”

360. In its second evaluation report (see paragraph 349), the Committee of Experts considered this undertaking not fulfilled, as it understood that Sater Frisian was not used in the assemblies of regional authorities.

361. In their third periodical report (paragraph 3525), the authorities clarify that this undertaking applies to the district, or *Bezirk* level but that this government level has been dissolved in the course of the recent reform of public administration and has been incorporated into the other administrative levels. In the opinion of the Committee of Experts, however, the undertaking applies also to the *Kreis* level.

362. In the absence of any positive evidence that Sater Frisian is used in debates in the assemblies of the *Kreis (Kreistag)*, the Committee of Experts must conclude that the 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;”

363. In its second evaluation report (see paragraphs 350 – 352), the Committee of Experts observed that there was still no use of Sater Frisian made in local assemblies, nor did it receive any information on measures of encouragement by the central authorities. It therefore considered that the undertaking was only formally fulfilled.

364. According to the information provided in the third periodical report (paragraph 3527), the situation remains the same. During the on-the-spot visit, representatives of the speakers informed the Committee of Experts that although there are Sater Frisian-speakers in the municipal council, the language is not used in the meetings.

365. The Committee of Experts still considers that the undertaking is formally fulfilled but that practical implementation is lacking.

“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.”

366. In its second evaluation report (see paragraphs 353 – 355), the Committee of Experts considered the undertaking partly fulfilled, as at the moment of the report, the Saterland municipality had made funds available for bilingual signs that had however not yet been put up.

367. According to the information provided in the third periodical report (paragraph 3529), all four districts of the Saterland municipality have posted bilingual signs. In addition, street name signs in Sater Frisian have also been put up, especially in the new building areas.

368. The Committee of Experts welcomes these positive developments and considers the 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.”

369. In its second evaluation report (see paragraphs 356 – 358), the Committee of Experts noted that, while acknowledging the good intentions of the *Land* authorities, there was no practical implementation of this undertaking. It considered that the undertaking was not fulfilled.

370. As noted above with regard to the other undertakings, no active measures followed up the intentions of the *Land* authorities (see third periodical state report, paragraph 3531). The Committee has not received any information on any other kind of positive practice or incentives or structural approach with regard to this undertaking, which however seems all the more important with a view to complying with the undertakings above.

371. The Committee of Experts considers this undertaking not 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;”

372. In its second evaluation report (paragraphs 359 – 363), the Committee of Experts was informed about a project on broadcasting radio programmes in Sater Frisian on the private radio station *Ems-Vechte-Welle* which was financially supported by the supervisory authority for Lower Saxony for private broadcasters (*Niedersächsische Landesmedienanstalt*) and the *Land*. In the light of this information, the Committee of Experts considered the undertaking fulfilled and requested further information on the radio project in the next periodical report.

373. According to the information provided in the third periodical report, a weekly programme “Saterland aktuell” is broadcast in Sater Frisian on the citizens’ radio *Ems-Vechte-Welle* and developed in close co-operation with the Sater Frisian organisation *Seelter Bund*. Representatives of the Sater Frisian-speakers informed the Committee of Experts during the on-the-spot visit that they would welcome an increase in the broadcasting time and a shift of the programme to another time slot. Although the set-up was financially supported, the programme itself is carried out on a voluntary basis.

374. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Sater Frisian.

375. With regard to public broadcasting, the Committee of Experts is not aware of any broadcasting on public radio channels in Sater Frisian.

376. The Committee of Experts nevertheless considers the undertaking fulfilled.

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

377. In its second evaluation report (see paragraphs 364 – 367), the Committee of Experts considered that the undertaking was not fulfilled due to lack of concrete positive measures. It encouraged 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.

378. From the information provided in the third periodical report (paragraph 3537), the Committee of Experts understands that the authorities have not followed the Committee of Experts’ recommendation on the grounds that such an encouragement or facilitation could only be required “where it is not manifestly pointless”.

379. The Committee of Experts is not aware of any television programmes in Sater Frisian broadcast on public or private channels.

380. The Committee of Experts considers that the undertaking remains not fulfilled.

The Committee of Experts urges 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;”

381. In its second evaluation report (see paragraphs 368 – 370), the Committee of Experts was not aware of any specific measures aimed at encouraging and/ or facilitating the production and distribution of audio and audiovisual works in Sater Frisian. It therefore considered that the undertaking was not fulfilled.

382. From the information provided in the third periodical report (paragraph 3540), the Committee of Experts understands that the authorities have not taken any steps to comply with this undertaking on the grounds that there has been no demand for such production, nor would the budgetary regulations allow the creation of such a demand by means of pro-active measures of the *Land*.

383. The Committee of Experts notes that the encouragement of audio and audiovisual works is also important with regard to the implementation of the above undertakings concerning radio and television broadcasting.

384. The Committee of Experts considers that the undertaking remains not fulfilled.

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

385. In the second evaluation report (see paragraphs 372 – 375), the Committee of Experts noted that newspaper articles in Sater Frisian were only published on an irregular basis and that there was a lack of concrete support by the authorities. It therefore considered that the undertaking was not fulfilled.

386. From the statement given in the third periodical report (paragraphs 3541 – 3543), the Committee of Experts understands that no measures have been taken by the authorities to encourage and/ or facilitate the publication of newspaper articles in Sater Frisian. According to additional information received from the authorities, of the three regional newspapers mentioned in the periodical report, the *General-Anzeiger Rhauderfehn* publishes weekly articles in Sater Frisian.

387. On the basis of the information received, the Committee of Experts considers that the undertaking is fulfilled. It nevertheless encourages the authorities to take steps to facilitate the publication of newspaper articles in Sater Frisian.

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

388. In its second evaluation report (see paragraphs 376 – 378), the Committee of Experts considered the undertaking only formally fulfilled, since it had received no evidence that the existing measures of financial assistance were designed in such a way that programmes in Sater Frisian could qualify for them in practice.

389. From the statement given in the third periodical report (paragraphs 3544 - 3545), the Committee of Experts understands that no measures have been taken by the authorities towards a practical implementation of this undertaking.

390. The Committee of Experts considers that the 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;”

“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;”

391. In its second evaluation report (paragraph 380 – 385), the Committee of Experts noted that the *Seelter Bund* organises and supports activities relevant to this undertaking. It commended the authorities for contributing to the establishment of a Sater Frisian Cultural Centre and considered these undertakings fulfilled.

392. In the third periodical report, the authorities state that in 2005, the task of promoting regional culture was transferred to the *Landschaftsverbände* (regional local authority associations), and in the case of Sater Frisian to the *Oldenburger Landschaft e.V.* The Committee of Experts would welcome information in the next periodical report on what effect this transfer has had in practical terms on the promotion of the Sater Frisian language.

393. According to the comments of *Seelter Bund* attached to the third periodical report (Part E), the Cultural Centre has a multi purpose and is used for public assemblies and meetings, as an archives centre and a library for literary and audio works, and as a radio studio of *Ems-Vechte-Welle*.

394. The Committee of Experts considers these undertakings 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.”

395. In its second evaluation report see paragraphs 386 – 389), the Committee of Experts considered this undertaking partly fulfilled with respect to the authorities of Lower Saxony and formally fulfilled with respect to the federal authorities.

396. The Committee of Experts refers to its comments with regard to Danish (see paragraphs 103 – 106 above) and considers that the undertaking is not fulfilled.

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*

397. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Low German in Bremen, these provisions are the following:

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

Article 8 – Education

398. According to the information provided in the third periodical report (paragraph 5018), in October 2006, a survey was carried out on the extent to which Low German is taught in the schools of Bremen, including a register of the number and location of teachers with Low German language skills. Based on the findings, a concept for teaching Low German is to be developed and implemented together with the *Land* Institute for Schools and the Low German Institute (INS).

399. The Committee of Experts welcomes this initiative as a positive step towards establishing a more coherent and systematic approach to Low German education and looks forward to receiving further information on the development and implementation of this concept in the next periodical report.

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;”***

400. In its second evaluation report (see paragraphs 397 – 399), the Committee of Experts noted 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. It therefore considered the undertaking not fulfilled and encouraged the authorities to take the necessary measures so that pre-school education in Low German will be available where there is a sufficient demand.

401. The Committee of Experts has received no information on whether the authorities have followed the Committee's recommendation, nor is it aware of any structured approach on how demand is assessed or what would constitute a sufficient number of pre-school pupils for Low German to be offered.

402. According to the third periodical report (paragraph 5003), Low German is used to some extent in pre-schools in areas bordering the *Land* of Lower Saxony, and in other parts of Bremen mainly in the form of rhymes and songs. However, it is not clear to the Committee of Experts whether the extent to which Low German is used in the pre-schools located in the outskirts of Bremen meets at least the requirement of a substantial part of education.

403. The Committee of Experts considers that there is a need for a systematic approach in the field of pre-school education in Low German. In the absence of clear information, as outlined above, the Committee of Experts cannot conclude that this undertaking is fulfilled and asks the authorities to provide the relevant information in the next periodical report.

The Committee of Experts urges 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;”

404. In its second evaluation report (see paragraphs 400 – 402), the Committee of Experts observed that, despite some positive encouragement to include Low German in the new framework curriculum for primary schools for the subject German, Low German still remained marginal within the curriculum. It also detected that a systematic approach to the teaching of Low German was lacking and considered the undertaking still not fulfilled at the moment of the report. The Committee encouraged 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.

405. In the third periodical report (paragraph 5010), the authorities consent that the new joint framework curriculum for primary schools contains a lesser commitment towards Low German than the previous curriculum. It was envisaged to issue guidance materials on the curriculum from mid 2007. However, according to additional information provided by the *Land* Bremen, such guidance materials have not yet been issued, and the Committee of Experts understands that the authorities are still working on this.

406. The Committee of Experts considers that this undertaking remains not fulfilled.

The Committee of Experts urges 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;”

407. In the second evaluation report (see paragraphs 403 – 405), the Committee of Experts noted that, despite some positive developments, the teaching of Low German within secondary education on the whole lacked a systematic approach and therefore varied in practice. It considered the undertaking partly fulfilled and encouraged 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.

408. According to the information provided in the third periodical report (paragraph 5018), within lower secondary education, apart from the minimum teaching made obligatory by the curriculum through reading Low German texts and language encounters, Low German education takes place exclusively in extra-curricular afternoon activities.

409. With regard to upper secondary education, Low German is offered as a basic course at two out of sixteen grammar schools (*Gymnasien*). However, it seems only to be offered in the final school year.

410. The Committee of Experts considers the undertaking remains partly fulfilled and encourages the authorities to ensure that Low German is offered throughout secondary education.

The Committee of Experts urges 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;”

411. In its second evaluation report (see paragraph 406), the Committee of Experts observed that it was no longer possible to study Low German as a subject at Bremen University and that research of Low German had been discontinued altogether. It therefore concluded that the undertaking was no longer fulfilled.

412. According to the information contained in the third periodical report, Low German is “a regular element in the syllabus” of the Department of Languages and Literary Studies. In October 2005 an agreement was signed between the University of Bremen and the Institute for Low German (INS) according to which up to three seminars related to Low German are to be offered per term.

413. Based on this information, the Committee of Experts considers the undertaking fulfilled.

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

414. In its second evaluation report (see paragraph 407), the Committee of Experts was lacking information on whether the framework curriculum which makes some provision with regard to this undertaking, is put into practice, and therefore did not conclude on this undertaking.

415. According to the third periodical report (paragraph 5045), the planned overall concept on Low German mentioned above (see paragraph 398 above) intends to lead to compliance with the requirements of the Charter, including the teaching of the history and culture related to Low German.

416. The Committee of Experts looks forward to receiving further information on this concept and how it is put into practice in the 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;”

417. In its second evaluation report (see paragraphs 408 – 410), the Committee of Experts considered this undertaking as not fulfilled, as there was no specific basic training for Low German teachers in Bremen and no measures envisaged by the authorities known to the Committee.

418. In the third periodical report (paragraph 5052), the authorities state that the current teacher training provision in Bremen still does not meet the requirements of the Charter because retired teacher trainers have not been replaced. However, the report further states that training should be available from 2007 onwards connected with the offer of further training courses being transferred from the *Land* Institute for School to external providers. There is no offer of basic teacher training.

419. The Committee of Experts considers the undertaking not fulfilled.

The Committee of Experts encourages the authorities to provide basic and further training of teachers of Low German.

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;”

420. In its second evaluation report (see paragraphs 411 – 414), the Committee of Experts noted that Bremen had not envisaged the adoption of specific instructions or administrative regulations with regard to this undertaking. Due to the absence of any measures envisaged by the authorities with a view to encouraging Low German-speakers to avail themselves of this possibility, or practical implementation, the Committee considered the undertaking only formally fulfilled.

421. In their additional information provided to the Committee of Experts, the authorities state that they still do not envisage the adoption of specific instructions or administrative regulations with regard to Low German and that they are therefore not in a position to provide any practical examples.

422. As noted in the last evaluation report, the Committee of Experts points out that apart from adopting administrative regulations, the authorities could envisage other measures, for example informing the administrative bodies of their duties as well as carrying out an awareness campaign and identifying Low German speakers within the administration etc.

423. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not fulfilled.

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

424. In its second evaluation report (see paragraphs 415 – 417), apart from the Low German version of the Constitution, the Committee of Experts had neither been made aware of any practical implementation of this undertaking, nor of any encouraging measures. It therefore concluded that the undertaking remained formally fulfilled.

425. In their additional information provided to the Committee of Experts, the authorities of the Free Hanseatic City of Bremen state that they do not envisage drafting documents in Low German.

426. The Committee of Experts must therefore conclude that the undertaking is not 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;”

427. In its second evaluation report (see paragraph 418), the Committee of Experts was not aware whether Low German was used at all within the framework of the regional or local authorities in Bremen and therefore considered this undertaking only formally fulfilled.

428. The third periodical report contains no relevant information. In its additional information, the authorities confine themselves to claiming that they had not been made aware of any problems encountered in this respect. The Committee of Experts reiterates its view that for the fulfilment of this undertaking a degree of practical implementation is necessary. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not fulfilled.

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

429. In its second evaluation report (see paragraphs 419 – 429), the Committee of Experts observed that, despite the fact that oral communication occasionally took place in Low German, there were no examples of written applications in Low German, nor any measures or encouragement by the authorities for Low German speakers to avail themselves of this possibility. It therefore considered that the undertaking was only partly fulfilled.

