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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

**Second Periodical Report
presented to the Secretary General of the Council of Europe
in accordance with Article 15 of the Charter**

SWITZERLAND

CONTENTS

| | |
|--|----|
| PRELIMINARY SECTION | 4 |
| 1. Background information..... | 4 |
| 1.1 <i>Relevant historical background</i> | 4 |
| 1.2 <i>The demographic and economic situation of the various regions</i> | 6 |
| 1.3 <i>Constitutional and administrative structure of the State</i> | 8 |
| 2. Minority languages in Switzerland and their territorial distribution..... | 11 |
| 2.1 <i>Languages in Switzerland and their territorial distribution</i> | 11 |
| 2.2 <i>Minority languages in Switzerland and their territorial distribution</i> | 12 |
| 3. Definitions and statistical data for minority languages | 14 |
| 4. Non-territorial minority languages | 16 |
| 5. Existing language policy measures | 17 |
| PART ONE | 19 |
| 1. Legal basis for implementing the European Charter for Regional or Minority Languages 19 | |
| 1.1 <i>International law relating to languages</i> | 19 |
| 1.2 <i>Confederation law relating to languages</i> | 20 |
| 1.3 <i>Cantonal constitutions and regulations</i> | 24 |
| 2. Organisations associated with policy on languages and mutual understanding..... | 25 |
| 3. Collaboration in preparing this report | 27 |
| 4. Briefing on the Language Charter | 28 |
| 5. Implementation of the recommendations | 28 |
| 5.1 <i>Recommendations of the Council of Europe experts' report (dated 1 June 2001)</i> ... 28 | |
| 5.2 <i>Recommendations of the Committee of Ministers of the Council of Europe (dated 21 November 2001)</i> | 31 |
| 6. Briefing on the recommendations | 35 |
| 7. Co-operation in implementing the recommendations | 35 |
| PART TWO | 35 |
| 1. Measures to implement Article 7 of the Languages Charter | 35 |
| 2. Other proposed measures | 40 |
| PART THREE..... | 41 |

| | | |
|-----|---|----|
| I | REPORT BY THE CANTON OF GRISONS ON APPLICATION OF THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES | 41 |
| 1. | Background information..... | 41 |
| 1.1 | <i>Authorities</i> | 41 |
| 1.2 | <i>Romansh and Italian language areas</i> | 41 |
| 1.3 | <i>New draft cantonal constitution</i> | 42 |
| 1.4 | <i>Implementation of the Committee of Ministers recommendations</i> | 42 |
| 2. | Charter provisions and measures to promote Romansh..... | 43 |
| 2.1 | <i>Article 8: Education</i> | 43 |
| 2.2 | <i>Article 9: Judicial authorities</i> | 46 |
| 2.3 | <i>Article 10: Administrative authorities and public services</i> | 47 |
| 2.4 | <i>Article 11: Media</i> | 49 |
| 2.5 | <i>Article 12: Cultural activities and facilities</i> | 50 |
| 2.6 | <i>Article 13: Economic and social life</i> | 51 |
| 2.7 | <i>Article 14: Transfrontier exchanges</i> | 52 |
| 3. | Charter provisions and measures to promote Italian..... | 52 |
| 3.1 | <i>Article 8: Education</i> | 52 |
| 3.2 | <i>Article 9: Judicial authorities</i> | 54 |
| 3.3 | <i>Article 10: Administrative authorities and public services</i> | 55 |
| 3.4 | <i>Article 11: Media</i> | 56 |
| 3.5 | <i>Article 12: Cultural activities and facilities</i> | 57 |
| 3.6 | <i>Article 13: Economic and social life</i> | 58 |
| 3.7 | <i>Article 14: Transfrontier exchanges</i> | 58 |
| II | REPORT BY THE CANTON OF TICINO ON APPLICATION OF THE CHARTER | 58 |
| 1. | Background information..... | 58 |
| 2. | Charter provisions and measures to promote Italian..... | 59 |
| 2.1 | <i>Article 8: Education</i> | 59 |
| 2.2 | <i>Article 9: Judicial authorities</i> | 61 |
| 2.3 | <i>Article 10: Administrative authorities and public services</i> | 62 |
| 2.4 | <i>Article 11: Media</i> | 62 |
| 2.5 | <i>Article 12: Cultural activities and facilities</i> | 63 |
| 2.6 | <i>Article 13: Economic and social life</i> | 63 |
| 2.7 | <i>Article 14: Transfrontier exchanges</i> | 63 |

PRELIMINARY SECTION

1. Please provide the necessary background information, such as the relevant historical developments in the country, an overview of the demographic situation with reference to the basic economic data for the regions, as well as information on the constitutional and administrative structure of the State.

1. Background information

1.1 Relevant historical background

The current linguistic situation in Switzerland is the culmination of a long history, which has also been influenced by the country's geographical position, since the present territory of Switzerland has absorbed various European language groups. The two oldest peoples of pre-Roman times to settle there were the Rhaetians and the Celts. Between the late first century BC and 400 AD the country was Romanised. A third language strain comes from the Germanic tribes. From the fifth and sixth centuries AD onwards, the Alemanni gradually colonised Switzerland from the north and established a German-speaking area which extended as far as the Pre-Alps and into some Alpine valleys; on the other hand, the Burgundians, who invaded what is now French-speaking Switzerland from the east, were Romanised, as were the Lombards in Ticino.

Although multilingualism may appear an essential element of Switzerland, it acquired political significance only during the nineteenth century. Established in 1513, the former Confederation of 13 cantons had been mainly German-speaking since the 1291 Pact, the bilingual canton of Fribourg being the sole exception. Romance languages were the attribute of a few allied lands or subject areas (bailliages). The early alliances of some of the former Confederation's cantons with the city-republic of Geneva accentuated the French-speaking tendency in the former Confederation.

It was only after the convulsions of 1798, which introduced political equality for citizens, that the State's multilingual nature became evident. Thus the legislative acts of the Helvetic Republic (1798-1803) were drafted in the three languages considered to be equal: German, French and Italian.

The equality of these languages was, however, rescinded with the Act of Mediation (1803), and under the Restoration (from 1815) the German language fully regained its ascendancy. The renunciation of the centralising system introduced by the Helvetic Republic nevertheless encouraged the idea of linguistic arrangements based on equality of languages – arrangements which became those of the 1848 Confederation. Indeed, the federalist design allowed the cantons considerable autonomy, both politically and culturally; because each canton continued to use the language(s) spoken within its territory, federalism encouraged the preservation of Switzerland's cultural and linguistic diversity.

The 1848 Federal Constitution settled the issue of multilingualism by recognising the country's three main languages as national languages on equal terms:

Article 109: The national languages of the Confederation are the three main languages of Switzerland: German, French and Italian.

The completely revised 1874 Constitution retained, in Article 116, the equality of German, French and Italian as national languages but added, in Article 107, that the three national languages must be represented in the Federal Court.

