



Strasbourg, 22 September 2004

ECRML (2004) 6

European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN SWITZERLAND

2nd monitoring cycle

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

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

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

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

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

CONTENTS

A.	2nd Report of the Committee of Experts on the application of the Charter in Switzerland	4
Chapter 1.	Background information.....	4
1.1.	The ratification of the Charter by Switzerland	4
1.2.	The work of the Committee of Experts	4
1.3.	Presentation of the regional or minority language situation in Switzerland: update	5
1.4.	General issues arising in the evaluation of the application of the Charter in Switzerland.....	6
Chapter 2.	The Committee of Experts' evaluation in respect of Part II and Part III of the Charter	7
2.1.	The evaluation in respect of Part II of the Charter.....	7
2.1.1.	<i>Preliminary remarks on the approach of the Committee of Experts in respect of Part II in the second report</i>	7
2.1.2.	<i>The Romansh and Italian languages</i>	7
2.1.3.	<i>Article 7 (paras. 1-4): particular issues concerning German (Walser) in the municipality of Bosco- Gurin</i>	10
2.1.4.	<i>Article 7 (paras. 1-5): the Yenish language</i>	10
2.1.5.	<i>Other issues under Part II</i>	12
2.2.	The evaluation in respect of Part III of the Charter.....	13
2.2.1	<i>Preliminary remarks on the approach of the Committee of Experts in respect of Part III in the context of the second report</i>	13
2.2.2.	<i>The Romansh Language</i>	14
2.2.3.	<i>The Italian language</i>	26
Chapter 3	Conclusions.....	32
3.1.	Conclusions of the Committee of Experts on how the Swiss authorities have reacted to the recommendations of the Committee of Ministers	32
3.2.	Findings of the Committee of Experts in the second monitoring round	32
	APPENDIX I: INSTRUMENT OF RATIFICATION	35
	APPENDIX II: COMMENTS BY THE GOVERNMENT OF SWITZERLAND	37
B.	Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Switzerland	40

A. 2nd Report of the Committee of Experts on the application of the Charter in Switzerland

adopted by the Committee of Experts on 24 March 2004
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 Switzerland

1. The Swiss Confederation signed the European Charter for Regional or Minority Languages (hereafter referred to as “the Charter”) on 8 October 1993. The Federal Council decided to ratify it on 31 October 1997. Through this decision, the Charter became part of Swiss law. The Swiss authorities formally ratified it on 23 December 1997. The Charter entered into force in respect of Switzerland on 1 April 1998.

2. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers¹. The Swiss authorities presented their second periodical report to the Secretary General of the Council of Europe on 16 January 2003.

3. In its previous evaluation report on Switzerland (ECRML (2001) 7), 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 (2001) 6), which were addressed to the Swiss authorities.

1.2. The work of the Committee of Experts

4. This second evaluation report is based on the information obtained by the Committee of Experts from the second periodical report of Switzerland and through interviews held with representatives of some of the regional or minority languages in Switzerland and the Swiss authorities during the “on-the-spot visit”, which took place on 16-18 September 2003. No further information was submitted pursuant to Article 16 para. 2 of the Charter.

5. The present report focuses on the issues raised and on the related observations made by the Committee of Experts in its first evaluation report as well as on the measures taken by the Swiss authorities to respond to the findings of the Committee of Experts and to the recommendations addressed to the Swiss Government by the Committee of Ministers. It also aims at highlighting new issues detected by the Committee during the second monitoring round.

6. The report contains detailed observations that the Swiss authorities are urged to take into account in order to develop their policy on regional or minority languages with a view to dealing with the problematical aspects highlighted by the Committee of Experts. The Committee of Experts has, on the basis of its detailed observations, also established a list of general proposals for preparing a second set of recommendations to be addressed to Switzerland by the Committee of Ministers, as provided in Article 16 para. 4 of the Charter (Chapter 3.3. of this report).

7. This report is based on the political and legal situation prevailing at the time of the Committee of Experts’ second “on-the-spot visit” to Switzerland (16-18 September 2003). The Committee of Experts is aware that changes in legislation and practice may have taken place since their visit. These changes will be taken into account in the next report of the Committee of Experts concerning Switzerland.

8. The present second report was adopted by the Committee of Experts on 24 March 2004.

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

1.3. Presentation of the regional or minority language situation in Switzerland: up-date

9. The Committee of Experts refers to the relevant paragraphs of the first evaluation report (paras. 8-21) for the basic presentation of the situation of regional or minority languages in Switzerland. The following information constitutes an up-date of the information contained in the first evaluation report.

Situation of the languages

10. The results of the 2000 census, which were not available at the time of the examination of the initial State report by the Committee of Experts, show a decrease in the proportion of regional or minority language speakers in the overall Swiss population (which increased by 6.0% between 1990 and 2000), compared to the situation depicted by the 1990 census.

11. In particular, Romansh speakers dropped from 0.6% in 1990 to 0.5% in 2000 (even when looking exclusively at the figure of regular speakers, this figure dropped from 66 300 in 1990 to 60 000 in 2000). This trend was confirmed by the information that the Committee of Experts collected during the “on-the-spot visit”.

12. The proportion of Italian speakers dropped from 7.6% in 1990 to 6.5% in 2000. However, the exact evolution of the number of speakers in each one of the areas concerned is not known to the Committee of Experts and as a matter of fact, the total percentage of Italian speakers also includes a large proportion of immigrant Italian speakers (see also para. 16 of the first evaluation report).

13. Walser is a variant of the German language. Speakers of German (Walser) are still present in the municipality of Bosco-Gurin, located in the Canton of Ticino (the Walser variant is also traditionally spoken in the Canton of Valais/Wallis and in the Canton of Graubünden as far as Switzerland is concerned, in Vorarlberg in Austria, in Liechtenstein and in some Alpine valleys in Northern Italy). The municipality of Bosco-Gurin was founded in the XIII century by the Walser Germans from the Upper Valais/Wallis and was predominantly German (Walser)-speaking up to 1990. However, the number of speakers dropped from 35 (out of a total of 58 inhabitants) in 1990 to 23 (out of a total of 71 inhabitants) in 2000.

14. According to the second periodical report (see p. 16), the Yenish population of Switzerland is estimated to be some 30-35 000, 3 000 of whom are still nomad (with an apparent decline compared to the situation detected by the Committee of Experts in the first monitoring round; see para. 19 of the first evaluation report). There are no precise figures concerning the number of speakers.

Legal framework

15. One of the main legal developments since the first evaluation report has been the adoption of a new Constitution by the Canton of Graubünden (“Chantun Grischun” / “Cantone dei Grigioni”), which entered into force on 1 January 2004. Article 3 of the new constitution provides as follows (*unofficial translation*):

“Art. 3 Languages

1. German, Romansh and Italian are cantonal and likewise official languages of Graubünden.
2. The Canton and the municipalities support, and take the necessary measures with a view to safeguarding and promoting the Romansh and Italian languages. They promote mutual understanding and exchanges between the linguistic communities.
3. The municipalities and the circuits decide upon their official and school languages in their sphere of competence and in cooperation with the Canton. In this regard, they pay due attention to the traditional linguistic composition and they respect the autochthonous linguistic minorities.”

A law implementing this provision of the new constitution is currently being drafted.

16. On the other hand, the important Federal Bill on official languages and the promotion of mutual understanding, to which the first evaluation report made reference (see para. 28), intended to clarify and to implement in particular paragraph 1 of Article 70 of the Swiss Constitution (see para. 23 of the first evaluation report), is still in preparation.

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

17. The Committee of Experts underlines in the first instance the continued excellent level of co-operation with the Swiss authorities. It must also be underlined from the outset that several concrete measures, to which reference has already been made (see para. 15 above) or which will be dealt with in more detail later on, point to a positive approach by the Swiss authorities to the undertakings they entered into under the Charter.

18. In the present second evaluation report the Committee of Experts will focus on the provisions and issues under both Part II and Part III which were singled out in the first report as raising particular problems. It will evaluate in particular how the Swiss authorities have reacted to the observations made by the Committee of Experts and, where relevant, to the recommendations made by the Committee of Ministers. The report will firstly recall the key elements of each issue. It will then refer to the paragraphs in the first report which set out the Committee of Experts' reasoning, before evaluating how the Swiss authorities reacted. The Committee of Experts will also look at the new issues detected during the second monitoring round. In particular, the present report includes a first evaluation under Part II in respect of the Romansh and Italian languages, which could not be carried out in the first evaluation report.

19. A more particular issue concerns the understanding of the Committee of Experts of the administrative system in Switzerland, taking account of its federal structure. Compared to its previous understanding, which attributed a crucial relevance to the level of the federal administration, the Committee of Experts has now re-considered the role of the canton insofar as it performs State duties and has therefore focused in particular on the latter.

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

2.1. The evaluation in respect of Part II of the Charter

2.1.1. Preliminary remarks on the approach of the Committee of Experts in respect of Part II in the second report

20. The Committee of Experts will not comment again on paragraph 2 of Article 7, as in the light of its general conclusions in the first evaluation report (see para. 50), no major issues arise in this area.

21. With regard to the languages additionally covered by Part III of the Charter (Romansh, Italian in the Canton of Graubünden and Italian in the Canton of Ticino), the Committee of Experts will carry out a first evaluation under Article 7, taking account of the fact that no evaluation under Part II was carried out with regard to Romansh and Italian in the first evaluation report, owing to the insufficient information provided by the Swiss authorities in their initial periodical report in this respect.

22. With regard to the languages covered only by Part II, the Committee of Experts will carry out an overall evaluation of German (Walser) in the municipality of Bosco-Gurin. However, it will not comment on paragraph 1.i of Article 7, as in the case of German (Walser) this provision has, according to the Committee of Experts, no relevance.

23. The Committee of Experts will also carry out a detailed evaluation with regard to the Yenish language, which is a non-territorial language, in relation to the relevant undertakings under Part II. However, in the light of its conclusions in the first evaluation report (see para. 36) it will not comment on Article 7 para. 1.i.

24. The Committee of Experts will finally mention the issue of Yiddish and the situation in the bilingual cantons.

2.1.2. The Romansh and Italian languages

Article 7 - Objectives and principles

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;"

25. Article 4 of the Swiss constitution declares Italian and Romansh to be the national languages of Switzerland together with German and French. Furthermore, according to Article 70 para. 1 of the Swiss Constitution, the official languages of the Confederation are German, French and Italian, Romansh being officially used to communicate with persons speaking Romansh (both legal persons and individuals). Finally, Article 3 para. 1 of the new Constitution of the Canton of Graubünden provides that German, Italian and Romansh are all official languages of the canton (see para. 15 above). The Committee of Experts considers that the constitutional recognition of Italian and Romansh at the federal level, although in a more limited manner in the case of Romansh, as well as the official status at the cantonal level, represents a very strong recognition of the value of these two languages.

"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;"

26. At the present stage no specific issue has been raised with the Committee of Experts in this regard.

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

27. The Committee of Experts refers to its evaluation under Part III of the Charter for both the Romansh and the Italian languages.

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

28. The Committee of Experts refers to its evaluation under Part III of the Charter for both the Romansh and Italian languages.

"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;"

29. The second periodical report refers to a number of bodies and activities having the aim of developing and maintaining links between the Italian speakers living in the Canton of Graubünden and those living in the Canton of Ticino and in other areas of Switzerland, and among the Romansh speakers living in the Canton of Graubünden as well as with those living in other areas of Switzerland (see pp. 25-27 and 37).