430. The third periodical report contains no relevant information. In its additional information, the authorities confine themselves to stating that they had not been made aware of the rejection of any such documents. The Committee of Experts is therefore still lacking information on the actual implementation of this undertaking.

431. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not 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;”

432. In its second evaluation report (see paragraphs 424 – 426), the Committee of Experts had neither been made aware of any practical implementation of these undertakings, nor of any encouraging measures. It therefore concluded that these undertakings remained only formally fulfilled.

433. The third periodical report contains no relevant information. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that these undertakings are not 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;”

434. In its second evaluation report (see paragraphs 427 – 430), the Committee of Experts noted that public service radio provision in Low German on *Radio Bremen* existed, but in view of the fact that the undertaking concerns private radio broadcasters only, it concluded that the undertaking was not fulfilled.

435. According to the information contained in the third periodical report (paragraph 5116), there is a monthly one-hour radio programme in Low German on the Bremen non-commercial citizens' channel *Bürgerrundfunk Bremen*. Other radio programmes in Low German are broadcast more sporadically. These programmes are also aired on the *Bürgerrundfunk Bremerhaven*.

436. The third periodical report also states that by virtue of the amended *Land Media Act* for Bremen on 1 April 2005, programmes in Low German are to be represented in the programming to an adequate extent. The Committee of Experts welcomes this amendment.

437. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Low German in Bremen.

438. With regard to public broadcasting, radio programmes in Low German continue to be broadcast regularly by *Radio Bremen*, the public service broadcaster. According to the third periodical report (paragraph 5116), a daily news programme is broadcast in Low German.

439. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17) the Committee of Experts concludes that the undertaking is fulfilled.

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

440. In its second evaluation report (see paragraphs 431 - 433), the Committee of Experts considered that, in view of the fact that the undertaking concerns private television broadcasters, the undertaking was not fulfilled.

441. According to the information contained in the third periodical report (paragraph 5124), a programme in Low German is broadcast on the citizens' channel *Bürgerundfunk Bremen* and diffused also on *Bürgerundfunk Bremerhaven* once per year. There seem to be more programmes broadcast on these television stations in Low German, but on an irregular basis. Also, the commercial broadcasters *RTL* and *Sat.1* in their regional programmes occasionally broadcast in Low German, according to the report.

442. As mentioned above (see paragraph 431), the third periodical report states that by virtue of the amended *Land Media Act* for Bremen on 1 April 2005, programmes in Low German are to be represented in the programming to an adequate extent. The Committee of Experts welcomes this amendment and asks the authorities to provide information in the next periodical report on the practical effects this has on Low German broadcasting.

443. With regard to public broadcasting, there do not seem to be any Low German programmes on the public television channel.

444. Although the Committee of Experts welcomes the new developments, it must conclude that the undertaking remains not fulfilled at present, taking into consideration the lack of regular programmes in Low German.

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

445. In its second evaluation report (see paragraphs 435 - 437), the Committee of Experts was not aware of any specific measures aimed at encouraging and/ or facilitating the production and distribution of audio and audiovisual works in Low German. It therefore considered that the undertaking was not fulfilled.

446. In the absence of information on any positive action taken, the Committee of Experts considers that the undertaking remains not fulfilled.

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

447. In its second evaluation report (see paragraphs 438 – 441), the Committee of Experts concluded that the undertaking was not fulfilled due to the absence of any concrete and effective measures or encouragement for the publication of newspaper articles in Low German.

448. The third periodical report (paragraph 5139) states that the authorities from several *Länder* finance the Institute for Low German in Bremen (INS), whose work includes the publication of news items. However, the latter resembles a press service on topics related to Low German that is issued a few times per month in German. The report also states that newspaper articles in Low German are published in some local newspapers, however, this does not seem to occur on a regular basis (meaning at least once per week). While noting the presence of these articles, the Committee of Experts observes that the current frequency of the publication of newspaper articles does not correspond to the requirements under this undertaking.

449. The Committee of Experts therefore concludes that the undertaking remains not fulfilled.

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

450. In its second evaluation report (see paragraphs 445), the Committee of Experts was not aware of any support for the training of journalists and other staff for media, and therefore considered the undertaking not fulfilled.

451. In its additional information provided to the Committee of Experts, the Bremen authorities state that the public broadcaster *Radio Bremen* provides regular follow-up training to its staff with regard to Low German and its use in radio programmes.

452. In the light of this information, the Committee of Experts revises its previous conclusion and considers that this undertaking is partly 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;”

453. In its second evaluation report (see paragraphs 446 – 448), the Committee of Experts noted that the media company *nordmedia* also subsidised works in Low German, although it was not clear to the Committee whether funds provided by *nordmedia* were also used for dubbing, post-synchronisation and subtitling in Low German for works produced in other languages. It therefore considered the undertaking only partly fulfilled.

454. The authorities have not provided any information with regard to this undertaking. In light of all the information available, the Committee of Experts must conclude that the activities of *nordmedia* are not relevant for this undertaking. Therefore the Committee of Experts considers this undertaking not 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;”

Part III

455. In its second evaluation report (see paragraphs 449 - 451), the Committee of Experts stated that it did not have the relevant information, nor practical examples, to be able to conclude on the fulfilment of this undertaking and asked the authorities for further information.

456. In the third periodical report (paragraph 5172), the authorities confine themselves to stating that the relevant decision-makers take the needs of the Low German-speakers into consideration when allocating budgetary funds. However, the Committee of Experts has not received any information on how this is applied in practice and to what extent it relates to the present undertaking.

457. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not fulfilled.

“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;”

458. In its second evaluation report (see paragraph 452), the Committee of Experts considered that the undertaking was not fulfilled due to the absence of any information on this undertaking.

459. According to the information contained in the third periodical report (paragraph 5178), subsidised institutions, such as the *Landesverband Bremer Amateurtheater e.V.* and libraries have Low German-speakers among its staff.

460. Based on this information, the Committee of Experts considers the undertaking 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;”

461. In the second evaluation report (see paragraphs 453 – 455), the Committee of Experts observed that no measures of encouragement have been made with respect to this undertaking by the authorities and therefore considered that the undertaking was not fulfilled.

462. The Committee of Experts has received no relevant information with regard to this undertaking. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the 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.”

463. In its second evaluation report (see paragraphs 456 – 459), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Low German language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany was reflected when presenting and promoting Germany abroad.

464. The Committee of Experts refers this undertaking with regard to Danish (see paragraphs 103 – 106 above) and considers that the undertaking remains not fulfilled.

Article 13 – Economic and social life

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;”**

465. In its second evaluation report (see paragraphs 463 – 466), the Committee of Experts observed that, while acknowledging the efforts of the authorities and the possibility to be received and treated in Low German in social care facilities, the undertaking required the States Parties to ensure that this possibility is offered. The Committee therefore considered the undertaking only partly fulfilled and encouraged the German authorities to adopt a structural policy with a view to making more systematic the possibility for the person concerned to be received and treated in Low German in social care facilities in Bremen.

466. In their additional information provided to the Committee of Experts, the authorities state that they have not adopted a structured policy with regard to the use of Low German in retirement homes, and hospitals. Although the Committee of Experts understands that many of these institutions have Low German-speakers in their staff, the Free Hanseatic City of Bremen has not for example taken measures towards a more systematic provision in order to ensure that social care facilities have Low German-speakers at their disposal.

467. The Committee of Experts therefore considers that the undertaking remains partly fulfilled.

The Committee of Experts urges the German authorities to adopt a structural policy with a view to making more systematic the possibility for the person 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*

468. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Low German in Hamburg, these provisions are the following:

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

Article 8 – Education

469. As noted in the second evaluation report (paragraphs 470 – 477), the framework curriculum for the teaching of German in primary and secondary schools, makes the teaching of Low German in Hamburg mandatory. During the on-the-spot visit, the Hamburg authorities informed the Committee of Experts that they had conducted a survey on the implementation of the curriculum with regard to Low German by sending out 333 questionnaires to schools in Hamburg. Apart from 45 schools, all schools complied with the syllabus with regard to Low German. The authorities also informed the Committee of Experts that 48 schools participated in the Low German reading competition.

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;”***

470. In its second evaluation report (see paragraphs 467 – 469), the Committee of Experts observed that there was no systematic teaching of Low German at pre-school level in Hamburg. It therefore considered the undertaking not fulfilled at the time of the report and looked forward to receiving more information on the envisaged directives that were to make special provision for Low German.

471. The authorities state in their third periodical report (paragraph 5004) that a directive “Introduction of standards and intensification of measures to promote language proficiency in pre-school education” (*Einführung vorschulischer Bildungsstandards und Verstärkung der vorschulischen Sprachförderung*) issued by the Hamburg Senate on 15 June 2005 makes the “cultivation of the Low German language” in pre-schools legally binding, with direct reference to the Charter. According to this directive, an examination of the language shall be conducted where larger groups of children speak Low German, in a suitable manner for children. For all other pre-school classes in Hamburg, children should be made acquainted with Low German through rhymes and poems.

472. The Committee of Experts commends the Hamburg authorities for issuing this directive and considers it a positive step towards compliance with this provision. The Committee of Experts observes, however, that the wording of the directive does not make it clear to what extent Low German should be taught at pre-schools. The Committee of Experts asks the authorities for clarification and further information on the practical implementation of the new directive in the next periodical report. In the meantime it considers the undertaking partly fulfilled.

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

473. In its second evaluation report (see paragraphs 470 – 473), the Committee of Experts concluded that, despite the new framework curriculum making the teaching of a degree of Low German in Hamburg mandatory, the provision for the teaching of Low German within primary education remained clearly below the level required by this undertaking. It nevertheless acknowledged the efforts of the authorities as a step towards the fulfilment of this undertaking, and concluded that the undertaking was partly fulfilled. The Committee encouraged 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.

474. The third periodical report (paragraph 5011) confines itself to repeating the mandatory element of teaching Low German through the new framework curriculum. In their additional information to the Committee of Experts, the Hamburg authorities state that they do not envisage introducing Low German as a separate subject. Representatives of the Low German-speakers that the Committee of Experts met during its on-the-spot visit nevertheless insisted on the need to make Low German a separate school subject. Although the representatives were in principle not against the teaching of Low German as part of German class, in practice it led to the tendency of being neglected and therefore did not constitute an integral part of the curriculum.

475. The Committee of Experts therefore maintains its previous conclusion that the undertaking is partly fulfilled.

The Committee of Experts urges 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;”

476. In its second evaluation report (see paragraphs 474 – 477), the Committee of Experts concluded that, despite the new framework curriculum making the teaching of a degree of Low German in Hamburg mandatory, the provision for the teaching of Low German within secondary education remained clearly below the level required by this undertaking. It nevertheless acknowledged the efforts of the authorities as a step towards the fulfilment of this undertaking, and concluded that the undertaking was partly fulfilled. The Committee encouraged 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.

477. In the third periodical report, the authorities of the City of Hamburg argue that the undertaking does not oblige the authorities to enforce a certain amount of Low German education on pupils and parents against their will. In this respect, the Committee of Experts clarifies that the undertaking does not necessarily require the introduction of Low German as a compulsory subject in all secondary schools in Hamburg. Rather, the authorities could envisage offering Low German as an optional subject in a certain number of

secondary schools, as demanded by the representatives of the Low German-speakers. This would guarantee a systematic teaching of Low German with regular hours devoted to it, which does not seem to be the case with the current teaching model.

478. During the on-the-spot visit, representatives of the Hamburg authorities informed the Committee of Experts that the possibility of introducing Low German as a separate subject had in fact already been examined, but that it would not be implemented. The Committee of Experts was also informed, however, that Low German was already offered as an optional subject at some schools in the margin areas of Hamburg.

479. The Committee of Experts concludes that the undertaking remains partly fulfilled and encourages the authorities to introduce Low German as an optional subject to other schools.

The Committee of Experts urges 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;”

480. In its second evaluation report (see paragraphs 478 – 480), the Committee of Experts observed that Low German continued not to be offered as part of the curriculum as far as technical and vocational education was concerned. It considered the undertaking as not fulfilled at the time of the report and encouraged the authorities to look into ways in which the potential of teaching Low German, notably in schools for trainees of the restaurants/ catering trade and the social care sector could be used.

481. The authorities provide no information on this undertaking in the third periodical report. In their additional information, the authorities however state that there are no vocational schools in the social care sector in Hamburg and that the possibility to offer Low German in catering schools was not examined.

482. The Committee of Experts however, is aware that there are several different kinds of technical and vocational schools in Hamburg for social pedagogy and other relevant fields with the accompanying framework plans or curricula. The Committee of Experts encourages the authorities to re-examine the possibility of offering Low German within technical and vocational education.

483. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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

484. In its first evaluation report (paragraph 293), the Committee of Experts noted that Low German was available as a subject at the University of Hamburg. It therefore considered the undertaking fulfilled. In the course of the change-over to BA/ Ma courses, it seems that Low German is no longer offered as a separate subject, but students who choose the subject *German Literature and Language* in the Bachelor course have the possibility to focus on Low German studies. For the Masters course and the teachers' course, there is no information on Low German available at present. There is a Chair for Low German at Hamburg University.

485. The Committee of Experts considers the undertaking 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;”

486. In its second evaluation report (see paragraphs 481 – 484), the Committee of Experts observed that basic and further training for teachers with regard to Low German was available, although no special qualification as teacher in/ of Low German existed. The Committee considered the undertaking only partly fulfilled at the time of the report, and encouraged the Hamburg authorities to adopt the envisaged plans to tackle the existing shortcomings with respect to this undertaking.

487. According to the third periodical report (paragraph 5004), the Hamburg *Land* Institute for Teacher Training and School Development incorporates Low German in some mandatory further training classes for pre-school teachers. The Institute also offers further training courses for primary school teachers (see

paragraph 5011). With regard to secondary school teachers (see paragraph 5020), the Institute offers further training courses mainly for lower secondary level, whereby the teachers receive a certificate upon successful completion.

488. According to the representatives of the Hamburg authorities that the Committee of Experts met during the on-the-spot visit, the demand for further training courses on Low German was very low, although teachers were informed of this possibility. The Committee of Experts was also informed that the authorities aimed at positioning at least one certified teacher in Low German at every school as a contact person.