By recognising Romansh as a national language on the eve of the Second World War, Switzerland was proclaiming that the preservation and promotion of cultural and linguistic diversity, together with respect for traditions, were guarantees of national cohesion. The referendum of 20 February 1938 raised Romansh, a non-standardised regional language, to the rank of a national language, although

creating a distinction between Switzerland's four national languages and the Confederation's three official languages. Article 116 of the 1938 Constitution stated:

- ¹ The national languages of Switzerland are German, French, Italian and Romansh.
- ² The official languages of the Confederation are declared to be German, French and Italian.

The next revision of the language article was initiated in 1985 on a motion from a Grisons deputy of the National Council, Martin Bundi. He called on the Federal Council to amend Article 116 of the Constitution¹ on the grounds that the current wording did not allow the most endangered national languages to be adequately protected and promoted. The mover demanded that Romansh be raised to the rank of an official language of the Confederation and that measures be taken to protect historical regions of minority languages. Approved by a large majority in 1996, the revised article now provided that:

- ¹ The national languages of Switzerland are German, French, Italian and Romansh.
- ² The Confederation and the cantons shall encourage understanding and exchange between the linguistic communities.
- ³ The Confederation shall support the measures taken by the cantons of Grisons and Ticino to maintain and to promote the Romansh and Italian languages.
- ⁴ The official languages of the Confederation are German, French and Italian. Romansh shall be an official language for communicating with Romansh-speaking citizens. Details are regulated by statute.

With the completely revised Constitution of 18 April 1999, the passage relating to national languages has become a separate article at the very beginning of the Constitution (Article 4). The right to freedom of language is now expressly recognised in Article 18. The provisions of Article 116, paragraphs 2, 3 and 4, of the old constitution are now contained in Article 70 and supplemented by the new paragraphs 2 and 4.

Article 4 National languages

The national languages are German, French, Italian and Romansh.

Article 18 Freedom of language

The freedom of language is guaranteed.

Article 70 Languages

- ¹ The official languages of the Confederation are German, French and Italian. Romansh shall be an official language for Confederal relations with Romansh speakers.
- ² The cantons shall decide on their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages and shall take indigenous linguistic minorities into account.
- ³ The Confederation and the cantons shall encourage understanding and exchange between the linguistic communities.
- ⁴ The Confederation shall support the multilingual cantons in the fulfilment of their particular tasks.
- ⁵ The Confederation shall support the measures taken by the cantons of Grisons and Ticino to safeguard and promote Romansh and Italian.

In the light of this new legal framework, the Federal Council renewed for the 1999-2003 legislative programme the mandate which it had laid down for the 1995-1999 programme, namely to prepare a legislative act implementing these broader language-policy principles.

¹ 1938 version

1.2 *The demographic and economic situation of the various regions*

The most recent data from the 2000 federal census are provided in the appendix.

For an initial analysis of the results, see: Swiss Federal Statistical Office (ed.), *La dynamique spatiale et structurelle de la population de la Suisse de 1990 à 2000* ("Spatial and Structural Dynamics of the Swiss Population, 1990-2000"), Neuchâtel 2002, Office Fédéral de la Statistique. A detailed analysis of the results of the 1990 federal census is to be found in Swiss Federal Statistical Office (ed.), *Recensement fédéral de la population 1990. Le paysage linguistique de la Suisse* ("1990 federal population census. Switzerland's linguistic landscape"), Bern 1997 (for Swiss languages in general) and Swiss Federal Statistical Office (ed.), *Le romanche en péril? Evolution et perspective* ("Romansh under threat? Past and future developments"), Bern 1996 (for Romansh in particular).

The latest information on the results published in December 2002 by the Swiss Federal Statistical Office can be downloaded from: <http://www.statistique.admin.ch>

We shall examine below the general situation in Switzerland, with specific reference to the cantons of Grisons and Ticino.

Population growth

According to the results of the 2000 federal census, Switzerland now has 7.28 million inhabitants. The population has thus increased by 6.0% by comparison with the previous census in 1990. By language region (taking the definition used for the 2000 census) the rate of increase is lower in Rhaeto-Romanic Switzerland (5.2%) and German-speaking Switzerland (5.5%) but higher in French-speaking Switzerland (7.2%) and Italian-speaking Switzerland (8.6%). In the Rhaeto-Romanic areas, that is, in the communes where the majority of inhabitants speak Romansh, the population increase is due above all to international immigration and a surplus of births, which offset the losses from internal migration. The growth in Italian-speaking Switzerland arises mainly from international immigration and internal migration. The natural increase has declined there slightly and is only 1.4% in Rhaeto-Romanic Switzerland, a region that has traditionally had the highest fertility rate (French-speaking Switzerland: 3.6%; German-speaking Switzerland: 2.7%).

Migration

Besides the surplus of births, it is above all the immigrant surplus, especially those from the States of the former Yugoslavia, which is responsible for population growth. Between 1990 and 2000, the proportion of the foreign population rose from 18.1 to 20.5%, that of Italians dropped appreciably (return migration or naturalisation), while that of other nationalities increased in size. A quarter of Switzerland's foreign population today comes from the States of the former Yugoslavia. Nationals of the present Federal Republic of Yugoslavia form the largest group after the Italians and are followed by the Portuguese. Only 13% of foreigners settled in Switzerland come from non-European countries.

Languages

Between 1990 and 2000, we find a growth in French and a decline in Italian and Romansh. The share of German and that of languages other than national languages have remained more or less the same:

| | <u>Total population</u> | |
|-------------------------|--------------------------------|-------------|
| | 1990 | 2000 |
| Total | 100% | 100% |
| German | 63.6% | 63.7% |
| French | 19.2% | 20.4% |
| Italian | 7.6% | 6.5% |
| Romansh | 0.6% | 0.5% |
| Other languages | 8.9% | 9.0% |
| Other languages, total | 8.9% | 9.0% |
| of which | | |
| Spanish | 1.7% | 1.1% |
| Balkan Slavic languages | 1.6% | 1.5% |
| Portuguese | 1.4% | 1.2% |
| Turkish languages | 0.9% | 0.6% |
| English | 0.9% | 1.0% |
| Albanian | 0.5% | 1.3% |
| Remaining languages | 2.0% | 2.3% |

At present, more people speak Serbian, Croatian, Albanian, Portuguese, Spanish, English, Turkish or Kurdish than speak Romansh. However, the great majority of second-generation immigrants already have one of the national languages as their first language. The proportion of inhabitants whose first language is Romansh has continued to fall since 1990, dropping from 0.6 to 0.5%.

Economic situation²

In the 1970s Switzerland went through a serious recession, which was followed by a period of steady employment growth and a marked development of the services sector in metropolitan areas. Since 1991 the economies of all regions have undergone radical changes, accompanied by the loss of a substantial number of jobs in all industries and at all skill levels.

From 1950 to 1990 job growth was distinctly above average in the canton of Ticino, while it was below average in that of Grisons. In the large Alpine cantons of Grisons, Ticino and Valais, the cities of Chur, Lugano and Sion have above-average growth by comparison with the surrounding area. Between 1991 and 1995, however, all the cantons lost jobs, especially in the Mendrisio region in southern Ticino, where frontier workers were affected above the average. The decline in employment was more pronounced in the secondary sector than in the tertiary.