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

30. The Committee of Experts refers to its evaluation under Part III of the Charter for both the Romansh and the Italian languages.

"g. the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;"

31. The second periodical report refers to courses in Romansh provided mainly by the Romansh umbrella organisation Lia Rumantscha and its affiliated regional associations (supported by the Confederation and by the Canton of Graubünden) as well as by some private adult-education organisations. The second periodical report also states that Italian courses are available throughout Switzerland from various private adult-education institutions.

32. With regard to Italian, however, it is not clear how the competent Swiss authorities support the provision of facilities enabling non-speakers of Italian living in the area where it is used to learn it if they so desire, given that the second periodical report only refers to private institutions. This is especially relevant for the provision of such facilities in the Canton of Graubünden. The Committee of Experts therefore encourages the Swiss authorities to provide further information in the next periodical report.

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

33. As far as Romansh is concerned, the second periodical report refers in particular to the fact that the universities of Fribourg and Zurich have their own chairs in Romansh, and that numerous seminars, lectures, courses etc. on the Romansh language and literature are available in the universities of Geneva, Bern and St. Gallen. The second periodical report also refers to the fact that Italian is in the curriculum of virtually all Swiss universities. The Swiss Government adds that the Confederation supports research on Romansh and Italian in Switzerland through the Swiss National Science Foundation. The Confederation also pays a contribution to the Verein für Bündner Kulturforschung Graubünden and to its integrated Institut für Bündner Kulturforschung which carries out several researches on all three languages of the Canton of Graubünden. In 2003 this same Institute also began research into Yenish in Graubünden. Furthermore, the planned federal language law, intended to implement Article 70 of the Federal Constitution, is expected to provide for the establishment of a Swiss Institute for Plurilingualism.

34. During the "on-the-spot visit" the lack of studies in socio-linguistics was brought to the attention of the Committee of Experts. The publicly funded Verein für Bündner Kulturforschung Graubünden has just started a socio-linguistical project on trilingualism in the Canton of Graubünden.

"i. the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States."

35. According to the second periodical report, the Lia Rumantscha, which is a publicly funded body, is given full responsibility by the Canton to promote “transnational exchanges” between Romansh speakers in Graubünden, the Dolomites and the Italian Friuli region.

36. As far as Italian is concerned, the second periodical report refers to a regular exchange of information between Italy, the Confederation and the cantonal authorities of Graubünden and Ticino within the “Consulta”, i.e. the Italian-Swiss Cultural Advisory Committee, set up in 1982. The Committee of Experts was informed of cooperation activities in the context of the Arge Alp project. However, the Committee of Experts would welcome further elements on how appropriate types of transnational exchanges are concretely promoted in the fields covered by the Charter.

"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."

37. The second periodical report refers mainly to the measures taken in the field of the media, according to which the Swiss Broadcasting Corporation must produce and broadcast radio and television programmes in the four national languages and, in doing so, must take account of Switzerland's cultural and linguistic diversity. Furthermore, a federal law on national languages and understanding between linguistic communities, designed to implement *inter alia* paragraph 3 of Article 70 of the federal constitution which is related to this particular aspect, is under preparation.

38. The Committee of Experts observes that experience proves that the extent to which a minority language is protected or promoted is linked to how it is received or perceived by majority language speakers. Indeed, regional or minority language protection or promotion is, in many respects, a reflection of the majority approach and perception. As a result, awareness-raising with the majorities is of the utmost importance. This aspect may also concern the majority at the local level. As indicated by Article 7 para. 3 of the Charter, two fields are especially relevant in this respect: education and the media (cf the first evaluation report of the Committee of Experts on the implementation of the Charter by Slovenia, ECRML (2004) 3, para. 76:).

39. The Committee of Experts took note of the general measures in the field of media referred to above. However, in particular in the case of the Romansh and Italian languages in the Canton of Graubünden, it is not clear what efforts are being made by the media to raise awareness among the German-speaking majority population of the two regional or minority languages spoken in the canton. Furthermore, although the Committee of Experts recognises the efforts made by the cantonal authorities to give priority in school to the teaching of the regional or minority language spoken in the canton, so that the second language of instruction must be another language of the canton, it is not clear what awareness-raising measures are taken in the field of education concerning the regional or minority language of the canton which may be excluded from the curriculum. The Committee of Experts feels a special concern in this regard for the Romansh language, which is in a particularly weak position, and would welcome further information in the next periodical report. Finally, it must be noted that the law to implement *inter alia* Article 70 para. 3 of the federal constitution is still being prepared.

The Committee of Experts encourages the competent Swiss authorities to pursue their efforts in this area and in particular to accelerate the adoption of a law to implement Article 70 para. 3 of the federal constitution.

"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."

40. The second periodical report states in particular that cooperation between the Confederation, the cantonal authorities and the relevant organisations is imperative, *inter alia* through consultation procedures

and referendums. No specific concern was brought to the attention of the Committee of Experts in this regard.

2.1.3. Article 7 (paras. 1-4): particular issues concerning German (Walser) in the municipality of Bosco-Gurin

41. In its first evaluation report, the Committee of Experts observed that where one of the main languages of the Confederation does not enjoy the status of an official language of the canton, this language becomes a minority language covered by Part II of the Charter. It also referred to German (Walser) in the municipality of Bosco-Gurin in the Canton of Ticino as being one such case (see para. 12), insofar as it could be considered as a traditionally used language in its territory. The Committee of Experts considered that since it is not an official language of the Canton, it is a language to be covered by Part II of the Charter (see para. 15 of the first evaluation report) and invited the Swiss authorities to include in their next periodical report information on the measures taken to comply with Article 7 of the Charter in respect of Walser German.

42. According to the information provided in the second periodical report, in the context of the discussion on the revision of the Constitution of the Canton of Ticino, the cantonal authorities stated that they wished to respect the special situation of the municipality of Bosco-Gurin but they did not think it necessary to make a special reference to German (Walser) in the revised constitution (see p. 29 of the second periodical report). In fact the latter, by strict application of the principle of territoriality, only refers to the Italian language.

43. The second periodical report indicates a dramatic decline in the number of German (Walser) speakers in the municipality concerned (see para. 13 above). It also indicates that the village school was closed as of the 2002/2003 school year, that the three remaining pupils will attend the Italian-speaking school in Cevio and that the two weekly hours in German will be maintained as far as possible. It does not appear that any other measures exist to preserve German Walser in the municipality in question.

44. The Committee of Experts considers that the above-mentioned developments clearly show that German (Walser) in the municipality of Bosco-Gurin is dying out. It therefore encourages the competent Swiss authorities to take urgent measures to support German (Walser) in the municipality concerned. In particular, the competent Swiss authorities should ensure that the teaching of German is maintained in the school of Cevio and increased beyond the present two hours per week. Furthermore, measures should be taken to give German (Walser) some degree of visibility in the public sphere in Bosco-Gurin itself.

The Committee of Experts encourages the competent Swiss authorities to take urgent measures to support German (Walser) in the municipality of Bosco-Gurin and to promote links with other speakers of German (Walser) living in Switzerland as well as in the neighbouring countries.

2.1.4. Article 7 (paras. 1-5): the Yenish language

45. In its first evaluation report (see paras. 34-35), the Committee of Experts noted that Swiss Yenish speakers were regarded by the authorities as a cultural minority and not as a linguistic minority. The Committee of Experts acknowledged that schemes of financial support could be used by the organisations concerned to develop projects concerning the Yenish language but considered that an official recognition of the value of this language and the interest of protecting it was still necessary. The Committee of Experts recognised the efforts made by the authorities to facilitate and encourage the preservation of the cultural identity of the Yenish community but concluded that no measures had been taken so far to facilitate or encourage the use of the Yenish language (see para. 39 of the first evaluation report) and no study of or research on the Yenish language was available at university level (see para. 46 of the first evaluation report), let alone the possibility for non-speakers of Yenish to learn this language (see para. 44 of the first evaluation report). The Committee of Experts also considered that the development of mutual understanding was especially needed in the case of Yenish, as the negative social and psychological consequences of their recent history were still major obstacles to their relations with the rest of the Swiss society. In the light of these conditions, the explicit recognition of their culture as a valuable part of the common Swiss heritage should be a necessary step (see para. 51 of the first evaluation report). Finally, the Committee of Experts invited the Swiss authorities to engage in an open discussion with the representatives of the Yenish-speaking community on the issue of the protection and promotion of their language.

46. The Committee of Experts notes with satisfaction that following its first evaluation report, on 21 June 2002 a meeting took place between the Confederation and the *Radgenossenschaft der Landstrasse* (the umbrella organisation of Swiss travelling people funded by the Swiss Government), with a view to discussing appropriate measures to protect and promote Yenish in Switzerland (see p. 39 of the second evaluation report; see also p. 16). This meeting highlighted a strong demand for a recognition of the status of Yenish speakers in Swiss society and for measures aimed at raising the awareness of Yenish culture and at promoting the language. In the wake of this meeting practical measures have been envisaged by the Swiss authorities, such as the funding by the Federal Office of Culture of specific out-of-school activities for young people or of cultural exchanges, including abroad.

47. The Committee of Experts observes that in spite of a dramatic past, the present social situation of the Yenish-speaking community in Switzerland appears to be relatively good. According to the information collected during the "on-the-spot visit", few cases of individual discrimination appear to exist and generally they are swiftly remedied. There are no segregation problems and the community seems to be relatively well integrated in Swiss society. However, it is rather clear that the positive initial steps adopted by the Swiss authorities now need to lead to concrete measures aimed at promoting the Yenish language.

48. The Committee of Experts acknowledges that some objective factors, which were highlighted by the Swiss authorities and by the speakers themselves during the "on-the-spot" visit, make the task of promoting the Yenish language particularly difficult. In particular, it is hard to know how the language is spoken nowadays, partly because, as a result of the former oppression of the Yenish community, the younger generations have maintained the language in a sort of secret form. As a result, little first-hand information seems to be available to the Swiss authorities and an inventory of the language by the members of the community would appear to be a useful step forward.

49. Despite these objective difficulties, the Committee of Experts is of the opinion that more efforts need to be made on the part of the authorities, well beyond research projects nos. 51 and 56 to which the Swiss authorities made reference during the "on-the-spot" visit. In particular, these efforts should aim at setting up a permanent framework, actively involving the speakers themselves, with a view to endowing the language with the tools necessary to its development. The Committee of Experts would like to highlight in this respect the following points. Firstly, an effective protection and promotion of the language needs concrete measures in the field of education so that an offer of education in Yenish in the ordinary teaching framework for Yenish pupils can be developed. Therefore, the sort of out-of-school activities envisaged by the Swiss authorities so far are not sufficient (see e.g., *mutatis mutandis*, the second evaluation report of the Committee of Experts on the implementation of the Charter by Hungary, ECRML (2004) 5, para. 27). Secondly, the inclusion of Yenish in the ordinary teaching framework supposes a minimum degree of standardisation of the language, allowing *inter alia* the preparation of teaching materials. Therefore, the research efforts should be aimed more clearly at achieving such a minimum degree of standardisation. This enterprise should be pursued in close cooperation with the speakers themselves and preferably with the other States where the Yenish language is present, which according to the speakers are Austria, Belgium and Germany.