489. As regards basic teacher qualification in Low German, the third periodical report states that the incorporation of Low German in the form of a module at the University of Hamburg is being evaluated as part of the reorganisation of the teacher training courses in the winter term 2007/08.

490. The Committee of Experts considers that the undertaking is fulfilled with regard to further training.

491. With regard to basic teacher training, bearing in mind the radical transformation of teacher training at Hamburg University, it is at present unclear to what degree the new system will conform to the requirements of the undertaking. The Committee of Experts urges the authorities to take into consideration the requirements resulting from the Charter in its ongoing efforts at reforming teacher training and provide relevant information in the 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.”

492. In its second evaluation report (see paragraphs 485 – 487), the Committee of Experts observed that there still was no supervisory body within the meaning of this undertaking and therefore considered the undertaking not fulfilled. It encouraged the envisaged moves towards the creation of a supervisory body within the Senate Authority for Education and Sports.

493. The authorities state in the third periodical report that a representative from the supervisory school authority has been nominated by the Authority for Education and Sports with regard to the implementation of educational projects with regard to Low German. While welcoming such a step, the Committee of Experts has not been informed of the extent of the tasks nor of any periodical reports made public.

494. The Committee of Experts considers the undertaking 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;”

495. In its second evaluation report (paragraphs 488 – 491), the Committee of Experts observed that Hamburg had deliberately decided against adopting formal rules or directives to implement the undertakings under this article. The Committee of Experts reiterated its view that the provisions under this undertaking were formulated in a way which would not make them self-executing. In the absence of information of any degree of practical implementation, the Committee of Experts considered that the undertaking only formally fulfilled.

496. According to additional information received by the Hamburg authorities, inquiries within the responsible authorities showed that over the past two years there have been no persons wishing to make use of their right.

497. As pointed out in the last report, the Committee of Experts underlines that proactive measures need to be taken by the authorities with a view to encouraging the Low German speakers to avail themselves of this opportunity, starting from a human resources policy, to information campaigns for the general public and measures to inform the relevant authorities of their obligations under the Charter.

498. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not fulfilled.

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

499. In its second evaluation report (paragraph 492 – 395), the Committee of Experts observed that Hamburg had deliberately decided against adopting formal rules or directives to implement the undertakings under this article. The Committee of Experts reiterated its view that the provisions under this undertaking were formulated in a way which would not make them self-executing. In the absence of information of any degree of practical implementation, the Committee of Experts considered the undertaking only formally fulfilled.

500. According to the additional information provided by the authorities, no documents have been drafted and published by the administrative authorities.

501. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not 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;”

502. In its second evaluation report (paragraphs 496 – 498), the Committee of Experts took note that it was possible to conduct wedding ceremonies in Low German. With the exception of doorplates indicating staff members' competence in Low German, the Committee of Experts had not been made aware of any measures taken by the Hamburg authorities to implement this undertaking. It therefore considered the undertaking only partly fulfilled.

503. According to the additional information provided by the Hamburg authorities, Low German is not used in any other context apart from the examples mentioned in the previous evaluation report.

504. The Committee of Experts recognises that only in certain limited areas in the territory of Hamburg, pro-active measures in the sense of the current undertaking might be suitable. Nevertheless, in these specific areas, such measures should be taken.

505. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled.

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

506. In its second evaluation report (paragraphs 500 – 502), the Committee of Experts considered that the undertaking was only formally fulfilled, in the absence of information of any degree of practical implementation.

507. The Committee of Experts regrets to note that the Hamburg authorities have provided no information with regard to this undertaking. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the 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.”***

508. In its second evaluation report (paragraphs 503 – 504), the Committee of Experts was not in a position to conclude whether the undertaking was fulfilled and asked for further information about the practical results of the initiatives of some District Council Offices on asking public service employees with Low German competence whether they wished to be appointed to appropriate posts.

509. The Committee of Experts again has received no new information in this respect or any other information on any kind of positive practice or incentives or structural approach with regard to this undertaking.

510. The Committee of Experts considers this undertaking not 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;”***

511. In its second evaluation report (paragraphs 505 – 508), the Committee of Experts noted that a commendable effort continued to be made by the public broadcaster *NDR*, but that there were no programmes in Low German on private radios in Hamburg. In view of the fact that the undertaking concerns private radio broadcasting, it considered the undertaking not fulfilled.

512. In their additional information to the Committee of Experts, the Hamburg authorities state that these activities are pursued by the Institute for Low German in Bremen (INS), which is partly funded by Hamburg, however the representative of the INS informed the Committee of Experts that he was not aware of such an agreement.

513. According to the information at the disposal of the Committee of Experts, there is currently a one-hour programme in Low and Standard German every second Saturday on Hamburg citizens radio channel *TIDE*.

514. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Low German in Hamburg.

515. With regard to public radio broadcasting, the public broadcaster *NDR* broadcasts daily news in Low German and features a fortnightly programme.

516. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17 above) the Committee of Experts concludes that the undertaking is fulfilled.

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

517. In its second evaluation report (paragraphs 509 - 512), the Committee of Experts noted that Low German appeared in television programmes on public broadcaster *NDR*, but that there were no programmes in Low German on private television channels in Hamburg. In view of the fact that the undertaking concerns private television broadcasting, it considered the undertaking not fulfilled.

518. The Committee of Experts has no information on television programmes on public or private television in Low German.

519. The Committee of Experts has not been informed of any form of encouragement or facilitation towards the broadcasting of television programmes in Low German and therefore concludes that the undertaking remains not fulfilled.

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

520. In its second evaluation report (paragraphs 513 – 515), the Committee of Experts was 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 and therefore considered that the undertaking was not fulfilled.

521. According to the information provided by the Hamburg authorities in the third periodical report, there is an extensive range of Low German audio and audiovisual works in the free-market private sector. However, the Committee of Experts has not been made aware of any encouragement and/ or facilitation of the production of audio and audiovisual works in Low German, for example by the Media Authority.

522. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considers that the undertaking is not fulfilled.

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

523. In the second evaluation report (paragraphs 520 – 522), the Committee of Experts observed that the Senate Authority for Cultural Affairs, which has responsibility for the subject matter, did not intervene in the market for audio or audiovisual productions. There were no examples where relevant productions had been subsidised. The Committee of Experts therefore considered the undertaking not fulfilled.

524. According to the third periodical report (paragraph 5149), no changes have occurred since the last monitoring round.

525. The Committee of Experts however was informed that the subsidy fund in Hamburg merged with the *Medienstiftung Schleswig-Holstein* (MSH) to the *Filmförderung Hamburg Schleswig-Holstein* in July 2007.

526. The Committee of Experts has received no information on how the new subsidy fund allows for the qualification of productions in Low German in practice, although the authorities claim in their additional information that the promotional programmes also include productions in the Low German language. However, no applications to this effect have been filed.

527. The Committee of Experts therefore considers that the undertaking remains not fulfilled.

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

528. In its second evaluation report (paragraph 523), the Committee of Experts had received no information about the implementation of this undertaking and therefore considered the undertaking not fulfilled.

529. The third periodical report (paragraph 5154) refers to the possibility to study both Low German language and literature as well as journalism and communication studies. However, these courses do not seem to be linked to one another.

530. The Committee of Experts is not aware of any journalist training with regard to the use of Low German in radio and television programmes.

531. The Committee of Experts considers the undertaking 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;”

532. In its second evaluation report (paragraphs 524 – 527), the Committee of Experts had received no evidence of measures taken by the Hamburg authorities to ensure compliance with this undertaking and therefore considered the undertaking not fulfilled.

533. The Committee of Experts has received no new information with regard to this undertaking. It therefore maintains its previous conclusion that the 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;”

534. In its second evaluation report (paragraphs 528 – 530), the Committee of Experts had not received any information as to how representatives of Low German, including the Institute for Low German Language Bremen (INS) participate in cultural activities organised in Hamburg. Neither was there any evidence of measures taken by the Hamburg authorities with a view to providing incentives for such direct participation. It did not conclude on the undertaking and requested further information in the next periodical report.

535. The Committee of Experts has received no new information with regard to this undertaking. It therefore must conclude that the 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.”

536. In its second evaluation report (paragraphs 531 – 535), the Committee of Experts considered the undertaking not fulfilled as regards both the *Land* authorities and the federal authorities.

537. The Committee of Experts refers this undertaking with regard to Danish (see paragraphs 103 - 106 above) and considers that the undertaking remains not fulfilled as regards the federal level.

Article 13 – Economic and social life

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

538. In its second evaluation report (paragraphs 539 – 542), the Committee of Experts had no information in relation to the implementation of this undertaking by Hamburg, nor had it been made aware of any measures to facilitate and/or encourage the use of Low German within the meaning of the undertaking. It therefore considered the undertaking not fulfilled.

539. The Committee of Experts has received no new information with regard to this undertaking. It therefore maintains its previous conclusion that the 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;”

540. In its second evaluation report (paragraphs 543 – 546), the Committee of Experts noted that no specific measures had been taken with respect to this undertaking, while acknowledging that it was possible in some social care facilities to in Hamburg to be received and treated in Low German. The Committee of Experts considered that the undertaking was partly fulfilled and encouraged the authorities of Hamburg to adopt a structured policy with a view to making more systematic the possibility for the person concerned to be received and treated in Low German in social care facilities.

541. In their additional information submitted to the Committee of Experts, the Hamburg authorities state that treatment in Low German is generally ensured in some of those retirement homes where the residents speak Low German. However, the authorities claim that they could not ensure a provision for all persons who are in need of care, which in most cases did not appear necessary because all Low German speakers also understand and speak standard German.

542. The Committee of Experts maintains its previous conclusion that the undertaking is only partly fulfilled.

The Committee of Experts urges the authorities of Hamburg to adopt a structured policy with a view to making more systematic the possibility for the person 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*

543. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Low German in Mecklenburg-Western Pomerania, these provisions are listed below.

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

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;”***

544. In its second evaluation report (paragraphs 547 – 551), the Committee of Experts noted that several children’s day-care centres, operated by the social services provider *Volkssolidarität Mecklenburg-Vorpommern e.V.* and some run by the German Red Cross, provided regular activities or instruction in Low German. It was also informed of another project on the introduction of Low German in several pre-schools. However, the Committee of Experts had not been informed of the full extent of the existing pre-school education in Low German, nor of measures taken by the authorities to favour and/ or encourage such education.

545. The Committee of Experts was made aware of the reorganisation of pre-school education provision in Mecklenburg-Western Pomerania and requested further information about what effect this would have on Low German education. It considered the undertaking partly fulfilled at the time of the report.

546. According to the additional information provided by the authorities, the reorganisation of pre-school education did not have any effect on Low German education provision. According to information received during the on-the-spot visit from a representative of the *Land* authorities, there is wide-spread use of Low

German in pre-schools in Western Pomerania. In Mecklenburg, Low German is offered in Mecklenburg-Strelitz and in Schwerin and in some other towns in Mecklenburg.

547. The third periodical report (paragraph 5005) provides information on further training in Low German for pre-school teachers which is organised by the *Landesheimatverband Mecklenburg-Vorpommern e.V.* and the Centre for Low German (*Zentrum für Niederdeutsche Sprache e.V.*). The Centre, which was founded in 2004, also provides teaching materials which are distributed mainly in some districts (*Landkreise*) of Western Pomerania. According to the periodical report, the relevant *Kreis* provides practical support to this Centre.

548. During the on-the-spot visit, representatives of the Low German-speakers claimed that the offer of Low German in pre-schools is patchy. Furthermore, the Centre for Low German is seriously understaffed and would need an increase of human and financial resources to carry out its work.

549. While acknowledging the efforts made by the authorities, the Committee of Experts nonetheless considers that the undertaking remains partly fulfilled at present. It encourages the authorities to provide adequate resources to the Centre for Low German with a view to meeting the growing demand for the teaching of Low German in pre-school education and offering Low German more systematically.

“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;”

550. In its second evaluation report (see paragraphs 552 – 558), the Committee of Experts noted that Low German continued to be taught as part of other subjects at primary and secondary schools. At secondary schools, Low German was also offered as an extracurricular activity, and at some schools as an optional compulsory subject (*Wahlpflichtfach*) or an optional subject (*Neigungsunterricht*) from grade 7 onwards in different types of secondary schools. The Committee of Experts observed that the provision was highly variable. It welcomed the adoption of the administrative ordinance “Low German in the Classroom” in 2004, which provides for several measures to promote the teaching of Low German in primary and secondary schools, including the appointment of Low German advisers at the *L.I.S.A.* (*Land Institute for Schools and Training*), at some State education offices and at schools. It considered these undertakings partly fulfilled at the time of the report and encouraged the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught at primary and secondary schools.

551. In their third periodical report (paragraph 5012), the authorities state that the *Land* Ministry for Education, in co-operation with the *Land* Institute for Schools and Training, carried out a survey in the school year 2003/ 2004 on the situation of Low German at all schools in Mecklenburg-Western Pomerania and that concepts have been influenced by the findings of the survey. However, the Committee of Experts has not received any information on the findings.

552. The representative of the authorities of Mecklenburg-Western Pomerania also informed the Committee of Experts during the on-the-spot visit that there are specific guidelines (*Rahmenplan*) for the teaching of Low German and that it is taught twice a week as an optional subject from 7th class onwards. However, the Committee of Experts was also informed that the numerous initiatives, many of which are on a voluntary basis, only reach about half of the schools in Mecklenburg-Western Pomerania. Also, Low German is in a less favourable position to compete with foreign language courses.

553. According to the periodical report, the education advisers at state education offices are involved in further teacher training courses, including the certificate course “*Niederdeutsch für tätige Lehrer*” (Low German for Teachers). This 3-year course qualifies teachers to teach Low German in schools in Mecklenburg-Western Pomerania. According to the information received from a representative of the Low German-speakers during the on-the-spot visit, 80 teachers have accomplished the further training courses.

554. The Committee of Experts welcomes the improvements with regard to the supply of teachers, which is an important element to secure the offer of Low German at schools and commends the authorities for the improvements in the overall offer of Low German education at primary and secondary schools. It nevertheless observes that shortcomings remain in the provision of Low German education and considers these undertakings still partly fulfilled at present. It encourages the authorities to pursue their efforts to ensure that Low German is systematically taught as an integral part of the curriculum at primary and secondary schools in the territories where Low German is used.