In the first half of the 1990s unemployment rose substantially before falling again (1990: 0.5%; 1995: 4.2%; 2000: 2.0%). The large urban centres, French-speaking Switzerland and Italian-speaking Switzerland were affected above the average. This uneven distribution of unemployment according to language raised a regional policy problem. Differences in situation were invoked to explain the fact that the unemployment rate in German-speaking Switzerland was only half that in French-speaking and Italian-speaking Switzerland, it being claimed that economic development was influenced by that of neighbouring countries speaking the same language (in the early 1990s, the trend of economic activity was slower in Italy and France than in Germany). Since language borders were sometimes an obstacle to mobility, French-speaking Switzerland and Ticino had to be regarded as much smaller labour catchment areas than German-speaking Switzerland; the economic structures of German-speaking Switzerland were more diversified than those of French-speaking Switzerland, a region focusing mainly on the service sector; in the Lake Geneva basin, the economic fracture that occurred after 1990 followed upon a long period of growth and a conspicuous boom. The theory of dependence on another language region, and especially the reference to closure of subsidiaries by businesses located in the major centres of German-speaking Switzerland, is nevertheless questionable: on the one

² The following observations rely on the *Atlas structurel de la Suisse* (especially Part IV), which is itself based on the results of federal censuses up to 1990 and business censuses up to 1995 (Swiss Federal Statistical Office (ed.), *Strukturatlas der Schweiz/Atlas structurel de la Suisse* ("Structural atlas of Switzerland"), Verlag Neue Zürcher Zeitung, Zürich 1997a).

hand, the balance of jobs between parent companies and subsidiaries is positive for the French-speaking cantons, and on the other, large companies close subsidiaries inside as well as outside their language area.

With regard to cantonal income, Grisons and Ticino fall below the Swiss average; respecting cantonal and communal expenditure, Grisons clearly tops the national average, while Ticino matches it. In terms of the cantons' financial capacity, which is calculated using the four variables of cantonal income, potential tax revenues, tax burden and proportion of mountainous territory, these two cantons must be ranked among the cantons with a low financial capacity. If we take an average index value of 100 points for Switzerland as a whole, the financial capacity of Ticino is 77 and that of Grisons 69; however, some cantons in central Switzerland and French-speaking Switzerland rank even lower (Uri: 49; Obwalden: 40; Fribourg: 58; Appenzell Outer Rhodes: 61; Appenzell Inner Rhodes: 38; Valais: 33; Jura: 30); the cantons with the highest financial capacity are Zug (228), Zürich (157), Basle-City (148) and Geneva (136). Under the 1974 law on investment aid for mountainous regions, 54 regions in the Alps, Pre-Alps and Jura qualify for interest-free loans, which include infrastructure development and general government. The highest level of per capita support goes to small regions in the high mountain with a proportionally large rural population (the Conches valley and most of the high valleys in Grisons).

1.3 Constitutional and administrative structure of the State

The Swiss Confederation arises from the association, in a federation, of different cultural and political communities which, in legal terms, form a federal State. Administratively it is divided into 26 cantons and demi-cantons, 7 regions, 54 areas qualifying for investment aid for mountainous regions under the 1974 law, and over 3000 communes. The cantons and communes enjoy fairly extensive autonomy in relation to the Confederation.

Powers of regional authorities

The cantons have their own powers, since they have all the powers that the Federal Constitution does not expressly confer on the Confederation and they exercise powers not exclusively delegated to the Confederation if the latter has not made full use of them. Within the framework of their powers, they may define the tasks which they have to accomplish (Article 43 of the Constitution).

As a rule, the Confederation (represented by its parliament) delegates the implementation of federal law to the cantons (Article 46.1 of the Constitution). The Confederation here leaves the cantons as much room for manoeuvre as possible and takes their specificities into account (Article 46.2).

Relations between the Confederation, cantons and communes

It is the cantons which determine the status of the communes. This is why Article 50.1 of the Constitution states that “communal autonomy is guaranteed within the limits fixed by cantonal law”. All the cantons grant their communes varying degrees of autonomy. Communes may lodge an appeal with the Federal Court against any infringements of their autonomy by a cantonal body.

The Confederation has only limited scope for action at local level. There exists a federal law governing cases of communal insolvency, but otherwise supervision of the communes is left entirely to the cantons. This is part and parcel of cantonal autonomy (Articles 3, 43 and 47 of the Constitution).

Participation in the federal decision-making process

In the cases specified in the Constitution, the cantons participate in the decision-making process at federal level, particularly in formulating legislation (Article 45.1). The Confederation must inform them of its plans fully and in good time. It must consult them if their interests are involved (Article 45.2).

Main mechanisms for participation:

- Numerous informal consultations in intergovernmental conferences;

- Requirement for the Confederation to inform the cantons of its domestic and foreign policy plans (Articles 45.2 and 55.2 of the Constitution);
- Consultation procedures (Articles 147, 45.2 and 55.2);
- Cantonal participation in preparing negotiating briefs and in negotiations (Section 5 of the federal law on cantonal participation in the Confederation's foreign policy);
- Bicameralism: A Council of States with 46 deputies representing the cantons (Article 150 of the Constitution);
- A mandatory dual-majority (people and cantons) referendum for revisions of the Constitution, entry into organisations for collective security or into supranational communities, as well as for federal statutes declared urgent but lacking a constitutional basis (Article 140.1);
- A referendum if requested by 8 cantons (Article 141.1);
- Right of each canton to submit initiatives to the Federal Assembly (Article 160.1).

Participation in the political process (dialogue and co-ordination between the Confederation and the cantons) occurs in particular through the “Confederal Dialogue”, a forum which twice a year brings together in a spirit of partnership a delegation from the Federal Council and a delegation from the Conference of Cantonal Governments, each side having equal representation. In a select committee this forum informally discusses fundamental questions of federalism as well as supradepartmental issues. There are also a number of specialist “conferences of cantonal ministers” (for education, health, finance, regional development, justice and police, etc.), whose prime purpose is horizontal co-operation between cantons. The federal councillor responsible for the field is regularly invited to attend these conference meetings, thus ensuring vertical co-ordination as well.

State supervision of the work of regional government

Article 49.1 of the Constitution asserts the precedence of federal law over contrary cantonal law. The Confederation must ensure that the cantons respect federal law (Article 49.2) and the Confederation's international obligations (Article 5.4). As for the implementation of federal law, the Confederation is obliged to leave the cantons as much leeway as possible (Article 46.2).

The right of administrative review allows any recipient of a cantonal decision contrary to federal law to make a final appeal to the Federal Court (Federal Judicature Act of 16 December 1943, Section 97.1). Any official cantonal act infringing a constitutional right of citizens, an intercantonal agreement or an international treaty concluded by Switzerland may be challenged by a citizen in the Federal Court in the form of a public-law appeal (Federal Judicature Act, Section 84).