50. The Committee of Experts additionally considers that the success of this enterprise also depends on the prestige attached to the Yenish language. Indeed, experience shows that the motivation of the speakers themselves plays a crucial role in the protection and promotion of a language, and that the said motivation is closely linked to the social prestige which a language enjoys. Two sets of measures should be considered in this respect. First of all, the competent Swiss authorities should take measures aimed at raising the awareness of the other linguistic communities in Switzerland about the Yenish language and culture. As the Swiss authorities themselves acknowledged during the "on-the-spot" visit, large portions of the Swiss population are unaware that there are nomads who have a Swiss passport. Secondly, as the Committee of Experts already observed in its first evaluation report (see para. 48), links between the groups living in Switzerland and those abroad should be encouraged with the aim of reinforcing the status of the Yenish language.

The Committee of Experts encourages the Swiss authorities:

- ***to grant Yeshiva official recognition as a regional or minority language traditionally spoken in Switzerland;***
- ***to set up a permanent framework, actively involving the Yeshiva speakers themselves, aimed at the standardisation of the Yeshiva language, preferably in cooperation with the other European States where the Yeshiva language is spoken;***
- ***to plan the inclusion of the Yeshiva language in the ordinary teaching framework and the drawing up of the necessary teaching materials;***
- ***to take the necessary measures, particularly in the fields of education and the media, to raise the awareness of the Swiss population about the Yeshiva language and culture as part of the Swiss cultural and linguistic heritage;***
- ***to promote the establishment of links between the Yeshiva speakers in Switzerland and the Yeshiva speakers living in other European States.***

2.1.5. Other issues under Part II

Yiddish

51. In its first evaluation report (see paras. 20 and 53), the Committee of Experts invited the Swiss authorities to include in their next periodical report information on the measures taken to comply with Article 7 of the Charter in respect of Yiddish and to engage in an open discussion with the representatives of the Yiddish-speaking community on the issue of the protection and promotion of their language.

52. In a communication dated 24 September 2001, the Swiss Federation of Jewish Communities stated that the Yiddish language had never served as a minority language in Switzerland.

53. As long as there is no indication that a need for protecting the Yiddish language is expressed inside the Jewish community, the Committee of Experts considers that there is no scope for the protection of Yiddish in Switzerland under the Charter.

Situation in the bilingual cantons

54. As the Committee of Experts stated in its first evaluation report (see para. 12), there may be cases where one of the main languages of the Confederation does not enjoy the status of an official language at cantonal or municipal level and thus becomes a regional or minority language covered by Part II of the Charter. The question could theoretically arise with regard to the bilingual cantons of Bern, Fribourg and Valais, where German and French are co-official at the cantonal level but only one of the two at the municipal level, with few exceptions. However, the Committee of Experts was not informed of any clear instances in which one of the two official cantonal languages was traditionally present in a municipality without having any status at that level.

2.2. The evaluation in respect of Part III of the Charter

2.2.1 *Preliminary remarks on the approach of the Committee of Experts in respect of Part III in the context of the second report*

55. The Committee of Experts has examined in more detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter. The languages in question are Romansh and Italian.

56. The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Switzerland.

57. Following the focused approach which was explained above (see para. 5), the Committee of Experts will concentrate on the provisions of Part III in relation to which a number of issues were raised in the first report. It will evaluate in particular how the Swiss authorities have reacted to the observations made by the Committee of Experts. 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 reasoning², before evaluating how the Swiss authorities have reacted.

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

59. In the case of Romansh these provisions are the following:

- Article 8 para. 1.a.iv (paras. 57-59 of the first evaluation report);
- Article 8 para. 1.c.iii (paras. 67-68 of the first evaluation report);
- Article 8 para. 1.e.ii (paras. 71-72 of the first evaluation report);
- Article 8 para. 1.f.iii (paras. 73-74 of the first evaluation report);
- Article 8 para. 1.g (paras. 75-76 of the first evaluation report);
- Article 9 para. 1.a.iii (paras. 89-90 of the first evaluation report);
- Article 9 para. 1.b.iii (paras. 93-94 of the first evaluation report);
- Article 9 para. 2.a (paras. 100-101 of the first evaluation report);
- Article 10 para. 1.c (paras. 112-113 of the first evaluation report);
- Article 10 para. 1.g (paras. 124-127 of the first evaluation report);
- Article 10 para. 2.a (paras. 114-115 of the first evaluation report);
- Article 10 para. 2.c (paras. 119-120 of the first evaluation report);
- Article 10 para. 3.b (paras. 128-130 of the first evaluation report);
- Article 10 para. 4.c (paras. 133-134 of the first evaluation report);
- Article 10 para. 5 (paras. 135-136 of the first evaluation report);
- Article 11 para. 1.f.i (paras. 147-148 of the first evaluation report);
- Article 12 paras. 1.a/b/c/e/f/g/h, 2 and 3 (paras. 151-167 of the first evaluation report);
- Article 13 para. 1.d (paras. 168-169 of the first evaluation report);
- Article 13 para. 2.b (paras. 170-172 of the first evaluation report);
- Article 14 para. b (para. 174 of the first evaluation report).

60. In the case of Italian in the Canton of Graubünden these provisions are the following:

- Article 8 para. 1.a.i/b.i/c.i/d.i/e.ii/f.i/g/h (paras. 175-197 of the first evaluation report);
- Article 9 para. 2.a and para. 3 (paras. 211-214 of the first evaluation report);
- Article 10 para. 1.b/c, para. 2 a-d and g, para. 3.a, para. 4.a-c and para. 5 (paras. 219-226 of the first evaluation report);
- Article 11 para. 1.a.i (paras. 227-228 of the first evaluation report);
- Article 11 para. 1.g (paras. 231-232 of the first evaluation report);
- Article 11 para. 2 (paras. 233-234 of the first evaluation report);
- Article 12 para. 1 a-h (paras. 237-239 of the first evaluation report);
- Article 12 para. 2 and para. 3 (paras. 240-244 of the first evaluation report);
- Article 13 para. 1.d (paras. 245-246 of the first evaluation report);
- Article 13 para. 2.b (paras. 247-249 of the first evaluation report);
- Article 14 paras. a and b (paras. 250-253 of the first evaluation report).

² The boxes which appeared in the first evaluation report are the underlined sentences which appear in the present second report.

61. In the case of Italian in the Canton of Ticino these provisions are the following:

- Article 8 para. 1.a.i/b.i/c.i/d.i/e.ii/f.i/g/h/i (paras. 254-264 of the first evaluation report);
- Article 9 para. 1.a.i/a.ii/a.iii/b.i/b.ii/b.iii/c.i/c.ii/d (para. 265 of the first evaluation report);
- Article 9 para. 3 (paras. 268-269 of the first evaluation report);
- Article 10 para. 1.a.i/b/c, para. 2.a-g, para. 3.a, para. 4.a-c and para. 5 (paras. 270-278 of the first evaluation report);
- Article 11 para. 1.a.i/e.i/g and para. 2 (paras. 279-286 of the first evaluation report);
- Article 12 para. 1.a-h, para. 2 and para. 3 (paras. 289-295 of the first evaluation report);
- Article 13 para. 1.d and para. 2.b (paras. 296-298 of the first evaluation report);
- Article 14 paras. a and b (paras. 299-301 of the first evaluation report).

62. The Committee of Experts therefore refers to the conclusions reached in its first report, which highlight on the whole a good level of fulfilment, but reserves the right to evaluate the situation again at a later stage.

2.2.2. *The Romansh Language*

Article 8 - Education

Preliminary remarks

63. The organisation of the educational system in the canton of Graubünden is based on a cantonal law and on the programmes applicable to the different school levels. The choice of languages in the educational system (pre-school, primary and secondary education) falls within the competence of the municipalities, the cantonal law only requiring that the second language be one of the official languages of the canton.

64. The Committee of Experts takes note of the on-going discussion in the Canton of Graubünden concerning the desirability of introducing the standardised form of Rumantsch Grischun, created in 1982 and based to a large extent on three main written variants of Romansh, as the language of instruction throughout the canton, thus replacing the traditional regional variants of Romansh in school. Opinions differ considerably in this regard, some considering that the introduction of the standardised form is a crucial way to ensure the survival of the language, others considering that replacing the traditional regional variants, to which many people are still strongly attached, with the standardised form in schools may induce disaffection vis-à-vis the language, thus increasing its current decline.

65. The Committee of Experts notes that according to the latest information at its disposal, the cantonal authorities have recently opted for the publication of all new teaching materials only in Rumantsch Grischun as of 2005, with a view to later introducing Rumantsch Grischun as the main language of instruction in school. The Department of Public Education, Culture and Environmental Protection of the Canton of Graubünden has been charged by the cantonal parliament to develop a strategy for implementing this decision. The Committee of Experts is looking forward to following these developments and encourages the competent Swiss authorities to provide up-dated information in the next periodical report. The Committee of Experts also stresses from the outset the importance of a gradual transition in order to ensure that the strengthening of the position of the standardised form of Romansh (Rumantsch Grischun) is carried out smoothly and with the greatest possible support by the speakers.

“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:

Primary Education

“b.i. to make available primary education in the relevant regional or minority languages;”

66. The organisation of primary education remains substantially unchanged compared to the situation monitored by the Committee of Experts in its first evaluation report (see paras. 60-65). At that time the

Committee of Experts concluded that this undertaking was fulfilled but it considered that the freedom of choice of the municipalities and the absence of clear criteria guiding this choice could hamper the implementation of this obligation (see para. 66 of the first evaluation report).

67. According to the information gathered by the Committee of Experts during the “on-the-spot visit”, the risks linked to a strict application of the principle of territoriality by the municipalities have not disappeared. However, the Committee of Experts takes note of the fact that Article 3 para. 3 of the new Constitution of the Canton of Graubünden provides that when deciding upon the official and school languages the municipalities in particular must pay due attention to the traditional linguistic situation in their territory and must determine their official and school languages in cooperation with the canton (see para. 15 above). The Committee of Experts sees no reason to depart from its previous conclusion according to which this undertaking appears to be fulfilled. Furthermore, the above-mentioned provision of the new constitution does now seem to counter-balance the power given to municipalities to choose the language of instruction in their territory. The Committee of Experts is looking forward to being informed on how the new provision is implemented and on its practical effects on the exercise of the municipalities’ power.

Technical and vocational education

“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;”

68. In its first evaluation report, the Committee of Experts noted that very little Romansh was included in the curriculum of vocational schools, although the situation varied (para. 69 of the first evaluation report). However, a pilot project was launched in particular in Ilanz, according to which from the 2000/2001 academic year, at least one-third of general subject teaching was due to be in Romansh (para. 70 of the first evaluation report). The Committee of Experts acknowledged the efforts made by the Swiss authorities to strengthen the place of Romansh in vocational education and invited the cantonal authorities to follow up on the pilot experiences.

69. According to the second periodical report, since the 2001/2002 academic year, general-education courses at the vocational school in Ilanz (Surselva) have also been offered in Romansh, and Surselva students who attend the vocational school in Chur may attend the school in Ilanz so that they can benefit from the courses in Romansh which are offered there. For students who cannot travel to Ilanz, an optional course in Romansh is being set up at the vocational school in Chur.