“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;”

555. In its second evaluation report (paragraphs 559 – 570), the Committee of Experts had no information on whether Low German was taught within technical and vocational education and to what extent the Low German Framework Curriculum (*Rahmenplan*) for schools applied to technical and vocational education. It therefore was not in a position to conclude whether the undertaking was fulfilled.

556. From the information provided in the third periodical report (paragraph 5030), it appears that the Low German framework curriculum also applies to technical and vocational education. No information was provided, however, with regard to the actual extent to which Low German is taught in practice. In this respect, the periodical report states that in 2007, a survey was conducted to assess the situation of Low German education in technical and vocational education.

557. The Committee of Experts is once again not in a position to conclude on this undertaking and urges the authorities to provide information in the next periodical report on the outcome of the survey and on the extent to which the teaching of Low German in technical and vocational education takes place in practice.

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

558. In the first evaluation report (see paragraph 325), the Committee of Experts noted that a large variety of Low German courses were offered at higher education institutions and that there was a Chair for Low German at the universities in Rostock and Greifswald. It therefore considered the undertaking fulfilled.

559. According to the information contained in the third periodical report (paragraph 5034), Low German is not offered as an independent subject under the newly introduced Bachelor (BA) and Masters (MA) studies at Rostock University, nor as a subject within teacher training studies. Although the Chair for Low German Philology still exists at Rostock University, Low German studies have been integrated into German Philology studies. Within this frame, a MA degree in German with advanced studies in Low German/ Cultural Anthropology is currently under preparation.

560. The Chair for Low German at Greifswald University was cut in 2003 and has been replaced by a 50% lectureship position. Low German can be studied as a minor subject within a BA degree and as a subsidiary subject for the teaching profession for primary schools and various types of secondary schools. The reduction of the offer of Low German led to the founding of the *Studierendeninitiative Plattdeutsch* (students' initiative for Low German) in 2003 which opposes the trend.

561. The Committee of Experts is concerned with the reduction of the offer of Low German at both universities and encourages the authorities to take efforts against a further decline. It nevertheless considers that the undertaking is 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;”

562. In its second evaluation report (paragraphs 562 – 564), the Committee of Experts considered the undertaking fulfilled, but asked for 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.

563. According to the information provided in the third periodical report (paragraph 5047), the history and culture of Low German is taught at all education levels and is part of the further training certificate course. Teaching materials in this respect are provided in the form of guidance material regarding the Low German framework curriculum.

564. The Committee of Experts welcomes this information and considers that the undertaking remains 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.”

565. In its second evaluation report (paragraphs 565 – 567), the Committee of Experts had been informed that the Mecklenburg-Western Pomerania Low German Consultative Council (*Niederdeutsch-Beirat*) would in future take over a supervisory function and submit regular reports. It considered the undertaking not fulfilled at the time of the report and encouraged the envisaged moves towards drawing up periodic reports and making them public.

566. The third periodical report (paragraph 5059) makes reference to a survey on the situation of Low German at schools. However, the authorities did not explain the actual content or results of this survey. During the on-the-spot visit, a representative of the authorities of Mecklenburg-Western Pomerania informed the Committee of Experts that there are advisors for Low German at the state supervisory school authority.

567. In the absence of any information on the actual role of the Consultative Council or of the Low German Council with regard to this undertaking, in particular in the absence of any concrete evidence of periodic reports, the Committee of Experts must conclude that the undertaking remains not fulfilled. It urges the authorities to take 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 second evaluation report (paragraphs 568 – 570), the Committee of Experts had not been informed of any recent examples of the possibility of submitting documents in Low German being used in practice. Neither had it been informed of any measures taken by the authorities with a view to encouraging Low German-speakers to avail themselves of this possibility. It therefore considered that the undertaking was only formally fulfilled.

569. In their third periodical report (paragraphs 5069 – 5071), the authorities of Mecklenburg-Western Pomerania state that through public relations, the citizens are aware that “the regional language of Low German is the second official language in the *Land*”. It is not clear to the Committee of Experts, however, whether citizens have been made aware specifically of the possibility to submit documents in Low German through these public relations or other campaigns in this respect. Furthermore, the authorities were unable to report on any practical examples of documents submitted in Low German.

570. In the absence of any evidence of practical implementation or targeted measures of encouragement, the Committee of Experts considers that the undertaking remains formally fulfilled.

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

571. In its second evaluation report (paragraphs 571 – 573), the Committee of Experts had not received any practical examples concerning measures to encourage the use of Low German with respect to the *Land* authorities. It therefore considered the undertaking formally fulfilled and asked the authorities for further information on practical examples in relation with this undertaking in the next periodical report.

572. According to the third periodical report (paragraph 5076), documents such as speeches and letters are also drafted in Low German within the *Land* administration. The example given in the report refers to the Minister President of Mecklenburg-Western Pomerania, who uses Low German almost exclusively in about 90% of official occasions. While welcoming this, the Committee of Experts has received no information with regard to other documents being produced in Low German

573. The Committee of Experts considers the undertaking 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.”**

574. In its second evaluation report (paragraphs 577 – 579), the Committee of Experts noted that there was no specific human resources policy taking account of the Low German proficiency of civil servants and that there had been no practical implementation of this undertaking. It therefore concluded that the undertaking was only formally fulfilled.

575. In their third periodical report (paragraph 5111), the authorities state that within the framework of the administrative reform that is currently taking place, Low German proficiency is taken into consideration to the greatest extent possible when transferring positions from *Land* administration and the subordinate institutions to the *Kreise* and *kreisfreie Städte*.

576. However, in the absence of examples of any practical implementation or a specific human resources policy, the Committee of Experts maintains its previous conclusion that the 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;”**

577. In its second evaluation report (paragraphs 580 – 585), the Committee of Experts concluded that the undertaking was not fulfilled at the time of the report. While commending the initiatives of the *Land* government, the Committee of Experts had not received any evidence of the broadcasting of radio programmes on private radio programmes.

578. In their additional information submitted to the Committee of Experts, the authorities state that programmes in Low German are no longer broadcast on the private radio channel *Antenne Mecklenburg-Vorpommern*. According to additional information provided by the *Land* authorities, the citizens radio channel *NB-Radiotreff* in Neubrandenburg broadcasts programmes in Low German regularly, although infrequently. The Open Channel in Malchin broadcasts two 30-minute Low German programmes per week. Furthermore, according to the authorities, a students' radio station in Greifswald also broadcasts programmes in Low German.

579. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Low German in Mecklenburg-Western Pomerania.

580. With regard to public broadcasting, according to the third periodical report (paragraph 5118), Low German programmes are broadcast on the regional public radio broadcaster *NDR 1 Radio MV*. This station

broadcasts several weekly programmes in Low German. Furthermore, the periodical report states that *NDR 1 Radio MV* has a dedicated editor as a contact person for Low German.

581. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17 above) the Committee of Experts therefore concludes that the undertaking is fulfilled.

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

582. In its second evaluation report (paragraphs 586 – 589), the Committee of Experts had been informed that the Rostock Open Channel *ROK-TV* broadcast a monthly 45-minute programme in German and Low German with several reruns. It received indirect financial support from the authorities. It had also been informed about plans to broadcast Low German programmes on the Open Channels in Neubrandenburg and Schwerin. While welcoming these developments, the Committee of Experts considered that the existing provision was still very limited and considered the undertaking partly fulfilled. It encouraged the German authorities to pursue their efforts with a view to increasing the presence of Low German on private television channels.

583. According to the additional information provided by the authorities, the Open Channel *ROK-TV* broadcasts two television programmes per week in Low German.

584. The Committee of Experts considers the undertaking partly fulfilled.

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

585. In its second evaluation report (paragraphs 590 – 592), the Committee of Experts considered the undertaking fulfilled although it lacked information regarding the ways in which the public authorities encourage or facilitate the publication of such articles.

586. In their third periodical report (paragraph 5142), the authorities state that print media is not subsidised. The Committee of Experts emphasises that forms of encouragement or facilitation could take the form of supporting journalist training, or providing different kinds of indirect financial assistance.

587. The authorities do state, however, that an increasing number of articles are being published in daily newspapers of the *Land* with at least one page per week. The Committee of Experts welcomes this development. Despite the lack of pro-active measures undertaken by the *Land* government, the Committee of Experts considers that the undertaking remains fulfilled.

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

588. In its first evaluation report (paragraph 341), the Committee of Experts had been informed about several projects that had been financed through the system of project-oriented promotion of audiovisual productions. It therefore considered the undertaking fulfilled.

589. According to the information contained in the third periodical report (paragraph 5150), there have been no recent audiovisual productions in Low German, although the financial assistance is still available. The Committee of Experts would welcome more information in the next periodical report on the reasons why no projects in Low German have been financed.

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;”

590. In its second evaluation report (paragraphs 593 – 595), the Committee of Experts had been informed of one television programme broadcast on the Open Channel *ROK-TV* dubbed into Low German. It had not been informed of any other examples and therefore considered the undertaking partly fulfilled.

591. The third periodical report (paragraph 5186) states that the examples given in the previous state report reflect the extent of translations which have been made into Low German. The report also states that translation, dubbing and post-synchronisation and subtitling can be subsidised on the basis of the cultural promotion directive of the *Land*.

592. In the absence of any practical implementation of this undertaking, the Committee of Experts revises its previous conclusion and considers the undertaking only formally fulfilled.

Paragraph 3

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

593. In the second evaluation report (paragraphs 596 – 599), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Low German language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany is reflected when presenting and promoting Germany abroad.

594. The Committee of Experts refers to the paragraphs 103 - 106 of this report and considers that the undertaking is not fulfilled.

Article 13 – Social care facilities

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;”

595. In its second evaluation report (paragraphs 606 – 609), the Committee of Experts observed that the use of Low German in retirement homes seemed possible, but that it had received no information with respect to other social care facilities, such as hospitals. It was informed that initial concepts were being developed with regard to the use of Low German, for example by appointing a Low German contact person at each social care facility. The Committee of Experts considered the undertaking partly fulfilled and encouraged 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.

596. Based on the information contained in the third periodical report (paragraph 5203), it does not seem that the Land authorities have acted upon the recommendation of the Committee of Experts, nor does it appear that the plan to appoint Low German contact persons has been pursued.

597. According to additional information received by the authorities, many social care facilities, many of which have been privatised, have adopted a Low German ‘corporate identity concept’. While welcoming this,

Part III

it is not clear to the Committee of Experts to what extent such a concept guarantees that persons in need of care can receive a treatment in Low German, nor is it clear what steps the authorities have taken to promote any such policy.

598. While it still seems to be the case that Low German is used in many social care facilities, it appears to be more a matter of chance than design. The Committee of Experts, however, underlines that the current undertaking requires the authorities to ensure that Low German is used in these establishments which can only be achieved by a bilingual human resources policy.

599. The Committee of Experts therefore revises its previous conclusion and considers the undertaking not fulfilled.

The Committee of Experts urges 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*

600. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Low German in Lower Saxony, these provisions are the following:

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

Article 8 – Education

601. The German Part III ratification for Low German in Lower Saxony under Article 8 is unusual in that it covers only pre-school and higher education. The essential components of primary and secondary education are missing. The Committee of Experts has already referred to the need for a structured policy to protect and promote Low German across all levels of education (see also paragraph 50 above).

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;”***

602. In its second evaluation report (paragraphs 611 – 613), the Committee of Experts observed that bilingual education took place in 34 nursery schools in Ostfriesland. These nursery schools were networked through the *Plattdütskbüro* (Low German Office) of the *Ostfriesische Landschaft*, which also offered further training activities for pre-school teachers. However, the Committee of Experts had not been informed about the offer of pre-school education in Low German in areas other than Ostfriesland and therefore considered the undertaking only partly fulfilled. It requested further information regarding 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*.

603. In their third periodical report (paragraph 5006), the authorities state that according to the new orientation plan of January 2005 on elementary education, “in those regions where a regional language is spoken (for example Low German), multilingualism is a good way of enhancing the children’s comprehension skills and language competence”. The orientation plan applies to all pre-school institutions in Lower Saxony.

604. According to the information received by representatives of Low German-speakers during the on-the-spot visit, the situation of Low German in pre-schools has improved since the adoption of the orientation plan. There are currently 60 bilingual nursery schools in Ostfriesland. Although the representatives were pleased with the situation of pre-school education in Ostfriesland, they were concerned about the lack of continuity of Low German education at primary school level.

605. In additional information provided to the Committee of Experts, the *Land* authorities state that no surveys have been made with regard to the extent to which Low German is available in practice.

606. While welcoming the continuing positive development of pre-school education in Ostfriesland and the adoption of the new orientation plan, the Committee of Experts still lacks concrete information on the situation of Low German education in pre-schools in other parts of Lower Saxony. It therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

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

607. In its second evaluation report (paragraphs 614 – 616), the Committee of Experts observed a downward trend regarding the provision of the study of Low German at university level. It particularly deeply regretted the discontinuation of the independent course of study ‘Low German language and literature’ at Göttingen University and the non-renewal of the only Low German professorship. The Committee of Experts considered that the undertaking was no longer fulfilled. It urged the German authorities to take the necessary measures with a view to re-establishing facilities for the study of Low German as a university subject or higher education subject in Lower Saxony as a matter of priority.

608. In the third periodical report (paragraph 5035) the authorities state that in 2005, the *Land* Parliament of Lower Saxony called on the *Land* Government to maintain a professorship in Low German language and literature in Lower Saxony in co-operation with other *Länder* in northern Germany.

609. In the context of the assignment of a new professorship for German Philology at the University of Oldenburg, a focus on Low German research has been assigned to the new professor. Low German is not offered as a subject in its own right, but in the form of modules within the German course of Bachelor and Masters studies. Representatives of the Low German-speakers informed the Committee of Experts during the on-the-spot visit that the professorship was limited to five years. According to the representatives of the *Land* authorities that the Committee of Experts met during the on-the-spot visit, the holder of the chair will establish a language centre for Dutch, Low German and Sater Frisian.

610. While acknowledging the efforts undertaken by the authorities, the Committee of Experts observes that the extent to which Low German is offered at Oldenburg university does not correspond to the requirement of this undertaking, which is all the more important given the need for qualified teachers.