Changes to regional autonomy

The Confederation must protect the existence and status of the cantons, together with their territory (Article 53.1 of the Constitution). Any alterations to the number of cantons (through merging or division) is subject to the assent of the relevant electorate and the cantons concerned, as well as a dual vote of the Swiss people and the cantons (Article 53.2). Any changes to the territory of a canton are subject to the approval of the relevant electorate and the cantons concerned and to the assent of the Federal Assembly in the form of a federal decree (Article 53.3). Simple intercantonal boundary settlements may be made by treaty between the cantons concerned (Article 53.4).

Principle of self-organisation

Under Articles 3, 43 and 47 of the Constitution, the cantons are free to organise themselves as they see fit and to divide cantonal authority among the bodies that they set up. This organisational autonomy is an essential feature of their sovereignty. However, the cantons' constitutional autonomy is not absolute. It is limited by certain provisions of federal law and by the jurisprudence of the Federal Court. Each canton must thus adopt a democratic constitution; this must then be guaranteed by the Confederation (through the federal parliament). This guarantee is given if the cantonal constitution is not contrary to federal law (Article 51 of the Constitution).

The cantons all have the full machinery of government, which obeys the principle of separation of powers. Although it may vary in some specific aspects, the organisation of the cantons is largely similar: more extensive direct democracy than at federal level, a unicameral parliament elected

directly by the people, a collegial government that is usually also elected directly by the people, and a comprehensive judicature with various levels of jurisdiction.

Regional organisation and administration of justice

It follows from what has just been said regarding the organs of power that the management of cantonal government is governed exclusively by cantonal law. There exists a data bank on cantonal and communal governments in Switzerland (BADAC³). It also contains information on political bodies, language use, tax burdens and institutional reforms.

As regards the administration of justice the cantons also enjoy considerable autonomy (Articles 3, 43 and 47 of the Constitution). They are, for example, free to set up their own constitutional courts. The Constitution also makes the cantons responsible for the judicial organisation and administration of civil law (Article 122.2) and criminal justice (Article 123.2). With the exceptions of the Federal Court, the Federal Appeals Commissions and the future Federal Criminal Court, all judicial authorities in Switzerland are based on cantonal law (Article 191).

All cantons have their own civil, criminal and public-law courts (cf. Article 191 of the Constitution). Civil cases are always tried by a cantonal court. In criminal cases, the original jurisdiction is usually a cantonal court, but some cases will in future be tried by the Federal Criminal Court. In the field of public law, cantonal administrative courts have jurisdiction for decisions taken by cantonal authorities, whether these decisions are based on cantonal law or on federal law. All cantonal decisions are normally open to appeal before the Confederation's supreme court, the Federal Court.

Regional finance

The regions' financial autonomy is one of their fundamental prerogatives. All the cantons have their systems of finance. Their autonomy is limited by the Confederation's power to harmonise direct taxes (Article 129 of the Constitution). Under Article 46.3 of the Constitution, the Confederation must take into account the financial burden associated with implementing federal law by leaving the cantons sufficient sources of financing and ensuring fair financial equalisation.

³ Maintained in French and German and available through the Internet: www.badac.ch.

2. Please indicate all regional or minority languages, as defined in paragraph a of Article 1 of the Charter, which exist within your State's territory. Indicate also the parts of the territory of your state where the speakers of such language(s) reside.

2. Minority languages in Switzerland and their territorial distribution

2.1 Languages in Switzerland and their territorial distribution

National situation

Switzerland acknowledges four national languages (Article 4 of the Constitution), including their dialect variants, which are often used only in speech and are not recognised as official languages. The listing of the languages in the Constitution reflects the descending order of importance of the national languages and the groups using them: German, French, Italian and Romansh. Language areas are not defined nationally but depend on officially recorded majorities in each commune. Under Article 70.2 of the Constitution, the cantons each determine their own official language(s) whilst respecting the traditional territorial distribution of languages and taking indigenous linguistic minorities into account.⁴ Other than for Romansh, the geographical boundaries of language areas have remained virtually unchanged since the early Middle Ages. While German, French and Italian are spoken in more or less self-contained areas, the territory where Romansh is used does not form a single block and Romansh is the only national language in Switzerland not to have a foreign neighbour with the same language and culture.

Seventeen cantons are regarded as German-speaking (Zürich, Lucerne, Uri, Schwyz, Obwalden, Nidwalden, Glarus, Zug, Solothurn, Basle-City, Basle-Country, Schaffhausen, Appenzell Outer Rhodes, Appenzell Inner Rhodes, St Gall, Aargau and Thurgau), four as French-speaking (Vaud, Neuchâtel, Geneva and Jura) and one as Italian-speaking (Ticino). The cantons of Bern, Fribourg and Valais are officially bilingual, i.e. both French- and German-speaking (Bern is 7.6% French-speaking, Fribourg 63.2% and Valais 62.8%); Grisons is both the only canton that is officially trilingual and the only one where Romansh is spoken (German 68.3%, Romansh 14.5%, Italian 10.2%).

Apart from the four territorial national languages recognised by the Constitution, Switzerland also has two languages without a territorial base, Yenish and Yiddish, which will be discussed later (under 4).

Cantonal outlook

The most widely used language nationally, German, is in a minority position in the cantons of Fribourg and Valais; Italian is the only language of Ticino and a minority language in Grisons.

Jura and Ticino, which are considered to be monolingual cantons, both contain a language enclave for historical reasons. The canton of Jura, which has only existed since 1979, harbours the German-speaking commune of Ederswiler (1990: 130 inhabitants, of whom 117 – or 90.0% – had German as their first language), which had a majority of French speakers until the early 19th century. Ederswiler continued to have a common border with the canton of Bern until 1994, when the former Bern district of Laufon was incorporated into the canton of Basle-Country. For the commune of Ederswiler the administrative language is German, but French is used to communicate officially with the canton of Jura. From time to time the canton has documents translated into German specially for Ederswiler. Since 1993, when the village's German-speaking school was closed, parents in Ederswiler have had a choice between enrolling their children at the school in the French-speaking commune of Movelier (Jura) or the German-speaking school in Roggenburg (Basle-Country). The Movelier school encourages bilingualism; pupils there have 6 periods of German a week.

In the canton of Ticino, the commune of Bosco-Gurin, founded in the 13th century by the Walsers from the Upper Valais, was German-speaking up until 1990 (1990: 58 inhabitants, of which 35 – or 60.3% – had German as their first language). The 2000 federal census showed that Bosco-Gurin had

⁴ Constitutional law relating to the cantons has been explained in the previous section (1.3).

become a commune with an Italian-speaking majority (2000: 71 inhabitants, of which 23 (32.4%) had German as their first language). The commune's administrative language is Italian. The dialect spoken in Bosco-Gurin, Gurin German, is one of the Walser dialects that are also found in the Upper Valais, Grisons, northern Piedmont, Liechtenstein and Vorarlberg. Although initially, when compulsory schooling was first introduced in Ticino (1830), lessons were held solely in Italian, the Bosco-Gurin pupils were able to have an (optional) German period from 1886. Since 1942 German has been a compulsory subject, with two periods a week. From the 2002/2003 school year the village school will be closed. The three remaining pupils will now go to the Italian-speaking school in Cevio, but their two weekly German periods will be kept up as far as possible. In Switzerland various private organisations are involved in protecting and promoting Walser culture and dialects, including the Walserhaus association in Bosco-Gurin – which runs the local museum – and the Walservereinigung in Grisons.