70. The Committee of Experts acknowledges the efforts made by the competent Swiss authorities to increase the offer of general education in Romansh for students attending the vocational schools in Ilanz and Chur. Taking account of the nature of the undertaking entered into by Switzerland in this regard, the improvements on the ground seem to correspond to the level required by this undertaking. However, the lack of information on the concrete amount of time dedicated to Romansh in the said schools does not enable the Committee of Experts to conclude on this point. The Committee of Experts therefore encourages the competent Swiss authorities to provide, in the next periodical report, a detailed picture of the amount of teaching of Romansh in vocational schools as well as up-dated information on the current plans to introduce a final vocational school-leaving examination in Romansh.

Basic and further education of teachers

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

71. In its first evaluation report (see paras. 77-80) the Committee of Experts noted interesting developments, such as plans for making Romansh available as a first language in secondary school and for the establishment of a bilingual (Romansh/German) school-leaving diploma, and concluded that this undertaking was fulfilled.

72. The Committee of Experts sees no immediate reasons for departing from this conclusion at the stage of the present second monitoring round but it has received information which indicates that the level of fulfilment of this undertaking could be jeopardized in the future. In particular, it expresses its concern with regard to the current plans to introduce the publication of all new teaching materials only in Rumantsch Grischun as of 2005, with a view to later introducing Rumantsch Grischun as the main language of instruction in school. In fact, on the basis of the information collected during the “on-the-spot visit”, it appears that few teachers have a sufficient command of Rumantsch Grischun to be able to start using the teaching

materials published in Rumantsch Grischun at the envisaged stage. Another element is relevant in this respect. Taking account of the difficulties caused by the systematic introduction of the standardised form of the language, parallel to the traditional regional variants, a gradual transition to a general introduction of the standardised form in the school instruction seems to be indispensable, allowing the time needed to train the teachers to use the new teaching materials. The Committee of Experts therefore looks forward to receiving thorough information on this process in the next periodical report.

73. The Committee of Experts was also informed of a new organisation of teacher training, based on a college open also to Romansh speakers who have not passed a bilingual maturity exam. Concerns were expressed in this regard by the Lia Rumantscha, fearing that it might be more difficult for those students who do not have a sufficient knowledge of Romansh, and who have not passed the bilingual maturity exam, to subsequently acquire the necessary skills to teach in Romansh. The Committee of Experts therefore expects more information, in the next periodical report, on how this problem has been solved.

74. The Committee of Experts therefore encourages the competent Swiss authorities to ensure a gradual transition allowing the time needed to train the teachers to use the new teaching materials, before the planned reform to introduce Rumantsch Grischun as the main language of instruction in school is implemented. It also encourages them to ensure that students who have not passed the bilingual maturity exam including Romansh receive the additional training necessary to make up for their lack of linguistic skills in this language and to fully equip them to teach in Romansh.

Monitoring

“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 first evaluation report (see para. 81), the Committee of Experts noted that the findings of the competent bodies were not officially published and suggested that the findings of the institutions monitoring the teaching of and in regional or minority languages be made public in an appropriate manner.

76. The system has in the meantime changed and the bodies previously in charge of the monitoring no longer carry out this task in a systematic manner. The monitoring now focuses on the concrete problems rather than on the general situation. On the other hand, general conclusions are now published in a comprehensive “Education report” produced by the Department of Public Education, Culture and Environmental Protection of the Canton of Graubünden. The first such report was published in 2001 and the second will be published in 2004.

77. The Committee of Experts considers that this undertaking is 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:

In criminal proceedings:

“a.ii. to guarantee the accused the right to use his/her regional or minority language;”

In civil proceedings:

“b.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; - if necessary by the use of interpreters and translations; ”

In proceedings before courts concerning administrative matters:

“c. 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;”

78. In its first evaluation report, the Committee of Experts noted that in all these fields Romansh may be used in the proceedings (see paras. 82-85 for criminal proceedings, para. 91 for civil proceedings and paras. 95-98 for administrative proceedings). However, it observed that very little use of this possibility was made in practice. The obstacles identified by the Committee of Experts included:

- the fact that it was unusual for members of the Cantonal Court to have a passive– let alone an active – knowledge of Romansh (para. 85 of the first evaluation report);
- the fact that Romansh speakers had a very good command of German and found it easier to use this language instead of Romansh (para. 85 of the first evaluation report);
- because no legal training was provided in Romansh, the German legal language was usually more widely used than Romansh, even by Romansh-speaking judges (paras. 85 and 98 of the first evaluation report);
- the fact that because Romansh was not generally used in law, legal terminology in Romansh was incomplete or lacking (paras. 85 and 98 of the first evaluation report);
- the fact that the speakers themselves, partly for some of the above-mentioned reasons, hesitated to ask for the use of Romansh in court proceedings (paras. 86 and 97 of the first evaluation report).

79. Two additional difficulties identified by the Committee of Experts were the lack of clear criteria guiding the choice of languages used by civil courts (see para. 92 of the first evaluation report) as well as Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court, which provided that the deliberations had to take place only in German (see para. 99 of the first evaluation report). The Swiss authorities were invited to amend the said Order and to remove the practical and legal obstacles hampering the effective use of Romansh before the courts. In particular, the choice of the language by the courts had to take into account the indigenous linguistic minority and efforts had to be made to remedy the lack of command of Romansh by judges and lawyers and the deficiencies in the legal terminology.

80. Since the adoption by the Committee of Experts of its first evaluation report some organisational changes, described in the second periodical report (see p. 46) have taken place, but the overall framework has remained substantially unchanged. As far as Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court is concerned, the information collected by the Committee of Experts during the “on-the-spot visit” made clear it that this provision had been considered as unconstitutional and was therefore no longer applied. However, the problems in the present area are more of a substantial than of a formal nature.

81. The Committee of Experts observes, in the first place, that the use of a language in the sphere of court proceedings is not meant to be purely symbolic and has in fact concrete repercussions. Indeed, the use of a language before the courts is revealing of the prestige attached to the language which, as was already mentioned above (see para. 50 above), is crucial to its protection and to the motivation of its speakers to promote it. As a matter of fact, Romansh seems to suffer from a lower prestige in the public sphere in general and in the judicial sphere in particular, a situation which both testifies to the hesitations of its speakers to use it before the authorities and contributes to those hesitations. In other words, there is a vicious circle that the speakers alone can hardly break. Indeed, speakers have a very good command of German, whereas they never practise the legal terminology developed in Rumantsch Grischun. As a result, the speakers and the lawyers find it easier to resort to German and this further contributes to making the use of Romansh in courts less and less likely, which in turn negatively affects the prestige attached to the language, with all the very concrete negative repercussions that this entails.

82. In the light of the above, the Committee of Experts considers that this is a field where positive action by the authorities should be envisaged in order to break the said vicious circle. Measures should be adopted

to facilitate the use of Romansh in the judicial sphere. For instance, training courses in legal Romansh for judges and the administrative staff of the courts, as well as for lawyers and their assistants, could be organised. These courses should include training in legal terminology.

83. In conclusion, the Committee of Experts considers that these undertakings are only formally fulfilled and stresses that their fulfilment also requires a certain degree of practical implementation, beyond the mere existence of the relevant provisions in the domestic legislation.

The Committee of Experts encourages the competent Swiss authorities to take the necessary measures to ensure that the formal possibility to use Romansh in court proceedings is implemented in practice.

“Paragraph 3

The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.”

84. In its first evaluation report, the Committee of Experts concluded that this undertaking was fulfilled through the systematic translation of most general texts (see paras. 102-105 of the first evaluation report).

85. In this monitoring round the Committee of Experts was informed that there exist too few translations and that those which exist are mostly unofficial. Furthermore, the majority of legal texts are not translated into Romansh at all. The Committee of Experts emphasises that a systematic translation of all the relevant legal texts into Romansh is an important part of the context for the fulfilment of the undertakings that Switzerland entered into under Article 9 of the Charter. It is of course aware that this raises a specific difficulty in the case of Romansh, given that this language does not have full official status at the federal level and thus, for example, there is no official gazette in Romansh. However, it is up to the competent Swiss authorities to choose the means in domestic law to achieve the result that the Committee of Experts considers necessary for the fulfilment of the present undertaking and of the undertakings under Article 9.

86. The Committee of Experts therefore concludes that this undertaking is only partly fulfilled.

The Committee of Experts encourages the competent Swiss authorities to provide for the translation of the legal texts necessary to make the use of Romansh in the courts a realistic option, to be identified in cooperation with the representatives of the speakers and of the legal professions concerned.

Article 10 - Administrative authorities and public services

State Administration

“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. i. to ensure that the administrative authorities use the regional or minority languages;”

87. In its first evaluation report, the Committee of Experts observed that despite the status of Romansh at the federal level, its use by the federal authorities did not satisfy the requirements of the Charter. In particular, the lack of Romansh speakers within the federal administration and the fact that Romansh versions of documents could be delayed or were not available at all were serious obstacles to the practical use of Romansh (see paras. 106 and 107 of the first evaluation report). The Committee of Experts concluded that this undertaking was fulfilled but with the exception of the federal level, and suggested that the federal

authorities take all necessary measures to guarantee the presence of staff in their administration with a sufficient command of Romansh and that the documents in Romansh be available in due time.

88. As far as the cantonal level is concerned, the Committee of Experts noted that, Romansh being one of the official languages of the Canton, it was possible to submit applications in this language to the cantonal authorities and that users of Romansh could submit and receive a reply in Romansh from the cantonal administrative authorities (see para. 116 of the first evaluation report).

89. Finally, as far as the use of Romansh in the cantonal parliament is concerned, in its first evaluation report the Committee of Experts noted that it was allowed (see para. 122) but encouraged the Swiss authorities to examine possible ways to foster it.

90. In the present monitoring round the Committee of Experts has looked in more detail into the nature of the State administration in the context of the federal structure of Switzerland. It thus appears that the federal administration does not have a general presence in the cantons and that by virtue of Article 46 of the federal constitution, federal law is actually implemented by the cantonal administration. Few federal administrative branches perform federal functions directly in the cantons. As a result, the Committee of Experts has decided to focus on the cantonal administration as in most cases it is the latter which falls under the present provision insofar as it carries out tasks which are proper to a State administration. Other tasks of the Canton related exclusively to its regional dimension will therefore be dealt with at a later stage within the relevant provisions of Article 10 para. 2 of the Charter.

91. Insofar as the cantonal administration performs State duties, within the scope of Article 10 para. 1 of the Charter, some structural problems continue to exist and it does not appear, from the information made available to the Committee of Experts, that serious measures have been taken to remedy them and to counter the tendency of some Romansh speakers to use German if they realise that the person in the competent office is German-speaking (so as to avoid the delays that would be caused by the need to have their requests translated). Although the competent Swiss authorities have made it clear that plurilingualism is encouraged in the context of the recruitment of public officials, it seems that no serious assessment has been made on the practical implementation of the policy of plurilingualism, and structural measures, such as ensuring a minimum presence of Romansh-speaking staff and adequate information to the public on the availability of Romansh-speaking staff, are yet to be taken.

92. The Committee of Experts therefore considers that insofar as the cantonal administration performs State tasks the present undertaking continues not to be fulfilled in practice.

93. Finally, as to the few federal offices which are present at cantonal level, the Committee of Experts encourages the competent Swiss authorities to provide specific information in the next periodical report.

The Committee of Experts encourages the competent Swiss authorities to take the necessary structural measures to encourage the use of Romansh in the relations of the speakers with the cantonal administration.