611. The Committee of Experts therefore considers that the undertaking is only partly fulfilled at present. It asks the authorities to provide further information on the above-mentioned language centre in the 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;”

612. In the first evaluation report (paragraph 358), the Committee of Experts considered the undertaking fulfilled.

613. The third periodical report (paragraphs 5048 and 5060) states that the decree *Die Region im Unterricht* (the region in classroom instruction) which, *inter alia*, regulated the teaching of the history and culture related to Low German, expired. During the on-the-spot visit, representatives of the Low German-speakers informed the Committee of Experts that a new decree has so far not been adopted. The third report further states that a new core curriculum entered into force in August 2006. The Committee of Experts,

however, observes that this curriculum is not relevant for this undertaking (for more about the curriculum, see paragraph 325 above). This undertaking does not primarily concern making acquaintance with the specificities of the language itself, but rather with the teaching of the history and specific traditions related to the languages which is often separate from that of the majority language (see explanatory report to the Charter paragraph 86).

614. The Committee of Experts therefore must revise its previous conclusion and considers that the undertaking is not fulfilled at present. It urges the authorities to ensure that the new decree regulates the teaching of the history and culture related to Low German.

“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.”

615. In the second evaluation report (paragraphs 620 – 623), the Committee of Experts considered that the undertaking was not fulfilled as it observed that there was no supervisory body in Lower Saxony entrusted with the task required under this undertaking. The Committee of Experts encouraged the German authorities to establish a supervisory body within the meaning of this undertaking.

616. The third periodical states that the expired decree *Die Region im Unterricht* (see paragraph 613 above) contained comments on the supervisory function. It indeed mentions the setting up of regional working groups for Low German by the authorities.

617. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

618. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Low German language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

619. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

620. In the absence of evidence of any supervisory body, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled. It encourages the *Land* authorities to include provisions on the setting up of a supervisory body as required under this undertaking in the new decree and asks the authorities to provide more information in the 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;”

621. In its second evaluation report (paragraphs 624 – 626), the Committee of Experts observed that the authorities of the Weser-Ems *Regierungsbezirk* regularly used Low German in the administration’s contact with the citizens. However, the Committee of Experts had received no information with regard to the other

administrative authorities, nor was it aware of a structured policy or measures to ensure the availability of Low German-speaking staff members, and to inform those concerned of the right to submit documents in Low German.

622. The Committee of Experts considered the undertaking formally fulfilled and encouraged 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.

623. Regrettably, the third periodical report contains no information with regard to this undertaking.

624. According to the representatives of Low German-speakers that the Committee of Experts met during its on-the-spot visit to Germany, the abolishment of the administrative level of the government region (*Bezirksregierung*) in 2004 in Lower Saxony led to a further restriction in the use of Low German (see paragraph 25 above).

625. Furthermore, the Committee of Experts received evidence that tax offices refused documents drafted in Low German. Representatives of the *Land* Lower Saxony informed the Committee of Experts during its on-the-spot visit that according to the *Land* Administrative Procedure Act (*Niedersächsisches Verwaltungsverfahrensgesetz*), German is the official language and other languages can only be used in cases where the official language is not mastered.

626. In the light of all this information, the Committee of Experts considers the undertaking not fulfilled.

The Committee of Experts urges the authorities of Lower Saxony to ensure that users of Low German may validly submit documents in Low German within its administrative districts.

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

627. In its second evaluation report (paragraphs 627 – 628), the Committee of Experts had not received sufficient information to conclude on this undertaking and requested further information, including examples of documents drafted in Low German within administrative districts of the *Land* Lower Saxony, in the next periodical report.

628. The third periodical report contains no information with regard to this undertaking.

629. The Committee of Experts has not received any examples of practical implementation of this undertaking or positive measures taken by the authorities. It therefore considers that the undertaking is not fulfilled at present and asks the authorities to provide further information in this respect in the 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;”

630. In its second evaluation report (paragraphs 629 – 632), the Committee of Experts had been informed that Low German was used to some extent in Ostfriesland and in Ammerland, where many local authorities employed staff proficient in the Low German language and where the authorities formed working panels dealing specifically with the implementation of Article 10. However, the Committee of Experts had received no information about measures taken elsewhere in Lower Saxony. It therefore considered the undertaking only partly fulfilled.

631. In their additional information to the Committee of Experts, the *Land* authorities state that no information or examples are available with regard to this undertaking. During the on-the-spot visit, representatives of Low German-speakers informed the Committee of Experts that in Oldenburg it was no longer desirable to give preference to those with a Low German proficiency in job announcements, because it was regarded as discriminatory against immigrants. In the view of the representatives, the adoption of the anti-discrimination law (see paragraph 108 above) has so far had an adverse effect on Low German.

632. The Committee of Experts maintains its previous conclusion that the 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 second evaluation report (paragraphs 633 – 637), the Committee of Experts noted that oral communication in Low German appeared to take place occasionally in Lower Saxony, however, it was 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. The Committee of Experts considered that the undertaking was only partly fulfilled.

634. In their additional information to the Committee of Experts, the *Land* authorities state that no information or examples are available with regard to this undertaking.

635. The Committee of Experts therefore maintains its previous conclusion that the 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;”

636. In the second evaluation report (paragraphs 638 – 640) the Committee of Experts observed that no official documents in Low German were published by local and regional authorities in Lower Saxony, neither had the Committee of Experts been informed of any measures taken by the *Land* or federal authorities to ensure the implementation of this undertaking in practice. It therefore considered these undertakings only formally fulfilled.

637. In their additional information to the Committee of Experts, the *Land* authorities state that no information or examples are available with regard to this undertaking.

638. In the absence of any positive evidence that documents are published in Low German by the regional or local authorities, the Committee of Experts must conclude that these undertakings are not 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;”

639. In its second evaluation report (paragraphs 641 – 643), the Committee of Experts observed that, while Low German was used by a number of local authorities in debates in their assemblies, its use by regional authorities appeared very limited, i.e. only in two district councils at very irregular intervals. The Committee of Experts had 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. It therefore considered that the undertaking was only partly fulfilled.

640. In their additional information to the Committee of Experts, the *Land* authorities state that no information or examples are available with regard to this undertaking.

641. The Committee of Experts therefore maintains its previous conclusion that the 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.”**

642. In its second evaluation report (paragraphs 644 – 647), the Committee of Experts noted that on a pragmatic basis, the Weser-Ems *Regierungsbezirk* in most cases complied with the assignment wishes of staff members. The Committee of Experts had not received information about the way in which this undertaking was implemented in other areas in Lower Saxony and emphasised the need for a bilingual human resources policy throughout the territory of Lower Saxony. The Committee of Experts considered the undertaking partly fulfilled.

643. The Committee of Experts is aware that the *Bezirk* level has been dissolved (see paragraph 25 above). With regard to the *Kreis* and local administrative level, it has not received any information on any kind of positive practice or incentives or structural approach with regard to this undertaking.

644. The Committee of Experts therefore must conclude that this undertaking is not 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;”**

645. In its first evaluation report (paragraphs 371 – 372) the Committee considered the undertaking fulfilled.

646. The periodical report further lists a number of Open Channels operating in Lower Saxony that broadcast radio programmes in Low German. According to the information available on the internet homepages, one programme in Low German is broadcast on a weekly basis, whereas three other programmes are aired on a monthly basis.

647. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Low German in Lower Saxony. According to the information contained in the third periodical report (paragraph 5119), the public radio broadcaster *NDR1 Radio Niedersachsen* broadcasts several programmes in Low German on a daily and weekly basis.

648. The Committee of Experts considers that the undertaking remains fulfilled.

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

649. In its second evaluation report (paragraphs 648 – 651), the Committee of Experts considered the undertaking not fulfilled as no television programmes were broadcast in Low German on private television.

650. According to the information provided in the third periodical report, the public regional broadcaster *NDR* regularly broadcasts *Talk op Platt*, a programme in Low German, along with other programmes in Low German throughout the year. The Committee of Experts understands that the programme *Talk op Platt* was last broadcast in 2006 and has been replaced by a new Low German programme. However, it does not seem that this programme is still being broadcast.

651. With regard to the private media, the *Land* authorities informed the Committee of Experts in their additional information that the Lower Saxony Media Act obliges *Land*-wide broadcast providers to reflect *inter alia* the cultural diversity of the regions and the regional languages in their regional programmes. While welcoming this information, the Committee of Experts has not been informed of the broadcasting of any programmes in Low German on private television channels.

652. The Committee of Experts therefore considers the undertaking not fulfilled at present.

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

653. In its second evaluation report (paragraphs 652 – 655), the Committee of Experts had been informed that there were no specific measures aimed at encouraging and/ or facilitating the production of audio and audiovisual works in Low German in Lower Saxony. It therefore considered the undertaking not fulfilled. It encouraged the authorities to develop special schemes in compliance with this undertaking.

654. In their third periodical report (paragraph 5138), the *Land* authorities state that the production and distribution of Low German works in Lower Saxony is promoted by the *Land* Supervisory Authority and the media company *nordmedia*. The Committee of Experts, however, observes that the Supervisory Authority’s form of promotion is only relevant in the context of creating a support structure for private radio broadcasting, and that funds given by *nordmedia* are relevant for Art. 11. 1. f).

655. In the light of this information, the Committee considers the undertaking fulfilled with regard to audio works and not fulfilled with regard to audiovisual works.

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;”

656. In its second evaluation report (paragraph 657), the Committee had not been informed of a policy ensuring continued support for dubbing, post-synchronisation and subtitling activities and concluded that the undertaking remained partly fulfilled.

657. In the third periodical report (paragraph 5164), the *Land* authorities state that applications for funds with regard to translation of films and literature from High German into Low German are possible, but that no such applications have been submitted. The authorities further state the example of a novel that was translated by the author himself from Low German into High German. It is however not clear whether funds had been made available for this translation activity.

658. The Committee of Experts therefore does not conclude on this undertaking and asks the authorities to provide further information on what measures they have taken to support translation and other activities relevant to this undertaking in the next periodical report.

“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;”

659. In its second evaluation report (paragraph 658), the Committee of Experts considered this undertaking partly fulfilled. According to the information contained in the third periodical report (paragraph 5126), certain programmes that are broadcast on the public regional television channel *NDR* have been dubbed into Low German. The Committee of Experts concludes that the undertaking remains partly 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.”

660. In its second evaluation report (paragraphs 662 – 664), the Committee of Experts was not in a position to conclude on this undertaking and requested further information on activities and facilities in the southern part of Lower Saxony in the next periodical report.

661. According to the information provided by the *Land* authorities in the third periodical report (paragraph 5196), in 2005, the task of promoting regional culture was transferred to the *Landschaftsverbände* (regional local authorities). A target agreement was concluded with the *Landschaftsverband Südniedersachsen* (Southern Lower Saxony), which makes explicit reference to cultural activities related to Low German. Furthermore, Low German commissioners have been appointed to the southern Lower Saxon *Landkreise* of Göttingen, Northeim and Osterode.

662. The Committee of Experts commends the authorities for these initiatives and considers the undertaking fulfilled. It looks forward to receiving further information on the activities of the *Landschaftsverband Südniedersachsen* and of the Low German commissioners in the 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.”

663. In its second evaluation report (paragraphs 665 – 668), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Low German language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany was reflected when presenting and promoting Germany abroad.

664. The Committee of Experts refers to the paragraphs 103 - 106 above and considers that the undertaking remains not fulfilled.

2.2.6.e. Low German in the Land of Schleswig-Holstein

665. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Low German in Schleswig-Holstein, these provisions are the following:

- Article 8, paragraph 1.a.iv; f.iii; 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; d; f; g;
- Article 13, paragraph 1.a; c.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

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;”

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

666. In its second evaluation report (paragraphs 675 – 680), the Committee of Experts commended the *Land* authorities for the availability and quality of teaching materials and the appointment of commissioners responsible for Low German education. It observed, however, that Low German was not taught as a subject in its own right, but included in the teaching of other subjects. The Committee also observed that the extent to which Low German was taught appeared to vary significantly, according to the areas. With regard to secondary education it had been informed that the majority of schools offered Low German, although the number of teaching hours devoted to Low German varied considerably. It considered these undertakings partly fulfilled and encouraged the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within primary and secondary education to the extent envisaged by these undertakings, by adopting clear guidelines and other structural measures.

667. According to the additional information provided by the authorities of Schleswig-Holstein, the results of the questionnaire that was sent out to all schools in Schleswig-Holstein in 2006 showed that out of two thirds of the schools that had responded to the questionnaire, 80 per cent had teachers with a command in Low German. 51 per cent had a contact person for Low German at their school. An average of 23 hours per year are dedicated to Low German in primary schools, 28 per year at secondary *Realschulen*, 17 hours at *Gymnasien* and 14 hours per year at *Gesamtschulen*. According to the outcome of the survey, Low German was also included in school projects, activities and reading competitions. The Committee of Experts observes that these average hours are clearly below the amount of hours needed to meet the requirements of an integral part of the curriculum.

668. The *Land* authorities further state that as of July 2004, future teachers of the subject German are obliged to attend a module on Low German in which also non-speakers of Low German learn how to teach Low German with the help of a non-school partner. While the Committee of Experts welcomes this development as a step in the right direction, in the view of representatives of the Low German-speakers, this offer was not sufficient. The Committee of Experts was also informed of a shortage of young teachers able to teach Low German.

669. According to the third periodical report (paragraph 5025), since 2005, schools in Schleswig-Holstein compete for the *Niederdeutsch-Schulsiegel* (Distinction for Low German) award, carried out under the auspices of the President of the *Land* Parliament and the Minister of Education. The aim is to honour outstanding achievement and efforts to preserve Low German language and culture in the classroom and beyond. The Committee of Experts welcomes this initiative.

670. During the on-the-spot visit, representatives of Low German-speakers of Schleswig-Holstein drew the Committee of Experts' attention to pertaining deficiencies in primary and secondary school education. First of all, the teaching of Low German in the classroom still varies significantly depending on the region. Secondly, Low German continues to be taught as part of other subjects, although at some primary schools it is offered as a subject, but only in third and fourth class for one hour per week. The representatives demand a systematic offer of Low German as a separate subject and a curriculum for Low German.

671. According to the representatives of the Low German-speakers, the school types *Hauptschule* and *Realschule* are to merge into a new school type *Regional-und Gemeinschaftsschule* which will include classes in the afternoon. According to the speakers, this would open the possibility to offer Low German more substantially.