The traditional German dialects spoken in these two communes are tolerated in the cantons concerned, but standard German is neither officially recognised as an administrative language nor specifically supported. The linguistic minorities in these two small communes are legally protected by the cantons' constitutional requirement to “take indigenous linguistic minorities into account” (Article 70.2 of the Constitution).

As a result of population movements within the country, the four national languages – especially Italian and Romansh – are also present outside their specific areas. Whereas, for Romansh, emigration from Grisons has been the decisive factor, in the case of Italian a large number of Italian speakers arrived from Italy in the 1960s and 1970s. Numerically, the largest movements during this period were of German speakers. Yet between 1980 and 1990 German as a first language lost ground extensively in French- and Italian-speaking areas, a fact principally explained by a decline in immigration and the greater assimilative capacity of these two language areas (*cf.* OFS [Swiss Federal Statistical Office] 1997, pp. 445ff.). In Romansh areas, on the other hand, German markedly gained ground as the first language owing to a large influx of economically active German speakers and the failure to assimilate them properly (*cf.* OFS 1996, p. 11). Section 3 below gives detailed statistics for 2000.

2.2 *Minority languages in Switzerland and their territorial distribution*

When ratifying the European Charter for Regional or Minority Languages, Switzerland allowed that two of its national languages, Italian and Romansh, could be supported under Article 3.1 (less widely used official languages).

Disregarding its many local varieties, Romansh can be divided into five main dialects, each spoken in a different area of the canton of Grisons: Sursilvan in the Upper Rhine valley (from Oberalp to Chur), Sutsilvan in the Lower Rhine valley, Surmiran in Oberhalbstein and the Albula valley, Puter in Upper Engadine and the upper part of the Albula valley, and Vallader in Lower Engadine and the Münster valley. Since 1982 there has existed a common written language, Rumantsch Grischun, which is supposed to strengthen the position of Romansh in public life. On 2 July 1996 the Grisons government recognised the new written language as an official language. The Confederation had already been using Rumantsch Grischun since 1986 for its publications.

The traditional Italian language area covers the whole of the canton of Ticino (apart from, until recently, the commune of Bosco-Gurin (see above)), together with the four southern valleys of Grisons, known as the “valli” (Val Mesolcina, Val Calanca, Val Bregaglia, Val Poschiavo), which are home to some 14-15 000 Italian speakers. In addition to standard Italian, Italian speakers also use Ticino and Grisons dialects. However, a large proportion of Italian speakers reside outside the traditional language area and are foreign immigrants.

The appendix provides tables, maps and diagrams relating to the language situation in Switzerland based on the results of the 2000 population census. Other maps (OFS 1997a, pp. 214ff.) track the development of Romansh areas and the position of Romansh in Grisons communes in 1990. Specific figures and graphs concerning the development of Romansh in its traditional areas since 1880 are

available from the Swiss Federal Statistical Office (OFS 1996, pp. 307-313). The following list draws together the 82 communes where 1) the majority of inhabitants claimed Romansh as their first language (70 communes in all) and 2) the majority indicated Romansh as their first language *and* their spoken language (12 communes *in italics*).

| Commune | Romansh (%) 1990 | Romansh (%) 1990 |
|---------------------|-------------------------|-------------------------------|
| | Main language | Main + spoken language |
| <i>Alvaschein</i> | 46.2 | 62.1 |
| Mon | 71.6 | 88.1 |
| Stierva | 75.0 | 80.0 |
| <i>Tiefencastel</i> | 42.7 | 60.3 |
| <i>Alvaneu</i> | 28.7 | 53.9 |
| Brienzen | 58.0 | 73.2 |
| <i>Lantsch/Lenz</i> | 43.5 | 58.9 |
| Cunter | 54.3 | 62.9 |
| <i>Marmorera</i> | 47.4 | 68.4 |
| Mulegns | 73.0 | 86.5 |
| Riom-Parsonz | 78.8 | 88.2 |
| Rona | 62.1 | 74.1 |
| Salouf | 82.2 | 89.7 |
| Savognin | 62.3 | 75.7 |
| Sur | 75.9 | 79.3 |
| Tinizong | 68.0 | 80.4 |
| Castrisch | 54.0 | 74.2 |
| Falera | 80.9 | 89.9 |
| Flond | 54.2 | 65.3 |
| <i>Ilanz</i> | 36.6 | 54.8 |
| <i>Laax</i> | 47.8 | 61.5 |
| Ladir | 67.8 | 73.3 |
| Luven | 73.2 | 79.5 |
| Pitasch | 74.5 | 88.3 |
| Riein | 61.8 | 69.7 |
| Ruschein | 81.0 | 87.7 |
| Sagogn | 59.2 | 74.8 |
| Schluein | 60.8 | 71.6 |
| Schnaus | 50.6 | 82.3 |
| Sevgein | 62.4 | 69.6 |
| Camuns | 88.9 | 93.3 |
| Cumbel | 84.8 | 91.8 |
| Duvin | 52.5 | 81.3 |
| Degen | 83.8 | 89.2 |
| Lumbrein | 95.5 | 98.5 |
| Morissen | 95.2 | 97.8 |
| Surcasti | 91.8 | 97.3 |
| Surcuolm | 67.7 | 79.6 |
| Tersnaus | 62.5 | 79.2 |
| Uors-Peiden | 74.1 | 82.7 |
| Vignogn | 91.6 | 95.3 |
| Vella | 86.9 | 93.5 |
| Vrin | 96.4 | 98.4 |
| Andiast | 88.9 | 94.0 |
| Pigniu | 64.4 | 74.6 |
| Rueun | 66.2 | 74.0 |
| Siat | 76.5 | 82.9 |
| Waltensburg/Vuorz | 67.0 | 79.7 |
| Casti-Wergenstein | 67.4 | 79.1 |

| | | |
|-----------------|------|------|
| Donath | 72.6 | 84.6 |
| Lohn | 62.5 | 75.0 |
| Mathon | 79.6 | 83.7 |
| Patzen-Fardiün | 63.0 | 83.3 |
| <i>Pignia</i> | 34.0 | 51.1 |
| <i>Trin</i> | 29.3 | 50.3 |
| Ardez | 73.3 | 84.7 |
| Guarda | 72.1 | 90.9 |
| Lavin | 78.8 | 90.8 |
| Susch | 78.3 | 86.2 |
| <i>Tarasp</i> | 42.3 | 57.7 |
| Zernez | 65.7 | 80.6 |
| Ramosch | 82.1 | 90.0 |
| Tschlin | 60.8 | 68.5 |
| Ftan | 58.1 | 68.0 |
| Scuol | 57.5 | 77.7 |
| Sent | 73.6 | 86.5 |
| <i>Madulain</i> | 27.5 | 50.8 |
| S-chanf | 66.7 | 79.0 |
| <i>Zuoz</i> | 33.9 | 50.5 |
| Fuldera | 82.9 | 93.3 |
| Lü | 90.0 | 98.2 |
| Müstair | 76.9 | 88.2 |
| Santa Maria | 70.2 | 83.5 |
| Tschierv | 85.0 | 92.5 |
| Valchava | 81.9 | 92.6 |
| Breil/Brigels | 82.5 | 88.6 |
| Disentis/Mustér | 78.4 | 86.7 |
| Medel (Lucmagn) | 90.6 | 96.3 |
| Schlans | 81.2 | 91.8 |
| Sumvitg | 89.2 | 94.3 |
| Tujetsch | 83.8 | 90.4 |
| Trun | 80.6 | 88.3 |