“b. to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;”

94. In its first evaluation report, the Committee of Experts observed that this obligation had only been partly met and that a significant proportion of standard press releases and forms for Romansh-speaking persons existed only in German (see para. 109 of the first evaluation report). The Committee of Experts also noted that recognition of Rumantsch Grischun as an official cantonal language had been followed by an increase in the use of Romansh in forms but concluded that the undertaking was not fulfilled (paras. 110-111 of the first evaluation report).

95. During its second “on-the-spot visit” the Committee of Experts received again a number of complaints in this respect and the cantonal authorities themselves have made reference to the difficulties linked to the lack of a legal terminology in Romansh. The Committee of Experts considers that this undertaking is still only partly fulfilled.

96. Furthermore, as to the federal offices which are present at cantonal level, the Committee of Experts encourages the competent Swiss authorities to provide specific information in the next periodical report.

The Committee of Experts encourages the competent Swiss authorities to ensure the translation into Romansh of widely used administrative texts and forms for the population, to be identified in cooperation with the speakers.

Local authorities

“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:

- c. the possibility for users of regional or minority languages to submit oral or written applications in these languages;”***

97. In its first evaluation report the Committee of Experts noted that as regarded local authorities, the practice would depend on the official language of the municipality. Romansh could be used by individuals in their relations with the local authorities in those municipalities having chosen Romansh as a language of the administration but in practice the speakers of Romansh could be deprived of their right to address the local authorities in that language on the basis of a decision of the municipality (see paras. 117-118 of the first evaluation report). The Committee of Experts therefore invited the Swiss Government to guarantee that local authorities took into account minority languages and guaranteed the effective implementation of Article 10.2.b with respect to Romansh.

98. As far as the cantonal administration is concerned, insofar as it performs duties which relate exclusively to its regional dimension, the Committee of Experts refers to the observations made above in the context of the State administration (see paras. 90-92).

99. As far as local authorities are concerned, in the case of the municipalities where Romansh is the official language, the present undertaking is fulfilled. However, the situation is less straightforward in the case of the bilingual (German-Romansh) municipalities, where German often tends to prevail thanks to the fact that Romansh speakers, unlike German speakers, are all bilingual. Furthermore, the absence of a systematic policy to ensure that Romansh is declared co-official in municipalities with a sizeable portion of Romansh speakers may well lead to situations where Romansh has no status in municipalities with a large majority of German speakers.

100. In this context, the Committee of Experts welcomes once again the adoption of Article 3 of the new Constitution of the Canton of Graubünden (see para. 15 above) as a positive development towards an improved protection of the Romansh language. However, according to the information received by the Committee of Experts, Article 3 cited above will only have effects on future changes but not on the situation of existing municipal arrangements.

101. The Committee of Experts therefore concludes that this undertaking is only partly fulfilled. It also encourages the competent Swiss authorities to clarify in how many cases municipalities with a minority of Romansh speakers have opted only for German as the official language at municipal level.

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

102. In its first evaluation report (see para. 121), the Committee of Experts concluded that in municipalities having chosen Romansh, official documents were generally published in this language, but that this undertaking was not fulfilled in the German-speaking municipalities with a sizable portion of Romansh-speakers.

103. As far as the cantonal administration is concerned, insofar as it also performs duties which relate exclusively to its regional dimension, the Committee of Experts has not detected any improvement in this area.

104. As far as local authorities are concerned, in the case of municipalities where Romansh is the official language, the present undertaking is fulfilled. However, the situation is less straightforward in the case of the bilingual (German-Romansh) municipalities. Furthermore, the absence of a systematic policy to ensure that Romansh is declared co-official in municipalities with a sizeable portion of Romansh speakers may well lead to situations where Romansh has no status in municipalities with a large majority of German speakers.

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

The Committee of Experts encourages the competent Swiss authorities to step up their efforts towards the implementation of this undertaking.

“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;”

106. In its first evaluation report (see para. 122), the Committee of Experts considered that this undertaking was fulfilled, but it nevertheless encouraged the competent Swiss authorities to examine possible ways to foster the use of Romansh in the cantonal parliament. In the light of the detailed information collected during its second “on-the-spot visit”, the Committee of Experts must review its previous conclusion.

107. It appears in fact that the use of Romansh in debates in the cantonal parliament is practically non-existent. The opening speech may sometimes be made in Romansh but the debates take place essentially in German (although the minutes are then produced also in Romansh). As the Committee of Experts was told during the “on-the-spot visit”, the ideal goal of the Canton would be to encourage plurilingualism in the cantonal parliament with a view to allowing all its members to express themselves in their own mother tongue, as in the federal assembly. That is why the explicit policy of the Canton is not to have recourse to interpretation. However, the reality is still far from this ideal goal and the Committee of Experts considers that until this commendable ideal is achieved, the use of Romansh in the debates of the cantonal parliament should be encouraged through concrete arrangements and simultaneous interpretation, to and from Romansh, should be systematically made available.

108. The adoption of Article 3 of the new Constitution of the Canton (see para. 15 above), and the current work on a law to implement this provision, open up new opportunities, but the Committee of Experts concludes that at the present stage this undertaking continues not to be fulfilled.

The Committee of Experts encourages the competent Swiss authorities to take the necessary measures to encourage the use of Romansh in debates in the cantonal parliament, in particular through the systematic provision of simultaneous interpretation.

“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;”

109. In its first evaluation report (see para. 123), the Committee of Experts observed that in municipalities where a high proportion of the population is Romansh-speaking, council meetings were held in Romansh. However, the situation was less straightforward in municipalities where the language mix was greater and it appeared that German was generally used as the language of deliberation even when the number of Romansh-speakers was significant and would justify the use of Romansh as a language of deliberation. This was also the case in the so-called “regional associations”. The Committee of Experts therefore concluded that in these cases the obligation was not fulfilled.

110. The Committee of Experts reiterates that in the case of the municipalities where Romansh is the official language, the present undertaking is fulfilled. However, the situation is less straightforward in the case of the bilingual (German-Romansh) municipalities and in this respect the Committee of Experts has not been

informed of any measures by the competent authorities to promote the use of Romansh in debates in the assemblies of these municipalities. No progress has been detected concerning the so-called “regional associations” either.

111. Furthermore, the absence of a systematic policy to the purpose of ensuring that Romansh is declared co-official in the municipalities with a sizeable portion of Romansh speakers may well lead to situations where Romansh would have no status in municipalities with a large majority of German speakers and where this undertaking would therefore receive no implementation.

112. As already noted above, the adoption of Article 3 of the new Constitution of the Canton of Graubünden opens up a positive potential in this area. However, according to the information received by the Committee of Experts, Article 3 cited above will only have effects on future changes but not on the situation of existing municipal arrangements.

113. The Committee of Experts therefore concludes that this undertaking is not fulfilled in the case of bilingual municipalities. It also encourages the Swiss authorities to clarify in how many cases municipalities with a minority of Romansh speakers have opted only for German as the official language at municipal level.

114. Finally, the Committee of Experts encourages the competent Swiss authorities to clarify, in the next periodical report, the nature and the functions of the so-called “regional associations”.

“Paragraph 4

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

a. translation or interpretation as may be required;”

115. In its first evaluation report the Committee of Experts concluded that this undertaking was fulfilled (see para. 132), in particular taking account of the fact that the Canton of Graubünden had a professional translation department responsible for ensuring the consistent use of Romansh and Italian as official languages (Article 5 of the Government Directives on the translation of official measures into Italian and Romansh), and that there were currently three posts (see para. 131 of the first evaluation report).

116. In the present second monitoring round the Committee of Experts has looked in more detail at the degree of practical implementation of this undertaking. Moreover, it observes that the degree of fulfilment of this undertaking is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10. In the light of its conclusions on the fulfilment of the relevant provisions of paras. 1 and 2 of Article 10, it appears that this aspect constitutes a real bottleneck. The capacity at the cantonal level is clearly insufficient and the situation at lower level is unclear. The Committee of Experts must therefore revise its previous conclusion and considers, in the present report, that this undertaking is only partly fulfilled.

Article 11 - Media

“Paragraph 1

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

a. to the extent that radio and television carry out a public service mission:

iii. to make adequate provision so that broadcasters offer programmes in the regional or minority languages;”

117. In its first evaluation report, the Committee of Experts noted in particular that the SSR's radio service in Romansh (“Radio rumantsch”) broadcast 14 hours per day and that one of the main difficulties faced by the radio broadcasters was the lack of young journalists able to speak Romansh (see paras. 138 and 140 of the first evaluation report). As far as television was concerned, the Committee of Experts noted that SSR broadcast in Romansh (“Televisiun rumantscha”, as part of its public service mission) 8 minutes per day

(during peak audience time) and produced a 25-minute weekly magazine, as well as some short programmes for children and documentaries (see para. 143 of the first evaluation report). The Committee of Experts concluded that this undertaking was fulfilled (see para. 141 of the first evaluation report).

118. According to the information collected by the Committee of Experts during the “on-the-spot visit”, several plans are currently under way. These concern in particular a transition from 14 to 24 hours a day for the SSR’s radio service to be implemented in 2005/2006, the opening of a new building for radio and television in two years and a staff of 145 journalists in 5-years’ time. On the other hand, the situation of the broadcasting on television seems to point to a standstill, as no significant developments have taken place or are envisaged. The Committee of Experts underlines the great importance of television for the protection and the promotion of regional or minority languages in modern societies. Among other things, a real presence of a regional or minority language on television can enhance considerably its social prestige, which, as was already observed above (see para. 50), is a crucial factor for minority language protection and promotion.

119. During the “on-the-spot visit”, speakers of Romansh maintained that the present offer does not correspond to the needs and that more could and should be done. The Committee of Experts became aware of a strong wish on the part of the speakers for a regional television channel. The potential of such a channel, in view of the extended time that it would have at its disposal and the limited territorial scope, was especially stressed.

120. In the light of the threatened situation of the Romansh language but also of the dynamic character of this area, the Committee of Experts is concerned by the fact that the above-mentioned standstill could lead in the future to a situation where the present undertaking might no longer be fulfilled. While at the present stage the Committee of Experts still considers that this undertaking is fulfilled, a higher level of commitment might be necessary in the future for it to remain fulfilled in a rapidly changing context. On the other hand, the greater availability of regional broadcasting in general and the potential of the new technologies disclose new opportunities that might render the task for the authorities themselves less difficult.

“b. i. to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages;”

121. The present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station in Romansh.

122. In its first evaluation report, the Committee of Experts noted that the private stations (Radio Grischia and Radio Piz) were obliged, under the licensing laws, to broadcast a number of programmes in Romansh and Italian. The canton did not verify whether local radio stations adhered to minimum air time requirements in Romansh and Italian but when it issued directives on the planning of networks of VHF transmitters, the Federal Council gave Lia Rumantscha and Pro Grigioni Italiano certain supervisory powers (see para. 142 of the first evaluation report). The Committee of Experts considered that the provisions under the licensing laws only partially met the objectives of Article 11.1.b.i. and urged the authorities to take further action.

123. The Committee of Experts notes that a private radio station in Romansh does not exist to date and it does not appear that the authorities have taken any measures aimed at encouraging and/or facilitating the creation of radio broadcasting in Romansh. Furthermore, according to the information collected by the Committee of Experts during the “on-the-spot visit”, the licensing laws concerning the existing mainly German-speaking private radio stations are not implemented.

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

The Committee of Experts encourages the competent Swiss authorities to take measures to encourage and/or facilitate the creation of at least one radio station in Romansh and to take interim measures to ensure that licensing laws are implemented with regard to the amount of programming in Romansh on the existing private radio stations.