672. The Committee of Experts observes that the authorities have so far not followed the recommendation made in the last evaluation report. It is of the view, however, that the results of the questionnaire should be taken as a first step towards identifying the next measures that need to be taken in order to fully comply with these undertakings. The Committee of Experts considers that these undertakings remain partly fulfilled at present.

The Committee of Experts urges the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within primary and secondary education to the extent envisaged by these undertakings, by adopting clear guidelines and other structural measures.

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

673. In its first evaluation report (paragraph 396), the Committee of Experts considered the undertaking fulfilled.

674. The Committee of Experts has been made aware of the recent restructuring of university degrees to the Bachelor/ Masters degrees and the implications this has had on the offer of Low German as a university subject. According to the information at the disposal of the Committee of Experts, Low German seminars are offered within German studies at Flensburg University, and as a module within the Bachelor degree at Kiel University.

There is one chair for German linguistics with a focus on Low German language and literature at Kiel University.

675. The Committee of Experts regrets to note that Low German is no longer available as a separate university subject under the new degree courses.

676. The Committee of Experts nevertheless considers that the undertaking remains 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.”

677. In its second evaluation report (paragraphs 684 – 688), the Committee of Experts observed that a number of supervisory bodies for school education existed, however, there was no supervisory body specifically entrusted with the task of evaluating the teaching of Low German. The Committee of Experts considered that the undertaking was not fulfilled and encouraged the authorities to develop the existing structures of supervision along the lines envisaged by this provision.

678. In the third periodical report, the *Land* authorities ask the Committee of Experts in the context of this undertaking to explain in greater detail in future the reasons why – taking into consideration costs and potential benefits to an equal extent – it considers the existing system insufficient.

679. The Committee of Experts points out that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and be integrated into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. This task could in turn be carried out by one of the already existing bodies.

680. This undertaking goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education. The report should, among other things, contain information on the extent and availability of Low German language education together with developments in language proficiency, teacher supply and the provision of teaching materials.

681. The drafting of a comprehensive periodic reports need not depend on major resources, if the existing supervisory work on the ground is already extensive. A comprehensive report would be the logically consistent and tangible conclusion of the concerted supervisory work. Finally these periodic reports should be made public.

682. In the absence of such periodic reports, the Committee of Experts concludes that the undertaking remains 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.”

683. In its second evaluation report (paragraphs 689 – 690), the Committee of Experts asked the authorities to clarify whether there are territories within the *Land* where Low German is not traditionally used. The authorities have provided no such information, therefore the Committee of Experts once again urges the *Land* authorities to clarify the situation in the 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;”***

684. In its second evaluation report (paragraphs 691 – 694), the Committee of Experts considered that this undertaking was only formally fulfilled, since there was no evidence of any practical implementation.

685. In the absence of any information on practical implementation or pro-active measures taken to ensure that users of Low German may validly submit documents in Low German, the Committee of Experts concludes that the undertaking remains only formally fulfilled.

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

686. In its second evaluation report (paragraphs 695 – 698), the Committee of Experts considered that this undertaking was only formally fulfilled, since there was no evidence of any practical implementation.

687. According to the additional information provided by the *Land* authorities, no documents have been published in Low German.

688. In the absence of positive measures or more recent examples of a practical implementation, the Committee revises its previous conclusion and considers that the undertaking is not fulfilled at present.

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;”

689. In the second evaluation report (paragraphs 699 – 701), the Committee of Experts had been informed of a brochure *“Sprache ist Vielfalt”* that had been distributed to all local authorities in Schleswig-Holstein with regard to this undertaking. Although oral communication in Low German with regional or local authorities appeared to take place, the Committee of Experts had received no practical examples of written communication. It had, however, also been informed of the *Land* Government’s plans to discuss the scope of implementation with the association of local authorities. The Committee of Experts considered the undertaking partly fulfilled.

690. According to additional information provided by the *Land* authorities, they have not pursued their above-mentioned plan. They expect that the Charter is sufficiently known within local authorities.

691. The Committee of Experts considers that the undertaking remains partly fulfilled and encourages the *Land* authorities to resume its efforts with a view to making it possible in practice for Low German-speakers to submit applications in Low German 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.”

692. In its second evaluation report (paragraphs 702 – 705), the Committee of Experts had been informed by the *Land* authorities that Low German was spoken throughout the *Land* and that therefore this undertaking would be of little relevance. The Committee understood that there were no practical examples with respect of this undertaking and that Schleswig-Holstein had no specific human resources policy taking account of the Low German proficiency of civil servants. It therefore considered the undertaking only formally fulfilled.

693. The Committee of Experts has not received further information on practical examples or any other information on any kind of positive practice, incentives or structural approach with regard to this undertaking.

694. The Committee of Experts therefore considers that the undertaking is not 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;”

695. In its second evaluation report (paragraphs 706 – 710), the Committee of Experts observed that a commendable effort was made with regard to the public sector, that however, on private radio stations, programmes in Low German were only broadcast on an irregular basis. In the view of the fact that the undertaking concerns private broadcasting, it considered the undertaking partly fulfilled at present.

696. The third periodical report (paragraph 1026a) states that the Open Channel (*Offener Kanal*), became an independent legal entity with the entry into force of the Act on establishing a corporation under public law “Offener Kanal Schleswig-Holstein” in October 2006. This act contains a provision on the promotion of minority languages as part of the broadcaster’s duties and responsibilities. Furthermore, the act states that one of the five board members of the Open Channel is appointed by the Commissioner for Minority Issues of Schleswig-Holstein. Currently, a representative of the Danish minority is member of the advisory board. The Committee of Experts welcomes these positive developments.

697. The Open Channel is a citizens broadcasting channel under public law and supervised by the independent media authority that supervises private broadcasters. In March 2007, the ULR (*Unabhängige Landesmedienanstalt für das Rundfunkwesen*) merged with HAM (*Hamburgische Anstalt für neue Medien*) to form the new media authority *Medienanstalt Hamburg/ Schleswig-Holstein (MA HSH)*.

698. According to the information at the disposal of the Committee of Experts, Low German items are broadcast within a weekly radio programme on the Open Channel *OK Westküste* and other more irregular items. There is also one Low German programme broadcasted once a month. The Open Channel *OK Lübeck* also broadcasts items in Low German, mainly addressing senior citizens on a weekly basis or less often.

699. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Low German in Schleswig-Holstein.

700. With regard to public broadcasting, according to the information contained in the third periodical report (paragraph 5121), the public broadcaster *Radio NDR 1 Welle Nord* broadcasts several programmes in Low German on a daily and weekly basis.

701. In the light of the general approach taken by the Committee of Experts concerning Article 11.1. b (see paragraph 17) the Committee of Experts concludes that the undertaking is fulfilled.

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

702. In its second evaluation report (paragraphs 711 – 714), the Committee of Experts understood that there were no programmes in Low German on private television channels. It therefore considered the undertaking not fulfilled.

703. According to additional information received by the authorities, the citizens television channel *Offener Kanal Kiel-Fernsehen* has a Low German focus. The *OK Kiel* and *OK Flensburg* broadcasts

recordings of Low German stage-plays. However, these programmes seemed to be aired on an irregular basis.

704. With regard to public broadcasting, from the information available to the Committee of Experts, it appears that Low German programmes are only broadcast once per year on the regional public television broadcaster *NDR*.

705. In the light of this information, the Committee of Experts considers that the 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;”

706. In its second evaluation report (paragraphs 715 – 718), the Committee of Experts was not aware of any specific measures aimed at encouraging and/ or facilitating the production of audio and audiovisual works in Low German and therefore considered the undertaking not fulfilled.

707. The Committee of Experts has not received any further relevant information that would allow a reassessment of the situation. It therefore maintains its previous conclusions that the undertaking is not fulfilled.

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

708. In its second evaluation report (paragraphs 719 – 721), the Committee of Experts had been made aware of examples of applications for audiovisual funding for productions in Low German with the Corporation for the Funding of Audiovisual Works in Schleswig-Holstein (*MSH*). Although such applications were filed very infrequently, the Committee of Experts considered the undertaking fulfilled at the time of the report. It encouraged the authorities to consider 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.

709. According to the information at the Committee of Experts’ disposal, the *MSH* was replaced in July 2007 by the film production board *Filmförderung Hamburg Schleswig-Holstein* (see paragraph 525 above). The additional information received by the authorities state that the *Filmförderung* provides funds for productions which also include productions in Low German. However, so far, no applications in this respect have been filed.

710. The Committee of Experts encourages the authorities to provide information in the next periodical report on how the *Filmförderung* allows for the qualification of audiovisual productions in practice.

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;”

711. In its second evaluation report, the Committee of Experts asked the *Land* authorities to clarify whether the examples of translations given in the second periodical report were from or into Low German. It also asked the authorities to report on whether they fostered access in standard German to works produced in Low German and vice versa, by aiding and developing translation, dubbing, post-synchronisation and subtitling activities. The Committee of Experts therefore did not reach a conclusion with regard to these undertakings.

712. In the third periodical report (paragraphs 5165 and 5170), the authorities confine themselves to repeating that the *Land* subsidises translation activities through the Low German institutions. In additional information, the authorities state that they had no information on whether any use was made of this possibility.

713. The Committee considers these undertakings 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.”

714. In its second evaluation report (paragraphs 730 – 733), the Committee of Experts concluded that this undertaking was not fulfilled as regards the federal level, since no structured approach to integrating the Low German language in Germany’s cultural policy abroad was apparent. The Committee encouraged the German federal authorities to ensure that the existence of regional or minority languages in Germany was reflected when presenting and promoting Germany abroad.

715. The Committee of Experts refers to the relevant paragraphs above (paragraphs 103 - 106) and considers that the undertaking remains not fulfilled.

Article 13 – Economic and social life

Paragraph 1

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

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

716. In its second evaluation report (paragraphs 737 – 739), the Committee of Experts was not in a position to conclude on this undertaking due to lack of information and requested further information in the next periodical report.

717. No such information has been provided by the authorities during the present monitoring cycle. In the absence of any information, the Committee of Experts must conclude that the undertaking is not fulfilled and urges the authorities to provide such information in the 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;”***

718. In its second evaluation report (paragraphs 740 – 743), the Committee of Experts observed that, while it was possible to be treated in Low German in some social care facilities, this undertaking required the States Parties to ensure, wherever reasonably possible, that this possibility is offered. This implied

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institutional measures with a view to guaranteeing a more systematic provision, to the extent that the public authorities are competent.

719. The Committee of Experts considered the undertaking partly fulfilled and encouraged 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.

720. According to the additional information received by the authorities, Low German is spoken and understood throughout the *Land* of Schleswig-Holstein by very many inhabitants. Therefore, social care facilities always have staff at their disposal with a proficiency in Low German. Based on this information, it does not appear that the *Land* authorities have acted upon the recommendation of the Committee of Experts.

721. While it still seems to be the case that Low German is used in many social care facilities, it is more a matter of chance than design. However, the Committee of Experts underlines that the current undertaking requires the authorities to ensure that Low German is used in these establishments which can only be achieved by a bilingual human resources policy.

722. The Committee of Experts therefore revises its previous conclusion and considers the undertaking not fulfilled.

The Committee of Experts urges 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. Romani in the Land of Hesse

723. 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 and/ or second report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Romani in Hesse, these provisions are the following:

- Article 8, paragraph 1.g;
- Article 9, paragraph 2.a;
- Article 10, paragraph 5;
- Article 11, paragraph 2;
- Article 12, paragraph 1.f;
- Article 12, paragraph 3;
- Article 13, paragraph 1.a.

For these provisions, the Committee of Experts refers to the conclusions reached in its first and/ or second reports but reserves the right to evaluate the situation again at a later stage.

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

724. The second evaluation report (paragraphs 744 – 745) was the first evaluation round with regard to the application of the Charter to the Romani language in Hesse. While welcoming the strong long-term commitment of the *Land* Hesse to extend Part III protection to the Romani language, the Committee of Experts observed that there was a significant gap between the undertakings chosen and the level of implementation provided for by the domestic legal framework and practice. Difficulties towards an implementation existed also by the fact that the Romani language of the German Sinti and Roma has so far not been codified. This is in accordance with the wishes of a number of speakers. Also, it was aware that part of the speakers did not wish the Romani language to have a presence outside the Sinti and Roma community.

725. The Committee of Experts observes that the difficulties encountered above still persist during the present monitoring cycle.

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

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- 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*
 - 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;***

726. In its second evaluation report (paragraphs 746 – 747), the Committee of Experts observed that teaching in or of Romani did not take place at any level of education in Hesse. It had been informed that there was a demand for such education in a number of Hessian towns and that the Hesse *Land* Association of German Sinti and Roma planned to carry out an in-depth local needs analysis as soon as funds became available. The Committee of Experts considered that none of the undertakings under Article 8, paragraph 1, sub-paragraphs a to e were fulfilled at the time of the report. It encouraged 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 Romani at all levels of education in Hesse.

727. In the third periodical report (paragraph 4006), the Hesse authorities state that the *Land* provides both institution based and project based support to the Hessian *Land* Association of German Sinti and Roma, which in turn manages the major part of these funds independently, according to the priorities defined by the *Land* Association itself. Such priorities lie currently in the field of social inclusion of Sinti and Roma on the one hand, and awareness raising with regard to the history and culture of Sinti and Roma among the majority population on the other.

728. According to the information received by a representative of Sinti and Roma during the on-the-spot visit, a survey on demand for Romani education is still being carried out in Hesse. The representative was not aware of Romani education currently taking place in practice in Hesse. The Committee of Experts also met representatives of the Hesse authorities, according to whom the means and the general framework for Romani education would be given, if a demand for such was ascertained. The Committee was also informed about the Education Bureau for National Minorities: Sinti and Roma, based in Marburg that, according to the authorities carries out works in relation to Romani. However, from other information at the disposal of the Committee of Experts, it appears that this office deals exclusively with raising awareness of the history and culture of Sinti and Roma in education and erasing prejudices.

729. While acknowledging the support given by the *Land* Hesse, the Committee of Experts observes that no education in or of Romani currently takes place on any school level. It understands that the priorities set by the *Land* association are very important and need to be pursued. However, in the view of the Committee, priority setting must not exclude the development of Romani language education if financial and human resources were expanded, especially given the demand for such education. The Committee of Experts has been informed that teaching in or of Romani takes place in other *Länder* (see paragraph 59 above) and it encourages the Hesse authorities to increase co-operation with other *Länder* with a view to exchanging good practices.