Taking the 2000 federal census definition, 66 communes still belong to the Romansh language area: a merger led to the disappearance of Rona, which combined with Tinizong to form the commune of Tinizong-Rona; furthermore, according to statistical criteria, the five communes of Alvaschein, Brienz/Brinzauls, Laax, Surcuolm and Patzen-Fardiün are no longer part of the Romansh language area. Alvaschein has thus returned to the German-speaking region to which it had previously belonged at the time of the 1980 census.

At the time of writing we do not have any more precise statistics on the percentage of Romansh speakers in the various communes.

3. Please indicate the number of speakers for each regional or minority language. Specify the criteria for the definition of “speaker of regional or minority language” that your state has retained for this purpose.

3. Definitions and statistical data for minority languages

In the table below, which shows the percentages for the speakers of the four national languages since 1850, allowance must be made for differences of methodology in language censuses. The 1850-1870 figures are based on information from the cantons. In 1860 and 1870 the census recorded the language most frequently spoken at home. From 1880 questions related to each person's mother tongue and also

took account of other languages. Since 1910, a further distinction has been drawn between total population (residents) and population of Swiss nationality. The term “mother tongue” is problematic, however, given that it was totally undefined between 1880 and 1900; from 1910 to 1940 it designated the language in which people thought and which they used at home and from 1950 the language in which people thought and of which they had the greatest command. The 1990 federal census was the first to ask not about the “mother tongue” but about the “first language”, and it added a question about use of the language in order to obtain more accurate information on the first language and the various languages commonly used by speakers (OFS 1997, p. 23). The marked decline in Romansh in the 1990 and 2000 censuses arises, amongst other things, from these changes and must therefore be put in perspective: whereas in 1990 some 39 600 people claimed Romansh as their first language, 26 700 others said that they commonly spoke Romansh, i.e. at home, school and/or work. Consequently, in 1990 some 66 300 people were still speaking Romansh regularly. The initial results of the 2000 census suggest that some 35 700 people have Romansh as their main language and some 63 000 in all regularly speak Romansh. At the time of writing, we do not have more precise data for 2000 in this field.

The percentages below refer to the total population of Switzerland.

Languages of Switzerland's total population

| Year | German | Ger. % | French | Fr. % | Italian | Ital. % | Rom'sh | Rom. % | Other | Other % | Total |
|------|-----------|--------|-----------|-------|---------|---------|--------|--------|---------|---------|-----------|
| 1829 | | 70.1 | | 22.2 | | 5.8 | | 1.8 | | | 1 978 000 |
| 1850 | | 70.2 | | 22.6 | | 5.4 | | 1.8 | | | 2 393 000 |
| 1860 | | 69.5 | | 23.4 | | 5.4 | | 1.7 | | | 2 510 000 |
| 1870 | | 69.0 | | 24.0 | | 5.4 | | 1.6 | | | 2 655 000 |
| 1880 | 2 030 792 | 71.3 | 608 007 | 21.4 | 161 923 | 5.7 | 38 705 | 1.4 | 6 675 | 0.2 | 2 831 787 |
| 1888 | 2 082 855 | 71.4 | 634 855 | 21.8 | 155 130 | 5.3 | 38 357 | 1.3 | 6 567 | 0.2 | 2 917 754 |
| 1900 | 2 312 949 | 69.7 | 730 917 | 22.0 | 221 182 | 6.7 | 38 651 | 1.2 | 11 744 | 0.4 | 3 315 443 |
| 1910 | 2 594 186 | 69.1 | 793 264 | 21.1 | 302 578 | 8.1 | 40 234 | 1.1 | 23 031 | 0.6 | 3 753 293 |
| 1920 | 2 750 622 | 70.9 | 824 320 | 21.3 | 238 544 | 6.1 | 42 940 | 1.1 | 23 894 | 0.6 | 3 880 320 |
| 1930 | 2 924 313 | 71.9 | 831 097 | 20.4 | 242 034 | 6.0 | 44 158 | 1.1 | 24 798 | 0.6 | 4 066 400 |
| 1941 | 3 097 060 | 72.6 | 884 669 | 20.7 | 220 530 | 5.2 | 46 456 | 1.1 | 16 988 | 0.4 | 4 265 703 |
| 1950 | 3 399 636 | 72.1 | 956 889 | 20.3 | 278 651 | 5.9 | 48 862 | 1.0 | 30 954 | 0.7 | 4 714 992 |
| 1960 | 3 765 203 | 69.3 | 1 025 450 | 18.9 | 514 306 | 9.5 | 49 823 | 0.9 | 74 279 | 1.4 | 5 429 061 |
| 1970 | 4 071 289 | 64.9 | 1 134 010 | 18.1 | 743 760 | 11.9 | 50 339 | 0.8 | 270 385 | 4.3 | 6 269 783 |
| 1980 | 4 140 901 | 65.0 | 1 172 502 | 18.4 | 622 226 | 9.8 | 51 121 | 0.8 | 379 203 | 6.0 | 6 365 960 |
| 1990 | 4 374 694 | 63.6 | 1 321 695 | 19.2 | 524 116 | 7.6 | 39 632 | 0.6 | 613 550 | 8.9 | 6 873 687 |
| 2000 | 4 640 359 | 63.7 | 1 485 056 | 20.4 | 470 961 | 6.5 | 35 095 | 0.5 | 656 539 | 9.0 | 7 288 010 |

In 2000, 120 758 (2.6%) out of a total of 4 640 359 German speakers were living outside their own language area, as were 80 574 (5.4%) of the 1 485 056 French speakers, 204 231 (43.4%) of the 470 961 Italian speakers, and 16 990 (48.4%) of the 35 095 Romansh speakers.

4. Please indicate the non-territorial languages, as defined in paragraph c of Article 1 of the Charter, used within your State's territory and provide statistical data concerning speakers.

4. Non-territorial minority languages

In Switzerland two languages may be described as traditional non-territorial languages: Yenish, the language of travelling people in Switzerland, and Yiddish, the language of Swiss Jews. Yenish and Yiddish speakers could at best mention their languages under “other”, but the Swiss Federal Statistical Office has no detailed information on this subject.