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

125. The Committee of Experts observes that the present undertaking is concerned with the encouragement or facilitation of the broadcasting of television programmes in Romansh on a regular basis in the private sector.

126. In its first evaluation report (see para. 143) the Committee of Experts suggested that the Swiss authorities explore the possibilities as to how the broadcasting of television programmes in Romansh could be encouraged.

127. The information made available to the Committee of Experts does not point to positive forms of encouragement and as a matter of fact private television in the South-East of Switzerland seems to have a rather passive attitude vis-à-vis Romansh.

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

The Committee of Experts encourages the competent Swiss authorities to take urgent measures with a view to encouraging and/or facilitating the broadcasting of programmes in Romansh by private television companies.

“e. i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;”

129. In its first evaluation report the Committee of Experts considered that the financial assistance, provided by both the Confederation and the Cantons, which enabled a Romansh press agency to be set up since the end of 1996, did constitute a form of encouragement of the creation and the maintenance of a newspaper in Romansh, to which it did indeed lead through the launching of the Romansh daily *La Quotidiana* on 1 January 1997. The Committee of Experts therefore considered this undertaking fulfilled, although it expressed its concern for the lack of training of journalists in Romansh. The Committee of Experts also noted that there was a lack of “subscribers” as well as the fact that the editor stressed that it was necessary to double the budget to ensure the survival of the newspaper (see paras. 144-146 of the first evaluation report).

130. The Committee of Experts notes that the Romansh daily in question continues to be published, amid signs, however, of increasing financial difficulties. The Committee of Experts does not see sufficient reasons, at this stage, to depart from its previous conclusion. It underlines, however, that the fulfilment of this undertaking appears to be at risk and it encourages the competent Swiss authorities to look into ways of ensuring that one newspaper in Romansh continues to exist (in this respect see also the opinion on Switzerland adopted by the Advisory Committee of the Framework Convention for the Protection of National Minorities on 20 February 2003 (ACFC/INF/OP/I(2003)007), para. 49).

“Paragraph 3

The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.”

131. In its first evaluation report the Committee of Experts welcomed the fact that the interests of Romansh speakers were represented within the decision-making bodies of SSR. However, it did not find any evidence that the Swiss authorities had taken measures to ensure that the interests of users of Romansh were taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media. As a result, the Committee of Experts was not in a position to conclude that this undertaking was fulfilled (see paras. 149-150 of the first evaluation report).

132. The Committee of Experts has not received any further information in this respect. It therefore encourages the competent Swiss authorities to clarify how concretely the interests of Romansh speakers are represented or taken into account within the SSR. The competent Swiss authorities are also encouraged to

provide information on any other body specifically entrusted with the responsibility of guaranteeing the freedom and pluralism of the media.

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;”***

133. In its first evaluation report (see para. 173) the Committee of Experts could not find any evidence of bilateral or multilateral agreements concluded with other States (and more particularly with Italy), likely to foster contacts between the Romansh speakers of Switzerland and the speakers of a similar language abroad. The Committee of Experts therefore considered that this undertaking was not fulfilled.

134. The Committee of Experts has not been informed that Romansh is being used in an identical or similar form in other States or of the existence of any agreement if that would be the case. It therefore encourages the competent Swiss authorities to clarify this issue in the next periodical report.

2.2.3. The Italian language

A. Canton of Graubünden

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:

Monitoring

- “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.”***

135. In its first evaluation report (see para. 198), the Committee of Experts noted that the findings of the competent bodies were not officially published and suggested that the findings of the institutions monitoring the teaching of and in regional or minority languages be made public in an appropriate manner.

136. The system has in the meantime changed and the bodies previously in charge of the monitoring no longer carry out this task in a systematic manner. The monitoring now focuses on the concrete problems rather than on the general situation. On the other hand, general conclusions are now published in a comprehensive “Education report” produced by the Department of Public Education, Culture and Environmental Protection of the Canton of Graubünden. The first such report was published in 2001 and the second was expected by the end of 2003.

137. The Committee of Experts considers that this undertaking is 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:

In criminal proceedings:

- a.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or”***
- a.ii. to guarantee the accused the right to use his/her regional or minority language; and/or”***
- a.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”.***

In civil proceedings:

- b.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- b.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***

b.iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters or translations.”

138. In its first evaluation report the Committee of Experts noted that for the Cantonal Court, German, Italian and Romansh were also official court languages. By law, any Italian-speaker was entitled to use his or her language both orally and in writing in criminal proceedings before the Cantonal Court and to demand that the Court's judgement be drawn up in Italian. As the members of the Cantonal Court generally understood Italian and the Italian-speaking parties were generally able to express themselves in German, the languages used in the Cantonal Court were determined pragmatically. The Cantonal Court Ordinance explicitly stipulated that the judgement had to be drawn up in Italian for persons living in Italian-speaking areas (see para. 200 of the first evaluation report). The Committee of Experts also noted that for district and local courts, the language of the court was determined by the territorial principle: where the traditional language was Italian, Italian could be used and there was an established practice in the Italian-speaking districts and localities. The Committee of Experts concluded that the undertaking was fulfilled but with the exception of the Maloja/Maloggia District Court, which normally used German, despite the fact that the district included the Italian-speaking Val Bregaglia (see paras. 201-203 of the first evaluation report as far as criminal proceedings are concerned, and paras. 205-206 as far as civil proceedings are concerned).

139. During the “on-the-spot” visit, the Committee of Experts was informed that there are Italian-speaking judges on the bench of the Maloja/Maloggia District Court. Those are, however, lay judges who are selected by popular election. There are no Italian-speaking lawyers in the professional staff of the District Court, which creates serious obstacles for the District Court to handle procedures in Italian. There are proposals to equip the District Court with an Italian-speaking vice-President in order to overcome the existing problems. At present, however, the practical difficulties affecting the use of Italian in court proceedings in the Maloja/Maloggia district hamper the fulfilment of Article 9 in this regard. The present undertakings are therefore fulfilled, with the exception of the Maloja/Maloggia District Court.

“In proceedings before courts concerning administrative matters:

- c.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- c.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;”***
- d. to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.”***

140. In its first evaluation report (see para. 208) the Committee of Experts noted that according to Section 20 of the Administrative Justice Act, German, Italian and Romansh were also official court languages and in principle any Italian-speaker was entitled to use his or her language both orally and in writing in administrative proceedings and to demand that the judgement be drawn up in Italian. The possibility of using Italian in oral proceedings was, however, limited insofar as not all administrative judges necessarily had a command of Italian. Moreover, Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court stipulated that deliberations were to take place in German. On the other hand, the President of the Administrative Court could have recourse to a translator where necessary and judgements drawn up by the administrative courts for parties in the Italian-speaking area of the canton were drafted directly in Italian (see para. 209 of the first evaluation report). The Committee of Experts concluded that there existed legal and practical obstacles to the fulfilment of this undertaking (see para. 210 of the first evaluation report) and invited the Swiss authorities to remove the practical and legal obstacles hampering the effective use of Italian before the courts and, in particular, to amend the Administrative Court Ordinance and to make efforts to remedy the lack of command of Italian by administrative judges.

141. As the Committee of Experts has already observed (see para. 80 above), Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court has been considered as unconstitutional and is therefore no longer applied. The other information made available to the Committee of Experts, particularly during the “on-the-spot” visit, currently points to a satisfactory situation in this field. The Committee of Experts considers that this undertaking is 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.i. to ensure that the administrative authorities use the regional or minority languages;”

142. As far as the use of Italian by the federal authorities is concerned, in its first evaluation report (see para. 215) the Committee of Experts observed that this did not satisfy the requirements of the Charter. In particular, the lack of Italian-speakers within the federal administration and the fact that Italian versions of documents could be delayed or were not available at all were serious obstacles to the practical use of Italian.

143. As far as the cantonal level is concerned, in its first evaluation report the Committee of Experts noted that the administration of the Canton of Graubünden was required to use Italian in its official activities, although the status of Italian as a minority language in the Canton of Graubünden nonetheless meant that the official use of that language was ensured in the majority of cases by translations (see para. 216 of the first evaluation report).

144. The Committee of Experts concluded that with the exception of the situation at federal level, this undertaking could be considered fulfilled (see para. 218 of the first evaluation report).

145. In the present monitoring round the Committee of Experts has looked in more detail into the nature of the State administration in the context of the federal structure of Switzerland. It thus appears that the federal administration does not have a general presence in the cantons and that by virtue of Article 46 of the federal constitution, federal law is actually implemented by the cantonal administration. Few federal administrative branches perform federal functions directly in the cantons. As a result, the Committee of Experts has decided to focus on the cantonal administration as in most cases it is the latter which falls under the present provision insofar as it carries out tasks which are proper to a State administration. Other tasks of the Canton related exclusively to its regional dimension will therefore be dealt with at a later stage under one of the relevant provisions of Article 10 para. 2 of the Charter.

146. Insofar as the cantonal administration performs State duties, within the scope of Article 10 para. 1 of the Charter, the Committee of Experts stresses once again the important step forward accomplished through the adoption of Article 3 of the new Constitution of the Canton of Graubünden, which makes Italian one of the official languages of the Canton (see para. 15 above). This progress should further contribute to improving the overall situation of the use of Italian within the cantonal administration, although the information collected by the Committee of Experts points to a rather satisfactory situation, as regards both the written and oral use of Italian in dealings with the cantonal administration.

147. The Committee of Experts therefore concludes that this undertaking is fulfilled as far as the cantonal administration is concerned. However, as to the federal offices which are present at cantonal level, the Committee of Experts encourages the competent Swiss authorities to provide specific information in the next periodical report.

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

148. In its first evaluation report (see para. 223), the Committee of Experts did not specifically address the issue and confined itself to considering that Italian being the sole official language of the Italian-speaking area of the canton, the relevant provisions of paragraph 2 of Article 10 of the Charter were considered fulfilled in the territories concerned. In the light of the more detailed information collected during its second “on-the-spot” visit, however, the Committee of Experts must review its previous conclusion.

149. In fact, the use of Italian in debates in the cantonal parliament is practically non-existent. The opening speech may sometimes be made in Italian but the debates take place essentially in German (although the minutes are then produced also in Italian). As already noted above (see para. 107), the ideal goal of the Canton would be to encourage plurilingualism in the cantonal parliament with a view to allowing all its members to express themselves in their own mother tongue, as in the federal assembly, and that is

why the explicit policy of the Canton is not to have recourse to interpretation. However, the reality is still far from this ideal goal and the Committee of Experts has already observed that until this ideal is achieved, the use of Italian in the debates of the cantonal parliament should be encouraged through concrete arrangements and simultaneous interpretation, to and from Italian, should systematically be made available.

150. The Committee of Experts therefore concludes that this undertaking is not fulfilled.

The Committee of Experts encourages the competent Swiss authorities to take the necessary measures to encourage the use of Italian in debates in the cantonal parliament, in particular through the provision of simultaneous interpretation.

“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;”

151. In its first evaluation report (see para. 223), the Committee of Experts did not specifically address the issue and confined itself to considering that Italian being the sole official language of the Italian-speaking area of the canton, the relevant provisions of paragraph 2 of Article 10 of the Charter were considered fulfilled in the territories concerned.

152. The Committee of Experts has not received any elements which would justify its departing from its previous conclusion. However, it encourages the competent Swiss authorities to clarify, in the next periodical report, the nature and the functions of the so-called “regional associations”, as well as the extent to which Italian is used during their assemblies.