730. The Committee of Experts concludes that these undertakings remain not fulfilled at present.

The Committee of Experts urges 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 Romani 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;”

731. In its second evaluation report (paragraphs 749 – 750), the Committee of Experts observed that Romani was not taught as an adult and continuing education subject. It had been informed that there was a demand for such education in a number of Hessian towns and that the Hesse *Land* Association of German Sinti and Roma planned to carry out an in-depth local needs analysis as soon as funds became available. The Committee had been informed that the Association was not able to carry out the existing demand for adult education courses, as they had not received any support from the authorities so far.

732. The Committee of Experts considered the undertaking not fulfilled at the time of the report and encouraged the authorities to take necessary measures and allocate appropriate funds with a view to favouring and/ or encouraging the offering of Romani as a subject of adult and continuing education.

733. In their third periodical report, the Hesse authorities state that they were not aware of any actual demand. They further state that institution based and project based funds are provided to the *Land* Association, which in turn manages the major part of these funds independently, according to the priorities defined by the *Land* Association (see also paragraph 727 above).

734. The Committee of Experts concludes that the undertaking remains not fulfilled at present and urges the authorities to clarify whether there is a demand for Romani education in the field of adult education and to take necessary measures and allocate appropriate funds with a view to favouring and/ or encouraging the offering of Romani as a subject of adult and continuing education.

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

735. In the second evaluation report (paragraphs 753 – 754), the Committee of Experts was not informed of any measures to ensure the training of teachers. While it noted that the Hesse Schools Act made it possible to recruit Romani-speakers who did not pass the state examination for teachers for teaching Romani, the Committee of Experts was not aware of where this possibility was put into practice. Furthermore, it was of the view that appropriately qualified teachers were needed to implement the undertakings under the present paragraph. It considered the undertaking therefore not fulfilled.

736. According to the additional information provided by the Hesse authorities, the representatives of the Sinti and Roma only accept teachers from their own group to teach Romani and again refer to the funding schemes provided to the *Land* Association which in turn still needs to clarify the demand for teacher training. During the on-the-spot visit, the Committee of Experts was informed by representatives of the *Land* Hesse, that so far there have been no requests for basic or further teacher training with regard to teaching Romani.

737. The Committee of Experts therefore considers that the undertaking remains 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.”

738. In its second evaluation report (paragraphs 755 – 756), the Committee of Experts had not been made aware of any supervisory body responsible for the implementation of this undertaking. It therefore considered the undertaking not fulfilled.

739. No further information has been provided by the authorities with regard to this undertaking. The Committee therefore concludes that the undertaking remains 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.”

740. In the second evaluation report (paragraph 757), the Committee had no information with regard to this undertaking and was therefore not in a position to conclude whether it was fulfilled or not.

741. The Committee has received no further information with regard to this undertaking and therefore urges the authorities to provide relevant information in the next periodical report.

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;”

742. In its second evaluation report (paragraph 758), the Committee of Experts considered that these undertakings were formally fulfilled as the domestic legal framework provides for that.

743. The Committee of Experts has not been made aware of any examples that these formal provisions in the law are followed by any degree of practical implementation and would welcome such information in the next periodical report. In the meantime it considers that the undertakings remain formally 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;”***

744. In its second evaluation report (paragraph 760), the Committee of Experts stressed that the implementation of these undertakings requires positive measures of encouragement from the authorities. Although the use of Romani in the assemblies of the local and regional authorities seemed to be allowed, no measures of encouragement and no practical arrangements were reported which would enable speakers to make use of this possibility. It therefore considered that the undertakings were only formally fulfilled.

745. In their additional information provided to the Committee of Experts, the Hesse authorities state that they have encouraged the local authority associations to make arrangements at the regional level to allow the use of Romani in debates of the assemblies at regional and local level.

746. The Committee of Experts commends the authorities for the good intentions and concludes that the 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.”***

747. In its second evaluation report (paragraph 761), the Committee of Experts had not been made aware of any practical implementation or pertinent legal provisions ensuring compliance with this undertaking, or of positive measures taken by the authorities to encourage the use of Romani in relations with public service providers. The Committee of Experts therefore considered the undertaking not fulfilled.

748. No information relevant to this undertaking was provided by the authorities. The Committee of Experts must therefore conclude that the undertaking remains not fulfilled and asks the authorities to provide information on practical implementation, pertinent legal provisions and positive measures with regard to this undertaking.

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.”**

749. In its second evaluation report (paragraph 761), the Committee of Experts had been informed that no such requests to this effect were known. It noted that there was no pertinent legal provision or structured policy ensuring compliance with this undertaking. Nor was it aware of the existence of Romani-speaking public service employees in Hesse. The Committee of Experts considered the undertaking not fulfilled.

750. According to the additional information provided by the authorities, under the legal provisions currently in force, public service employees may apply for transfer to another post. If and when Romani-speaking employees submit such a request, the *Land* government will make efforts to comply with the wishes of these employees.

751. The Committee of Experts however has received no information on any kind of positive practice or incentives or structural approach with regard to this undertaking. It therefore considers this undertaking remains not 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;”**

752. In the second evaluation report (paragraphs 764 – 767), the Committee of Experts observed that Romani was not being used on radio or television, except for very occasional broadcasts of songs, although the Act on Private Broadcasting of the *Land* Hesse stipulates that programmes shall contribute to towards “the protection of ethnic, cultural and linguistic minorities”. The Committee of Experts had not been informed of any measures taken by the authorities to encourage the broadcasting of programmes in Romani by the private media. It therefore considered the undertaking not fulfilled.

753. The Committee of Experts had also been informed of the intentions of the *Land* Government to inform the public broadcaster *Hessischer Rundfunk* about Germany’s obligations and its preparation to initiate a dialogue between this broadcaster and the *Land* Association of German Sinti and Roma.

754. The Committee of Experts has not received any further information from the authorities with regard to this undertaking. A representative of the Romani-speakers in Hesse informed the Committee of Experts that the speakers would welcome the broadcasting of a radio or television programme in Romani.

755. As for private radio broadcasting, the Committee of Experts is aware of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considers that promoting regional or minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe those sensitivities, nor indeed German law. The Committee of Experts encourages the German authorities to do so in the case of Romani.

756. In the absence of any further information on positive measures taken by the authorities to encourage the broadcasting of radio and television programmes in Romani, the Committee concludes that the undertaking remains not fulfilled.

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

757. In its second evaluation report (paragraphs 768 – 770), the Committee of Experts observed that the works carried out and collected by the state promoted Documentation and Cultural Centre of German Sinti and Roma were exclusively in German. The Committee of Experts therefore considered the undertaking not fulfilled.

758. Unfortunately, no further information was provided by the authorities with respect to this undertaking. The Committee of Experts therefore must conclude that the undertaking remains 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;”

759. In its second evaluation report (paragraph 771), the Committee of Experts observed two obstacles in this respect. One was the absence of a standard written form of Romani, the other was that some of the Romani-speakers did not want to make publicly accessible written materials in Romani. The Committee of Experts considered these undertakings not fulfilled

760. The Committee of Experts has not received any further information with respect to this undertaking and therefore maintains its previous conclusion that the undertaking is not fulfilled. The Committee of Experts encourages the authorities, in co-operation with the Romani-speakers to overcome the above-mentioned obstacles.

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

761. In its second evaluation report (paragraph 772), the Committee of Experts observed that the existing measures for financial existence would in principle be applicable to productions in Romani. However, it had not been informed whether this would happen in practice, nor whether these measures were designed in such a way that audiovisual productions could apply for them in practice. It considered the undertaking not fulfilled.

762. The Committee of Experts has not received any further information with respect to this undertaking and therefore maintains its previous conclusion that the undertaking is not fulfilled.

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

763. In its second evaluation report (paragraph 773), the Committee of Experts had received no information that the state funded Documentation and Cultural Centre of German Sinti and Roma or any other body or institutions supported the training of journalists and other staff for media. Considering that the fulfilment of this undertaking required at least some degree of practical implementation, the Committee of Experts concluded that the undertaking was not fulfilled.

764. The Committee of Experts has not received any further information with respect to this undertaking and therefore maintains its previous conclusion that the 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:

- 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;”**

765. In its second evaluation report (paragraph 775), the Committee of Experts had been informed about the “Roma and Sinti Symphony Orchestra” which receives support from Roma and Sinti institutions. It had not however received any information regarding the encouragement of types of expression and initiative specific to the Romani language and requested further information in the next periodical report.

766. The authorities point out that Romani-speakers have equal access to the existing promotional instruments concerning cultural institutions and projects. The Committee of Experts stresses, however, that in order to fulfil this undertaking, it is not sufficient to put such promotion of regional or minority language on equal footing with mainstream promotion, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2 (see also paragraph 654 of the second evaluation report).

767. In the absence of evidence of an encouragement specific to the Romani language, the Committee of Experts must conclude that the undertaking is not fulfilled at present.

- “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;”**

768. In its second evaluation report (paragraph 776), the Committee of Experts had received no information as to how the authorities ensured that bodies responsible for organising or supporting cultural activities, other than the Hessian *Land* Association of German Sinti and Roma, made appropriate allowance for the Romani language and culture of German Sinti and Roma, and requested further information in the next periodical report.

769. In the third monitoring round the Committee of Experts has not received any information about bodies other than the *Land* Association of German Sinti and Roma which are responsible for organising cultural activities in relation to the Romani language.

770. The Committee considers the undertaking partly 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;”**

771. In its second evaluation report (paragraph 776), the Committee of Experts had received no information on whether the Documentation and Cultural Centre of German Sinti and Roma kept works produced also in the Romani language and asked the authorities to clarify this matter in the next periodical report.

772. According to the comments provided by the Central Council of German Sinti and Roma appended to the third periodical report (Part E), the Documentation Centre *inter alia*, produces and collects works, such as recordings of poetry, songs and theatre plays in the Romani language.

773. In the light of this information, the Committee considers the 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.”

774. Due to lack of information, the Committee of Experts was not in a position to conclude on the fulfilment of this undertaking in the second evaluation report (paragraph 779), and asked the German authorities to provide further information in their next periodical report.

775. The Committee of Experts has not received any further information with respect to this undertaking and therefore urges the authorities to provide the relevant information in the 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:

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

776. In its second evaluation report (paragraph 782), the Committee of Experts was not in a position to conclude on this undertaking as it had been made aware of such practices, most notably that the media contributed to the stigmatisation of Romani-speakers. The Committee of Experts encouraged the authorities to inform the Committee about measures taken to oppose any practices discouraging the use of Romani in connection with economic and social activities.

777. In August 2006, a federal anti-discrimination act entered into force (*Allgemeines Gleichbehandlungsgesetz*) which prohibits among other things racial discrimination or ethnocentrism, the latter implying discrimination against members of a national minority and in certain circumstances their language. The Committee of Experts is pleased to note that the national minorities are represented by one member in the Advisory Council of the Federal Anti-Discrimination Bureau.

778. The Committee of Experts considers the undertaking fulfilled.

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

779. In the second evaluation report (paragraphs 783 – 785), the Committee of Experts was not informed of any positive measures with respect to the use of Romani in Hesse. Therefore it could not conclude on this undertaking and requested further information in the next periodical report.

780. In the third periodical report (paragraph 4136), the German authorities argue that it is not possible to implement this undertaking because there is no written standard form of Romani in Germany. As pointed out in the second evaluation report, this undertaking also includes the facilitation of the oral use of regional or minority languages.

781. In the absence of any practical examples of encouragement of facilitation of the use of Romani with regard to social and economic activities, the Committee of Experts considers this undertaking not fulfilled.

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;”*

782. In its second evaluation report (paragraph 786), the Committee of Experts understood that organisations of the Romani-speakers in Germany co-operated with organisations of Roma in other European countries. The Committee of Experts, however, was not aware of the ways in which the German authorities applied existing bilateral or multilateral agreements with these States with a view to fostering such contacts in the field of culture, education or information. It was therefore not in the position to conclude on this undertaking and requested further information in the next periodical report.

783. In their third periodical report (paragraphs 4138 – 4139), the authorities confirm that no such agreements have been reached, nor were the authorities aware of any request made by the German Roma and Sinti in this respect. The authorities further state that representatives of governments of other states where Romani is spoken were not aware of any such demand, nor did it seem to be practice within the activities of other intergovernmental organisations, such as the OSCE and the United Nations.

784. The Committee of Experts observes that the large majority of bilateral or multilateral agreements in respect of this undertaking are reached with States in which the regional or minority language in question is the official language of this State. The reason that demand for such agreements has not yet been made by Romani-speakers may lie in the fact that they are not aware of the possibility to reach such agreements related to the Romani language.

785. There was however an interest in creating a forum for co-operation and joint representation of the interests of Romani-speakers at a pan-European level which has been realised through the European Roma Forum (ERTF).

786. The Committee of Experts considers the undertaking not fulfilled.

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 ensure the practical implementation of the undertakings which Germany has entered into under the Charter;”

787. The German authorities have not adopted specific legal provisions in order to implement Germany's undertakings under the Charter, on the same assumption already stated in their second report, namely that the Charter is directly applicable. The authorities intend to further reduce the number of legal provisions. The number of legal uncertainties and apparent lack of the use of the regional or minority languages in many areas of public life brought to the attention of the Committee of Experts during this monitoring round shows the continuing need for the adoption of legal provisions. The Committee has observed that (1) languages which benefit from formal legal measures at *Land* level are, on the whole, better promoted and protected than those which do not and (2) certain *Land* governments do not appear to consider themselves bound by the legal obligations under the Charter. Consequently, whether or not the Charter is "self-executing" in German law (as the German authorities contend) there is a clear pragmatic benefit in the German context in having a legislative framework for the implementation of the Charter.

Recommendation no. 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;”*

788. With regard to **Upper Sorbian**, a further Upper Sorbian secondary school closed down in 2007, leaving only four *Mittelschulen* in Saxony. According to the authorities, the closure is connected to the general demographic and budgetary situation in Saxony, however, there shall be no further closures until 2020. To this end, German language secondary schools have also closed down and pupils have been transferred to one of the Sorbian schools which has led to a decrease in the proportion of Sorbian education.

789. As a way of reconciling the trend of school closures, Saxony has introduced Sorbian streams into mainstream schools using the bilingual teaching model “2 plus”, with a maximum of five hours' teaching through the medium of Sorbian. Under the present circumstances, the Committee of Experts in principle endorses this model, however, there are still some serious problems connected to its practical implementation, such as the relatively low number of hours devoted to it and its possible harm to the language competence of mother tongue pupils.