Yenish

Travelling people in Switzerland use Yenish only amongst themselves. The Yenish-speaking population of Switzerland is estimated to be some 30-35 000, of whom approximately 3 000 are still nomads.

As we have seen, there are no precise figures for Yenish in Switzerland; generally, however, we find a growing interest not only in the language but also in the overall culture of “travelling people”. In 2002 two exhibitions were devoted to them at the same time in Switzerland, one in Zürich City Hall (“Nomads in Switzerland”, from 29 May to 13 September 2002) and the other in the Lower Engadine Museum in Scuol (“The travelling people: The Yenish between Vintschgau, Oberinntal, Grisons, Swabia and Bavaria”, from late May to late September 2002).

In 1997, under the federal law of 7 October 1994 on the foundation “Assurer l'avenir des gens du voyage suisses” [“Safeguarding the future of Swiss travelling people”] (RS 449.1), the Confederation gave this infant foundation a capital of 1 million Swiss francs and has since been paying an annual contribution towards its running costs in order “to safeguard and improve [travelling people's] living conditions and uphold their cultural identity”. The umbrella organisation of Swiss travelling people, Radgenossenschaft der Landstrasse, has been receiving annual federal subsidies ever since 1985.

Yiddish

In its first report on the European Charter for Regional or Minority Languages, the Confederation already had an opportunity to explain its position regarding Yiddish in Switzerland. Since the speakers concerned have submitted no claims to the Confederation regarding promotion of their language, the latter is not systematically taken into account in the Confederation's cultural and linguistic policy. In its reply to the Committee of Experts dated 24 September 2001, the Swiss Federation of Jewish Communities stated the following:

“The Swiss Federation of Jewish Communities considers that the Yiddish language has never served as a minority language in Switzerland. Although there is a certain Yiddish tradition among the inhabitants of Endingen and Legnau, the two Jewish communities of the Surbtal, in Switzerland the language has never satisfied the criteria for autonomy laid down in the European Charter. Since this ancient tradition has not endured, a state commitment to encourage the language appears to be unnecessary. It is true that there are certain persons in Switzerland who speak Yiddish, particularly in the Orthodox community. However, the promotion of Yiddish in Switzerland appears unwarranted.”

5. Please provide recent general statements on the policy of your State concerning the protection of regional or minority languages where it may be of use to supplement the above four points.

5. Existing language policy measures

At present, two language policy issues are under consideration at federal and cantonal level: firstly, the preparation of a Languages Bill in co-operation with cantonal partners and, secondly, an overhaul of foreign language teaching in the cantons.

Preparation of the Languages Bill

The chief point of interest concerning preparation of the Languages Bill is the legal aspect. Although enforcement of Article 70.1 of the Constitution (official languages of the Confederation) is almost exclusively a federal responsibility and although Articles 70.4 (multilingual cantons) and 70.5 (promotion of Romansh and Italian) provide for support measures that are exclusively subsidiary, Article 70.3 (understanding and exchange), on the other hand, implies parallel powers for the Confederation and the cantons; consequently, it can be enforced only through co-operation between the two levels of government.

A joint working party was therefore instructed to prepare a draft Bill, and this was followed by extensive consultation, the results of which were published on 16 October 2002. The responses made it possible to eliminate a few remaining differences with the cantonal partners and clear up questions relating to actual implementation of language promotion measures. The Federal Council has assigned the Federal Department of Home Affairs the task of preparing an explanatory statement (message) on the Languages Bill.

Overhaul of language teaching

The current situation with regard to language teaching in Swiss schools is as follows: the first foreign language taught is always a national language, apart from in the canton of Appenzell Inner Rhodes. In German-speaking Switzerland, teaching of French usually begins in Year 4 or Year 5; in French-speaking Switzerland, German teaching now begins in Year 3; in Ticino, teaching of French starts in Year 3; and in Grisons, teaching of Italian, German or Romansh begins in Year 4. In most of the cantons, moreover, teaching of English now starts in Year 7 of school and has been generalised (measures proposed or already implemented, depending on the canton). Most cantons offer a third national language only at lower secondary level and as an option.

As part of the language teaching reform currently being implemented by the cantons, some "Recommendations on co-ordination of language teaching during compulsory schooling" were given a second reading on 1 June 2001 by the Swiss Conference of Cantonal Ministers of Education (CDIP) (latest version on http://www.edk.ch/PDF_Downloads/Sprachen_Entwurf/EmpfSpr_f.pdf, draft (in French) dated 1 June 2001). These recommendations have not been formally published, since they did not obtain the necessary two-thirds majority from the cantonal ministers of education. The most contentious point was the question of the first foreign language (i.e. whether priority should be given to teaching a second national language or English).

After 1 June 2001, CDIP members were asked, when drawing up planned reforms in the cantons and regions, to abide by the recommendations whose content was largely uncontested (including two foreign languages for everybody in compulsory education: a second national language and English).

As for the first foreign language, an attempt must be made to ensure maximum co-ordination of procedure for CDIP regions. This is how the situation stands at present (November 2002) for future language teaching:

- French-speaking Switzerland: Retaining of a second national language as first foreign language from third year of primary school;
- Central Switzerland: English from third year of primary school and French from fifth year;

- Eastern Switzerland: English from third year of primary school and French from fifth year;
- North-Eastern Switzerland: No decision has yet been taken at regional level.

Co-ordination for the whole of Switzerland must involve determining the level of proficiency to be reached by the end of Year 9 for both foreign languages (current guidelines: comparable learning objectives in both languages with the second national language supplemented by cultural learning objectives).

Language teaching has also been the subject of policy debate at federal level. A Berberat parliamentary proposal for legislation⁵ dated 21 June 2000 called for Article 70.3 of the Constitution to be supplemented as follows: “Cantons shall ensure that the second language taught, after the official language of the canton or region concerned, shall be one of the Confederation's official languages.” On 22 March 2001, the National Council approved the proposal by 72 votes to 67. However, the Committee for Science, Education and Culture (CSEC) of the National Council intends to take cognisance of the proposal's demands not by amending the Constitution but through the Languages Act, inasmuch as discussions on amending the Constitution would have little chance of attaining the object of the proposal's mover.

As recommended by the Conference of Cantonal Ministers of Education in its statement of 3 March 1995, *bilingual* teaching is currently gaining ground, especially in the multilingual cantons (Valais, Fribourg, Bern and Grisons). In 1998 there were 155 bilingual projects in Switzerland at all levels of education. Some cantons even offer the option of taking a bilingual baccalaureate.

In Grisons the language teaching reform has meant that, for German-speaking pupils, Italian has replaced French as their first foreign language. In very mixed communes on language boundaries, where Romansh used to be the first foreign language taught, Italian has become a dangerous competitor. Since these communes are free to make their own educational decisions, Italian has now become the language of choice in many places, although it is also a minority language in Grisons.

⁵ 00.425 Conseil national, IP Berberat. Enseignement des langues officielles de la Confédération (“Teaching of the Confederation's official languages”).