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:

“e.i. to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;”

153. In its first evaluation report the Committee of Experts noted that the Italian-speaking part of the Canton of Graubünden had a weekly newspaper of its own (“Il Grigione italiano”) and concluded that this undertaking was fulfilled (paras. 229-230 of the first evaluation report).

154. In the second monitoring round the Committee of Experts has been informed that two other weekly newspapers, although with a more limited range, are published as well (“La voce delle valli” and “Il San Bernardino”). All three newspapers report on events taking place in the regional community. It therefore considers that in the specific situation of Italian in Graubünden this undertaking is fulfilled.

“Paragraph 3

The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.”

155. In its first evaluation report the Committee of Experts could not find any evidence that the Swiss authorities had taken measures to ensure that the interests of users of Italian were taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media. The Committee of Experts was therefore not in a position to conclude that this undertaking was fulfilled (see paras. 235-236 of the first evaluation report).

156. The Committee of Experts has not received any further information in this respect. It therefore encourages the competent Swiss authorities to clarify how the interests of Italian speakers are concretely represented or taken into account within the SSR. The competent Swiss authorities are also encouraged to

provide information on any other body specifically entrusted with the responsibility of guaranteeing the freedom and pluralism of the media.

B. Canton of Ticino

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:

In criminal proceedings:

- a.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or”***
- a.ii. to guarantee the accused the right to use his/her regional or minority language; and/or***
- a.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.***

In civil proceedings:

- b.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- b.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”***
- b.iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters or translations.***

In proceedings before courts concerning administrative matters:

- c.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- c.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;”***
- d. to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.”***

157. In the first evaluation report (see para. 265) the Committee of Experts concluded that these undertakings were all fulfilled. The Committee of Experts observed, on the other hand, that the lack of a faculty of Law in the Italian language in Switzerland created practical problems of implementation. The latter remark was actually made in relation to the undertaking entered into by Switzerland under Article 9 para. 2.a (which was likewise considered fulfilled; see paras. 266-267 of the first evaluation report), but the Committee of Experts considers that it is relevant to the present provisions instead.

158. In this respect the Committee of Experts notes that according to the information provided during the “on-the-spot” visit, special law courses in Italian have been made available after the normal curriculum, and the

lawyers in the Canton of Ticino have a vast legal documentation at their disposal. The Committee of Experts considers that these undertakings are 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.i. to ensure that the administrative authorities use the regional or minority languages;”

159. In its first evaluation report, the Committee of Experts noted that as far as the use of Italian by federal authorities was concerned, the lack of Italian-speakers within the federal administration and the fact that Italian versions of documents could be delayed or were not available at all were serious obstacles to the practical use of Italian (see para. 270 of the first evaluation report). It therefore concluded that this undertaking was not fulfilled with regard to the situation at federal level (see para. 272 of the first evaluation report).

160. In the present monitoring round the Committee of Experts has looked in more detail into the nature of the State administration in the context of the federal structure of Switzerland. It thus appears that the federal administration does not have a general presence in the cantons and that by virtue of Article 46 of the federal constitution, federal law is actually implemented by the cantonal administration. Few federal administrative branches perform federal functions directly in the cantons. As a result, the Committee of Experts has decided to focus on the cantonal administration as in most cases it is the latter which falls under the present provision insofar as it carries out tasks which are proper to a State administration. Other tasks of the Canton related exclusively to its regional dimension will therefore be dealt with at a later stage within the relevant provisions of Article 10 para. 2 of the Charter.

161. Insofar as the cantonal administration performs State duties, within the scope of Article 10 para. 1 of the Charter, the Committee of Experts considers that this undertaking is fulfilled. However, as to the federal offices which are present at cantonal level, the Committee of Experts encourages the competent Swiss authorities to provide specific information in the next periodical report.

“Paragraph 3

The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.”

162. In its first evaluation report the Committee of Experts could not find any evidence that the Swiss authorities had taken measures to ensure that the interests of users of Italian were taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media. The Committee of Experts was therefore not in a position to conclude that this undertaking was fulfilled (see paras. 287-288 of the first evaluation report).

163. The Committee of Experts has not received any further information in this respect. It therefore encourages the competent Swiss authorities to clarify how the interests of Italian speakers are concretely represented or taken into account within the SSR. The competent Swiss authorities are also encouraged to provide information on any other body specifically entrusted with the responsibility of guaranteeing the freedom and pluralism of the media.

Chapter 3 Conclusions

3.1. Conclusions of the Committee of Experts on how the Swiss authorities have reacted to the recommendations of the Committee of Ministers

Recommendation no. 1:

“enact legislation in application of Article 70.2 of the new Constitution in order to enable the Romansh-speaking community to benefit fully from the protection provided by the Charter;”

164. The federal authorities have informed the Committee of Experts that it is the cantons' responsibilities to implement Article 70 para. 2 of the Swiss Constitution. The Canton of Graubünden has revised its Constitution and this has included the adoption of an important provision, Article 3, which makes Romansh an official language of the Canton, together with Italian and German, and lays down specific requirements for the protection of linguistic minorities (see para. 15 above). The discussion on how to implement this provision has just begun following the entry into force, on 1 January 2004, of Article 3 of the new Constitution of the Canton of Graubünden.

Recommendation no. 2:

“make all possible efforts to remove the legal and practical obstacles to the use of Romansh and Italian in court proceedings in the Canton of Graubünden;”

165. Legal obstacles no longer appear to exist (see in particular para. 80 above). As far as practical obstacles are concerned, Italian is regularly used in courts in the Canton of Graubünden, with the exception of the Maloja/Maloggia District Court (including Upper Engadin and Val Bregaglia; see para. 139 above). Romansh is used very rarely in courts and the practical obstacles still have to be tackled seriously (see paras. 81-83 above).

Recommendation no. 3:

“explore possibilities of improving the use of Romansh and Italian at the level of the federal administration.”

166. The Committee of Experts has adjusted its approach in this respect, taking account of the specific structure of the administration in the Swiss Confederation. It has thus focused in particular on the cantonal administration insofar as it performs State duties (see paras. 90-93, 94-96, 145-147 and 160-161 above). On the other hand, the situation concerning the use of Romansh and Italian in the relations between the speakers and those few federal offices which are directly present in the canton needs to be clarified.

3.2. Findings of the Committee of Experts in the second monitoring round

A. The Committee of Experts commends the Swiss authorities, both at federal and cantonal level, for their excellent cooperation and for the very open and constructive dialogue with the monitoring mechanism set up by the Charter. It must also be underlined that some important progress has been made since the first evaluation report and that the level of fulfilment remains on the whole good. The adoption of Article 3 of the new Constitution of the Canton of Graubünden must specifically be mentioned in this respect. This provision makes Romansh and Italian official languages alongside German and lays down the legal conditions for substantial improvements in a number of important areas, including the issue of the territorial organisation of education and the use of Romansh and Italian at cantonal level. On the other hand, legislation implementing paragraphs 1 and 3 of Article 70 of the federal Constitution has yet to be adopted.

B. As far as Romansh is concerned, this language nevertheless remains under threat. However, the adoption of Article 3 of the new Constitution of the Canton of Graubünden opens up new possibilities to counter its decline. This provision also gives a possibility to counterbalance the power given to municipalities to choose the language of instruction on their territory, which the Committee of Experts had highlighted in its first evaluation report.

C. During the present second monitoring cycle, the parliament of the Canton of Graubünden decided to publish as of 2005 all new teaching materials only in the standardised form of Rumantsch Grischun (adopted in 1982), with a view to later introducing Rumantsch Grischun as the language of instruction in school. The

Committee of Experts takes note of this important decision but it expresses its concern that this important reform be carried out with the necessary care, in particular as far as teacher training and the preparation of teaching materials is concerned. There is a need for a sustained and substantial support for teacher training. There is also cause for concern about the way in which the reform of the entire structure of teacher training will be implemented, as the training system for minority language teachers is now also open to students who have not passed the bilingual maturity exam including Romansh. Generally, taking account of the controversy that the adoption of the standardised form has sparked, it is of the utmost importance that the transition towards the latter proceeds in a gradual manner with a view to ensuring that it enjoys the greatest possible support by the speakers.

D. Despite the absence of any residual legal obstacles, in the field of justice Romansh is still very rarely used. The lack of training courses in legal Romansh for judges and administrative staff of the Court and for lawyers and their assistants, as well as the insufficient number of legal texts in Romansh, constitute the two most important obstacles to the use of Romansh in this field.

E. As far as use in the administration is concerned, the question arises differently at different levels. As to the cantonal administration, in its capacity as both a State authority and as a regional authority, the legal framework is in place, although a law to implement Article 3 of the new Constitution of the Canton of Graubünden has yet to be adopted. However, several practical difficulties still hamper the use of Romansh in dealings with the administration. An additional problem concerns the use of Romansh in the debates in the cantonal parliament. Romansh is practically not used in this context and there are no concrete arrangements to systematically provide simultaneous interpretation. The Committee of Experts is of the view that a more frequent use of Romansh in the cantonal parliament would contribute to raising the prestige of the language in the public sphere, which is a crucial aspect of effective minority language protection and promotion.

F. At the municipal administrative level, Romansh has a strong presence in the municipalities where Romansh is the official language. However, in the bilingual municipalities the presence of Romansh in dealings with the administration and in debates in the local assembly tends to be scarce. The adoption of Article 3 of the new Constitution of the Canton of Graubünden is significant in relation to future changes in the linguistic status of the communities. However, the problem of the existing status of the linguistic communities cannot be solved through this article. It is clear to the Committee of Experts that the competent Swiss authorities, including the Canton given its specific role, will have to seriously address the issue of the bilingual municipalities and of the municipalities with a sizeable portion of Romansh speakers but where German is the only official language, if concrete results are to be achieved.

G. In the field of the media, the Committee of Experts stresses once again that the presence of a regional or minority language on television is of the utmost importance for its maintenance in modern societies. The present provision for Romansh on the public television service is relatively meagre and the setting up of a regional network could be encouraged. As far as the private sector is concerned, the Committee of Experts found in the first place that no measures have been taken to encourage or facilitate the creation of a private radio in Romansh and furthermore, it observed a lack of enforcement of the licence conditions in relation to the existing private radio stations. Furthermore, measures of encouragement for private television stations to broadcast programmes in Romansh on a regular basis also seem necessary.

H. As far as Italian in Graubünden is concerned, its overall situation appears to be good, although there are residual problems concerning the use of Italian in the cantonal parliament. Like in the case of Romansh, there are no concrete arrangements for a systematic provision of simultaneous interpretation, which could foster the use of Italian in the cantonal parliament. Furthermore, the situation with regard to the use of Italian in court proceedings before the Maloja/Maloggia District Court remains unsatisfactory. On the other hand, the overall situation of the Italian language in the Canton of Ticino is very positive.

I. As far as the Yenish language is concerned, some progress has been made following a meeting with the speakers and the launching of two projects (see paras. 46 and 49 above). However, this language has not yet been recognised as a regional or minority language in Switzerland within the meaning of the Charter. There is also a need for further research on this language with a view to clarifying, in cooperation with the speakers, what sort of measures of protection and promotion would be needed. In any event, an effective protection and promotion of the language needs concrete measures in the field of education to offer Yenish pupils education in Yenish within the ordinary teaching framework. There is a clear lack of teaching of and/or in the language within the ordinary teaching framework, the latter supposing a minimum degree of standardisation. Research efforts should therefore be aimed more clearly at achieving such a minimum degree of standardisation. This enterprise should be pursued in close cooperation with the speakers

themselves but also with the other States where the Yenish language may be present. Finally, the Yenish language and culture suffer from a lack of awareness in Swiss society.