790. With regard to **Lower Sorbian**, there is still a shortage of teachers at all levels of education. The authorities admit to the shortage of Lower Sorbian teachers and state they will report about the measures taken in the next periodical report. So far, however, it does not seem that the authorities have taken any steps to redress the shortage by providing incentives for teacher training, apart from facilitating the access to higher education and the support from the Ministry of Education for the Information days for grammar school pupils to attract them to the teaching profession. More decisive and concrete action needs to be taken.

791. The German authorities have not implemented the recommendation with regard to **North Frisian**. North Frisian education continues to suffer severely from a patchy offer and lack of structured and overarching education policy that reaches from pre-school to secondary school and beyond. The lack of a continuous and systematic offer is apparent. Pre-school education depends on voluntary helpers, and in primary and secondary education Frisian is not offered at all class levels and is still taught outside regular school hours. The lack of teachers aggravates the situation. There is an urgent need for resolute and concerted action in the field of education.

792. With regard to **Sater Frisian**, the Committee of Experts observes that the authorities did not react positively to these recommendations. The orientation plan of 2005 mentions regional languages, but it is not strong enough to have an effect on the situation of Sater Frisian in education in any way. Consequently, the teaching of Sater Frisian continues to depend on voluntary helpers and is insufficient in terms of the hours devoted to it. There is no financial or institution-based support by the authorities. Such measures are needed as a matter of extreme urgency.

793. With regard to **Low German**, the number of hours devoted to Low German have not increased in any *Land* where Low German is spoken. In most cases, Low German continues to be taught as a part of other subjects which in practice limits the actual amount taught to a minimum. Low German as a subject in its own right is only more widespread in schools in Mecklenburg-Western Pomerania. A new directive for pre-schools has been adopted in Hamburg, which strengthens the teaching of Low German. In Lower Saxony, the decree which prescribed the teaching of Low German has expired, and the new orientation plan seems to have a lesser level of commitment to the teaching of Low German. In Bremen, the new framework curriculum no longer mentions the teaching of Low German, although this is to be redressed with guidelines. Most *Länder* have carried out surveys on the extent to which Low German is taught in schools. Concepts for Low German education could and should be developed based on the outcome of these. The Committee of Experts has no information on the amount of Low German taught in those *Länder* where Part II of the Charter applies (Saxony-Anhalt, Brandenburg and North-Rhine/ Westphalia).

794. With regard to **Romani**, the authorities have not adopted a structured policy in the field of education. No teaching in or of Romani currently takes place on any school level in the *Land* Hesse. Hesse gives institution- and project based funding to the *Land* Association of Roma and Sinti and leaves it to the association to decide on whether to use its funding for teaching in or of Romani. It seems, however, that the lack of offer of Romani is also due to a shortage of specific financial and human resources in this respect, and the lack of a clear initiative from the authorities. A certain degree of teaching in Romani takes place in Hamburg and Bavaria. Through a Framework Agreement, Rheinland Palatinate has strengthened its commitments to the teaching of Romani, although a structured policy does not seem to have been realised so far.

Recommendation no. 3:

“reverse the decline in study and research opportunities for Low German, Sater Frisian and Lower Sorbian and improve facilities for teacher training;”

795. The decline in study and research of these languages has not been reversed but it has been put on hold, which has also been to a greater or lesser extent achieved through the efforts made by the authorities. A further issue which affects all regional and minority languages in Germany is the twin impact of budgetary pressures in Higher Education and the Europe-wide Bologna Process leading to a standardised Bachelor and Master degree structure. Together, these mean that regional or minority languages are in danger of disappearing as higher education programmes. In particular, this harms teacher training.

Recommendation no. 4:

“ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III;”

796. None of the *Länder* have implemented this recommendation. The authorities argue that the public and the authorities are sufficiently informed about the implementation of the Charter and that additional controlling procedures would generate additional costs. Also, the authorities claim that it would be contrary to the current general trend of deregulation and de-bureaucratisation of administration.

797. An effective monitoring mechanism goes beyond the inspection and reporting of mainstream education. It requires evaluating and analysing the measures taken and the progress achieved with regard to regional or minority language education on a regular and frequent basis. The results of the monitoring should among other things, contain information on the extent and availability of regional or minority language education together with developments in language proficiency, teacher supply and the provision of teaching materials. As a rule, regional or minority language education differs from mainstream education as it has different dynamics and must therefore be surveyed and monitored separately. The aim of such monitoring is to continuously improve regional or minority language education and to ensure full and sustainable language proficiency of the pupils.

Recommendation no. 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;”

798. 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:

“create incentives to increase the provision for regional or minority languages in private broadcasting.”

799. The acts on private broadcasting of the *Länder* Schleswig Holstein, Bremen, Lower Saxony and Hesse all contain provisions on the promotion of regional or minority languages. The presence of regional or minority languages in private broadcasting, however, remains marginal. In some instances, there is a presence in public service broadcasting, in other instances, the presence is strongest on the Open Channels which are citizens’ broadcasting channels under public law and supervised by the independent media authorities. However, the drawbacks of the Open Channels are their limited geographical coverage of radio broadcasting and in most cases irregular and infrequent broadcasting. There are almost no regional or minority languages present on private television and on Open Channel television.

800. The Committee of Experts has reviewed its interpretation of Articles 11.1. b and c (see paragraph 17 above). This has led to a more holistic assessment of the presence of regional or minority languages in the broadcasting media (private and public) which means that the Committee of Experts has found undertakings to be fulfilled where previously it had not. Even on the more liberal interpretation of these articles, however, there are still certain instances where regional or minority languages lack an adequate presence in the broadcasting media.

3.2. Findings of the Committee of Experts in the third 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 second evaluation report of the Committee of Experts and the third 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 third periodical report. The Committee of Experts commends the German authorities for the detailed information contained in the third periodical report and their response to requests for further information made by the Committee of Experts.

B. However, the Committee of Experts also observed that with regard to certain Part II and Part III languages or/ and certain undertakings, relevant information was lacking. The lack of requested information with regard to many undertakings reduces the efficiency of the monitoring mechanism and makes it difficult for the Committee of Experts to assess whether any changes or progress have been made on the ground. It was therefore not able to evaluate the implementation of a number of undertakings.

C. Despite some positive developments, the situation of regional or minority languages has not changed significantly since the first and second monitoring round and the previous recommendations of the Committee of Ministers still largely remain valid. The Committee of Experts regrets to note that the situation of some of the more endangered languages seems to have deteriorated, in particular Lower Sorbian. The situation of Sater Frisian remains desperate. The Committee of Experts considers that Germany should take more determined steps to tackle the problems identified by the Charter's monitoring mechanism.

D. Under international law, the federal state is responsible for the implementation of the Charter obligations. However, in the internal distribution of competences, 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. In this respect, a commendable effort has been made for the further development of institutional representation of regional or minority languages at the federal level. Further consultative councils have been established as well as a minority secretary. 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, also in financial terms. This also applies to the Romani language, most notably in the field of education.

E. Measures taken in favour of regional or minority languages continue to vary significantly between the *Länder* concerned and even between various languages in one *Land*. Overall, the promotion of regional or minority languages is hampered, 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. Where the authorities show a positive attitude to regional or minority languages, and are prepared to devote energy and resources to them, the Committee of Experts observed good progress. In certain other cases, however, the Committee of Experts observed a regrettable lack of political will on the part of the authorities to assume responsibility for implementing the Charter.

F. The absence of clear structured policies for regional or minority languages creates confusion among the speakers as to which bodies and authorities are 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 is made worse by the absence in most cases of any implementing legislation. Another factor contributing to the problem is the absence of any institutional and/or recurrent funding, with the exception of the Sorbian languages.

G. Despite the Federation's commitment in the previous monitoring cycle to maintain its level of contribution to the Foundation for the Sorbian People, it seems that in percentage terms the federation is in fact offering to contribute less. The ongoing uncertainties on the financing of the foundation makes any long-term planning impossible at present and endangers the maintenance of vital Sorbian institutions.

H. Part III implementation of the Charter with regard to Romani in Hesse continues to lack a more pro-active and structured policy. The Committee of Experts observes that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romani language of German Sinti and Roma has no standard written form. In addition, some Romani-speakers do not wish their language to have a presence in public life outside the Sinti and Roma community, especially in writing. There have been some positive developments in the field of education in Hamburg and Bavaria. The Framework Agreement

Part III

between the *Land* Government of Rhineland Palatinate and the *Land* Association of the Roma and Sinti is an encouraging sign for strengthened co-operation in the field of language promotion.

I. The situation regarding education in Danish at all levels remains satisfactory. Some remaining problems have been settled, but school transport continues to create problems.

J. Provision for teaching in or of Upper Sorbian is still relatively well developed. However, the rationalisation programme in rural schools in territories where Upper Sorbian is traditionally used continues to have an adverse effect on the maintenance of the language. In 2007, a further Sorbian secondary school closed, with only 4 schools of that type remaining. The “2plus” model of teaching Sorbian has been introduced. This provides for a maximum of five hours per week, without setting a minimum. Depending on the situation, the 2+ model, may not be sufficient to develop native speakers language competence. Replacing full Sorbian medium education with a lesser offering (eg the model “2plus”) would be a retrograde step and would not benefit the Upper Sorbian language.

K. There have been no noticeable improvements 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 transfer of teacher training for Sorbian teachers to Leipzig has evidently hampered the efforts to improve the situation. There is also a pressing need to invest in the Lower Sorbian pre-school sector to ensure a firm foundation for Lower Sorbian education. A structured and systematic policy across all levels of education is urgently needed, in particular to ensure continuity of Sorbian education from pre- to primary school, and from primary to secondary school.

L. Despite the political support pledged by the authorities of Schleswig-Holstein to implement the coherent and realistic education model developed by speakers of North Frisian, very little has been done by the authorities. North Frisian education continues to suffer because it remains outside the regular curriculum and there is no structured policy ensuring a systematic offering of North Frisian education even where there is a clear demand.

M. Sater Frisian faces terminal decline unless urgent steps are taken by the Lower Saxony *Land* authorities to maintain it as a living language. Currently, in the crucial field of education, nothing substantial is being done. Consequently, 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. The Committee of Experts regards this as being a matter of utmost importance.

N. Overall, Low German continues to be taught merely as a variety 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 second evaluation report. This tendency needs to be reversed as a matter of urgency, given that the availability of adequately trained specialised teaching staff is crucial for all the efforts in this field.

O. The absence of supervisory bodies within the meaning of Article 8, paragraph 1.i continues to be a severe problem for any attempt to improve the situation of education. Targeted 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 vital for the implementation of a structured education policy. The lack of such mechanisms 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.

P. The use of regional or minority languages before administrative authorities (and before judicial authorities in the case of Upper and Lower Sorbian) remains marginal, with the exception of the oral use of Low German in some areas. 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

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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.

Q. With regard to broadcasting, public service broadcasting continues to be good for several regional or minority languages, in particular there have been positive developments with regard to Upper Sorbian. There is a lack of television and radio broadcasting with regard to Danish, North Frisian Sater Frisian and Romani. In these cases, programmes in regional or minority languages are currently broadcast mainly sporadically on the Open Channel. Limited frequency as well as limited geographical coverage restrict the offer in these instances.

R. 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.

S. In the field of social and economic life, the Committee of Experts welcomes the adoption of the anti-discrimination legislation. The Committee of Experts is however particularly concerned about the lack of a bilingual policy in social care facilities. Some regional or minority languages are used in practice in such institutions, but as a matter of chance rather than design. More determined measures need to be taken in this respect.

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 1032nd meeting on 9 July 2008, 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:

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;

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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 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

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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;
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;

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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)

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

Appendix II: Comments by the German authorities



**Bundesministerium
des Innern**

POSTANSCHRIFT Bundesministerium des Innern, 53108 Bonn

DATUM Bonn, 7. Mai 2008
AZ M II4 – 923 094 – 5 / 7

Comments by the Federal Republic of Germany

regarding the Third 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 on the Implementation of the Charter in Germany

The Committee of Experts set up under the European Charter for Regional or Minority Languages (hereinafter referred to as the “Charter”) submitted its third 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 (hereinafter referred to as “the Third Monitoring Report”).

The Report was serviced on Germany with a letter by the Directorate General IV of the Council of Europe dated 9 April 2008, giving Germany the opportunity to comment on the report by 26 May 2008 in line with Article 16 (3) of the Charter.

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 Committee of Experts expressly notes in paragraph 18 that there are several issues where the interpretation of the Charter provisions by the German authorities differs from that of the Committee of Experts.

Germany would however not do justice to the comprehensive and detailed report if it even began to try and comment adequately on the report within the given period, also taking into account its federal system. It also needs to be kept in mind that states have to submit reports every three years anyway, i.e. at quite short intervals. Germany has indeed submitted its third country report and has on top of that replied to a comprehensive questionnaire issued by the Committee of Experts; commenting on the Monitoring Report in detail at this stage would more or less amount to an additional report.

After consulting with the federal Länder, Germany has therefore decided to comment on the Committee’s findings in its fourth country report.

Nevertheless I should like to point out at this juncture that the competent authorities in Germany do not invariably share the views and evaluations stated by the Committee of Experts. For more details I would like to refer to the fourth report to be submitted by the Federal Republic of Germany.

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The Federal Ministry of the Interior is planning to publish a German translation of the Committee's Third Monitoring Report on its website at www.bmi.bund.de in August 2008, and to inform the federal associations of the speakers of minority languages accordingly, so that they can take the report into account for their contributions to the fourth country report, or to comment on it beforehand, if they so wish.

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(2008)3
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 9 July 2008
at the 1032nd 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 third 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 their absence hinders practical implementation of the undertakings which Germany has entered into under the Charter;
2. adopt and implement a structured policy for the promotion and preservation of North Frisian, Sater Frisian and Lower Sorbian, including in particular measures which ensure as a matter of urgency that primary and secondary education is available in these languages.
3. 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;
 - 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 Romani in the field of education, in co-operation with the speakers;
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 possible in practice to use regional or minority languages in dealings with the administration and, where relevant, in the courts;
6. take measures so that adequate radio and television broadcasting are available in Sater Frisian, North Frisian, Lower Sorbian and Danish.