The Swiss 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 Switzerland. At the same time it emphasised the need for the Swiss authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 896th meeting on 22 September 2004, the Committee of Ministers adopted its Recommendation addressed to Switzerland, which is set out in Part B of this document.

APPENDIX I: INSTRUMENT OF RATIFICATION

SWITZERLAND

Declaration contained in the instrument of ratification deposited on 23 December 1997 - Or. Fr.

The Swiss Federal Council declares, in accordance with Article 3, paragraph 1, of the Charter, that in Switzerland Romansh and Italian are the less widely used official languages to which the following paragraphs chosen in accordance with Article 2, paragraph 2, of the Charter, shall apply:

a. Romansh

Article 8 (education)

Paragraph 1, sub-paragraphs a (iv), b (i), c (iii), d (iii), e (ii), f (iii), g, h, i

Article 9 (judicial authorities)

Paragraph 1, sub-paragraphs a (ii), a (iii), b (ii), b (iii), c (ii)

Paragraph 2, sub-paragraph a

Paragraph 3

Article 10 (administrative authorities and public services)

Paragraph 1, sub-paragraphs a (i), b, c

Paragraph 2, sub-paragraphs a, b, c, d, e, f, g

Paragraph 3, sub-paragraph b

Paragraph 4, sub-paragraphs a, c

Paragraph 5

Article 11 (media)

Paragraph 1, sub-paragraphs a (iii), b (i), c (ii), e (i), f (i)

Paragraph 3

Article 12 (cultural activities and facilities)

Paragraph 1, sub-paragraphs a, b, c, e, f, g, h

Paragraph 2

Paragraph 3

Article 13 (economic and social life)

Paragraph 1, sub-paragraph d

Paragraph 2, sub-paragraph b

Article 14 (transfrontier exchanges)

Sub-paragraph a

Sub-paragraph b

b. Italian

Article 8 (education)

Paragraph 1, sub-paragraphs a (i), a (iv), b (i), c (i), c (ii), d (i), d (iii), e (ii), f (i), f (iii), g, h, i

Article 9 (judicial authorities)

Paragraph 1, sub-paragraphs a (i), a (ii), a (iii), b (i), b (ii), b (iii), c (i), c (ii), d

Paragraph 2, sub-paragraph a

Paragraph 3

Article 10 (administrative authorities and public services)

Paragraph 1, sub-paragraphs a (i), b, c

Paragraph 2, sub-paragraphs a, b, c, d, e, f, g

Paragraph 3, sub-paragraphs a, b

Paragraph 4, sub-paragraphs a, b, c

Paragraph 5

Article 11 (media)

Paragraph 1, sub-paragraphs a (i), e (i), g

Paragraph 2

Paragraph 3

Article 12 (cultural activities and facilities)

Paragraph 1, sub-paragraphs a, b, c, d, e, f, g, h

Paragraph 2

Paragraph 3

Article 13 (economic and social life)

Paragraph 1, sub-paragraph d

Paragraph 2, sub-paragraph b

Article 14 (transfrontier exchanges)

Sub-paragraph a

Sub-paragraph b.

Period covered: 01/04/98 -

The preceding statement concerns Article(s): 10, 11, 12, 13, 14, 2, 3, 8, 9

APPENDIX II: COMMENTS BY THE GOVERNMENT OF SWITZERLAND

Letter from:

Marimée Montalbetti
Head of Section
Swiss Federal Office of Culture
Culture and Society

To Mr Philip Blair
Director of Co-operation for Local and Regional Democracy

Bern, 29 June 2004

Dear Sir,

I have received, via our Council of Europe representative, Mr Jean-Claude Joseph, your letter of 29 April 2004 and the Committee of Experts' second report on the application of the Charter in Switzerland, with a request for comments on the document. We are very grateful for this communication and wish to make the following comments in response. These are also based on information that we have gathered from the relevant departments of the Canton of Graubünden, and from the *Radgenossenschaft der Landstrasse* (the umbrella organisation of Swiss travelling people) and the foundation *Assurer l'avenir des gens du voyage* (ensuring the future of travelling people).

Recommendation 1: The Committee of Ministers recommends that the Swiss authorities accelerate the efforts to adopt legislation implementing in particular paras. 1 and 3 of Article 70 of the Federal Constitution.

At its session of 28 April 2004, The Federal Council decided not to table in parliament its draft legislation on national languages and understanding between language communities. The Council nevertheless reaffirmed the importance it places on retaining multilingualism and mutual understanding between language communities. It will therefore continue its policy of equal treatment for German, French and Italian within the federal government service. The Federal Council will also make sure that account is taken of the fourth national language, Romansh. Nor is there any threat from the Council to the federal grants to the Cantons of Graubünden and Ticino to encourage Romansh and Italian.

The decision is mainly based on financial considerations and also reflects the division of responsibilities. However the federal Department of the Interior is looking at appropriate ways of complying with constitutional requirements.

In response to Recommendation 1, Graubünden states that the principle of exchanges between the language communities has been included in the new cantonal constitution (based on the languages article in the federal Constitution). It is referred to first in Article 2.4 (understanding and exchange between the linguistic communities of Switzerland), then in Article 3.2 (understanding and exchange between the linguistic communities of the canton). The next stage will be to incorporate this, and other measures, in the legislation on "cantonal languages and official languages" currently being drafted.

Recommendation 2: The Committee of Ministers recommends that the Swiss authorities take the necessary measures to remove practical obstacles to the use of Romansh in courts.

In response to recommendation 2, the Canton of Graubünden states that the cantonal justice department is currently working on the draft "reform of justice 2", which will take account, among other things, of the changes arising from the new cantonal constitution. According to the timetable laid down for the constitutional process, the Graubünden government will be required to table the corresponding changes to the legislation in the Grand Council by the end of 2006. However the "reform of justice 2" is likely to be completed before this date. Implementation of the proposals will provide an opportunity to introduce the Committee of Ministers' recommended measures (terminology courses for judges and lawyers and translation of draft legislation, decisions and other legal documentation).

Recommendation 3. The Committee of Ministers recommends that the Swiss authorities take the necessary measures to strengthen the use of Romansh in dealings with the cantonal administration, in debates in the cantonal parliament and in dealings with the administration of bilingual municipalities in the Canton of Graubünden.

In response to recommendation 3, the Canton of Graubünden states that the application of the new cantonal constitution will allow more account to be taken of national languages in these areas. An initial step has already been taken, with the government making protection and promotion of the three cantonal languages one of the priorities of its 2005-2008 programme. In practical terms, this means that cantonal departments and agencies will make more systematic use of Italian and Romansh in their dealings with the citizens concerned. In this context, it appears from exchanges of correspondence on the Web that citizens will themselves be encouraged to make more use of Romansh in their contacts with the authorities.

Recommendation 4. The Committee of Ministers recommends that the Swiss authorities take resolute action to improve the provision for Romansh on television and radio in the private sector.

The Canton of Graubünden refers to the Confederation's duty of oversight in this area. In preparation for the third Swiss report it would be useful to clarify the situation in conjunction with private radio and television stations broadcasting in Graubünden, the organisations defending the languages concerned and the licensing authority.

Recommendation 5. The Committee of Ministers recommends that the Swiss authorities officially recognise Yenish as a regional or minority language traditionally spoken in Switzerland and as part of the Swiss cultural and linguistic heritage.

The issue of recognition for Yenish beyond the current level first needs to be discussed with reference to the practical needs of the individuals actually concerned. The Confederation will give this recommendation detailed consideration, in consultation with the travelling people, and then make a detailed response in the third Swiss report on the application of the Charter.

In section 2.1.4 (Article 7), the Committee of Experts presents a reasoned opinion on the situation of the Yenish language in Switzerland. It introduces a number of elements into the debate on language policy and teaching, and in particular suggests a number of measures to promote Yenish in education. These new proposals will have to be considered by the Yenish themselves, in the light of how they view their own language and culture. Such measures should also be closely examined from the standpoint of the division of legal responsibilities. Language teaching in state schools is a responsibility of the cantons, which decide on the official languages and the languages of instruction to be used in their areas. Finally, the Committee of Experts' recommendations must be considered in the light of philological and practical considerations.

The Confederation has informed the Yenish community of its willingness to offer financial support for language projects, including ones involving cross-border exchanges. This year, the travelling people will be organising, with the support of the Confederation, several conferences throughout Switzerland aimed at clarifying Yenish needs, particularly regarding the promotion of their language. The Committee of Experts' current recommendations will also be discussed at these gatherings.

The measures so far agreed with the travelling people represent a broad measure of recognition in practice on the part of the Confederation for the Yenish people. In particular it supports the private law foundation *Assurer l'avenir des gens du voyage*, with the aim of safeguarding and improving the living conditions and preserving the cultural identity of the nomadic population (RS 449.1). Since 1985, moreover, it has given annual grants to the *Radgenossenschaft der Landstrasse*, which acts as the umbrella organisation of Swiss travelling people, thereby actively supporting this cultural community. In their first comments on these recommendations the *Radgenossenschaft* and the foundation state that the Confederation's encouragement for the life style of the travelling people also constitutes a form of indirect support for the Yenish language. The best means of promoting Yenish – and this view is shared by the Yenish themselves – is for the Confederation to encourage and support the establishment of sufficient transit and permanent sites, which form the very basis of travelling people's culture.

In paragraph 46 (p. 11), it would be more accurate to use the term "support" rather than "funding" in connection with assistance to the *Radgenossenschaft der Landstrasse*.

With regard to encouragement for Walser in Bosco-Gurin, the relevant authorities will comment in the third Swiss report.

We would ask you to take account of these comments in the Committee of Experts' activities report and thank the Committee for its sympathetic and well argued assessment of the legal and political aspects of the language situation in Switzerland.

Yours etc.

Marimée Montalbetti

B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Switzerland

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation RecChL(2004)5 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Switzerland

*(Adopted by the Committee of Ministers on 22 September 2004
at the 896th 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 Switzerland on 23 December 1997;

Having taken note of the evaluation made by the Committee of Experts on the Charter with respect to the application of the Charter by Switzerland;

Having taken note of the comments made by the Swiss authorities on the contents of the Committee of Experts' report ;

Bearing in mind that this evaluation is based on information submitted by Switzerland in its second periodical report, supplementary information provided by the Swiss authorities, information submitted by bodies and associations legally established in Switzerland and the information obtained by the Committee of Experts during its "on-the-spot" visit,

Recommends that the authorities of Switzerland take account of all the observations of the Committee of Experts and, as a matter of priority:

1. accelerate the efforts to adopt legislation implementing in particular paras. 1 and 3 of Article 70 of the Federal Constitution;
2. take the necessary measures to remove practical obstacles to the use of Romansh in courts;
3. take the necessary measures to strengthen the use of Romansh in dealings with the cantonal administration, in debates in the cantonal parliament and in dealings with the administration of bilingual municipalities in the Canton of Graubünden;
4. take resolute action to improve the provision for Romansh on television and radio in the private sector;
5. officially recognise Yenish as a regional or minority language traditionally spoken in Switzerland and as part of the Swiss cultural and linguistic heritage.