PART ONE

1. Please state the main legal act(s) and/or provisions that you consider essential for the implementation of the European Charter for Regional or Minority Languages in your country. Please provide :

- *copies of those acts and/or provisions, in English or French, should your country not have done so in relation to the initial periodical report⁶ ;*
- *details and copies of new legislation or policy documents with relevance to the regional or minority languages ;*
- *details of case law or other legal or administrative developments in this field.*

1. Legal basis for implementing the European Charter for Regional or Minority Languages

The main provisions of international, national and cantonal law affecting Swiss language arrangements are explained below. At federal level, mention will also be made of Federal Court decisions concerning language matters, which illustrate the definitive interpretation of law in actual cases.

We have decided not to append documents in the *Recueil systématique* (RS – Systematic Collection of Swiss Law) that are available on the website <http://www.admin.ch/ch/f/rs/rs.html>.

1.1 International law relating to languages

Because Switzerland is a monist State, in legal terms the international treaties which it ratifies have the force of domestic law immediately. The ones cited below have a language dimension.

International Covenant on Civil and Political Rights (RS 0.103.2)

Article 2 of the International Covenant on Civil and Political Rights ensures the protection of linguistic minorities. In connection with Article 2, Article 26 prohibits discrimination, including on the grounds of language. Article 14.3, paragraphs (a) and (f), also states that any person charged with an offence is entitled to be informed of the charge against him in a language which he understands or to have the assistance of an interpreter.

European Convention on Human Rights (ECHR, RS 0.101)

The European Convention on Human Rights provides similar safeguards (*cf.* ECHR, Articles 5.2 and 6.3). Article 14 prohibits any discrimination based on language and violating the rights guaranteed by the ECHR.

Convention on the Rights of the Child (RS 0.107)

Article 30 of the Convention on the Rights of the Child protects children belonging to linguistic minorities.

International Covenant on Economic, Social and Cultural Rights (RS 0.103.1)

Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights concerning the right to education and a cultural life also apply to the promotion of minority languages.

⁶ The principal legal acts and/or provisions referred to are meant to facilitate the Committee of Experts' assessment and should reduce the number of supplementary questions the Committee has to address to state Parties. The Committee will however take due account of the specific problems of particular countries, especially those with complex administrative structures or numerous legislative bodies.

Council of Europe Framework Convention for the Protection of National Minorities (RS 0.441.1)

On 21 October 1998 Switzerland ratified the Council of Europe Framework Convention for the Protection of National Minorities, which entered into force on 1 February 1999. The Convention also contains a number of provisions relating to linguistic freedom: the right of all persons belonging to a national minority to use freely and without interference their minority language, in private and in public, orally and in writing (Article 10), the right to use their surnames (patronyms) and first names in the minority language and the right to official recognition of them (Article 11), the right to learn their minority language (Article 14) and the right to set up and manage their own private educational and training establishments (Article 13).

1.2 Confederation law relating to languages

Complete revision of the Constitution

During the complete revision of the Constitution (1997-1999) the provisions relating to languages were extended and reorganised. Deemed to be an essential element of the federal State, the national languages are listed under the general provisions (Article 4). A hitherto unwritten constitutional right, freedom of language, recognised as a fundamental right by the Federal Court in 1965⁷ and qualified by the territoriality principle, now appears in Article 18 of the Constitution. As regards language policy, duties and powers are now drawn together under Article 70; paragraph 3 repeats the former paragraph 2 of Article 116, paragraph 5 the former paragraph 3, and paragraph 1 the former paragraph 4; paragraph 4 of the new Article 70 makes the Confederation responsible for supporting the multilingual cantons in the fulfilment of their particular tasks. Also new is paragraph 2 of this article, which provides that the cantons shall themselves decide on their official languages. In doing so, they must respect the traditional territorial distribution of languages and take indigenous linguistic minorities into account.

Scope of Article 18 of the Constitution (freedom of language)⁸

“Freedom of language safeguards use of the mother tongue⁹. It must be taken to mean as much the spoken language as the written language and the dialects. And not only the first language learnt during childhood but also a second or third language of which the person has a good command (...) The substance of linguistic freedom will vary depending on whether it concerns relations among individuals or relations between individuals and the State. The former case relates to the right to express oneself in the language of one's choice. The latter case relates to a minimum right essentially safeguarding the use of a minority national language in a given area – in other words, the right of historical national minorities not to have a single official language or a single language of public tuition imposed on them. The Federal Court allows restrictions of linguistic freedom, based on the territoriality principle, in relations between individuals and the State.¹⁰

“As practised by the Federal Court, the territoriality principle safeguards the country's traditional linguistic make-up. In this decision, the Federal Court specifies that the territoriality principle sets a limit to freedom of language and that it allows the cantons to take measures to preserve traditional boundaries of language areas, even if this means restricting people's freedom to use their mother tongue¹¹. These measures must, however, be proportionate.” (cf. Article 70.2 of the Constitution)

Scope of Article 70 of the Constitution

Article 70.1 of the Constitution states that the official languages of the Confederation are German, French and Italian; Romansh is an official language for Confederal relations with Romansh speakers. The former Article 116.4 made express provision for a law governing the use of Romansh.

⁷ ATF 91 I 480.

⁸ Federal Council message of 20 November 1996 on a new federal constitution, p. 163f.

⁹ ATF 116 Ia 346f.

¹⁰ ATF 91 I 486; 100 Ia 465; 106 Ia 302, 121 I 196

¹¹ ATF 2 P. 179/1996 of 15 July 1996 A., E. 2c

Article 70.2 notes that it is the task of the cantons to decide on their official languages. As this is a responsibility which has always been the prerogative of the cantons, the first sentence of this paragraph is rhetorical. Since the cantons themselves determine use of official languages on their territory, this provision has no impact on federal legislation. The second sentence of paragraph 2 enjoins the cantons to respect the traditional territorial distribution of languages and take indigenous linguistic minorities into account.

Article 70.3 of the Constitution gives both the Confederation and the cantons responsibility for providing support. It enjoins the Confederation and the cantons to take new measures relating to language policy and the promotion of understanding between linguistic communities. However, this obligation in no way entails a modification or restriction of cantonal responsibilities for education, culture or research, for example. The Confederation itself can only take measures in its own field of competence. It can only act in lieu of the cantons if the latter fail to act within the meaning of the provision. It can, however, offer and fund support services, which the cantons are free to take or leave.

Implementation of this constitutional mandate requires the Confederation and the cantons to collaborate in both preparing and enforcing the relevant measures. The Constitution allows them enormous scope in their choice of measures. But since the idea of understanding between linguistic communities can be interpreted very broadly and in fact concerns all State activities, the language policy measures to be implemented must be specifically linguistic and measures to encourage understanding must be closely related to language policy.

The extension of the Confederation's mandate (Article 70.4 of the Constitution) goes back to three parliamentary proposals for legislation from the cantons of Bern (91.312), Fribourg (92.305) and Valais (92.306). While Bern asked the Confederation for a grant to multilingual cantons for their specific services in safeguarding and promoting multilingualism, Fribourg and Valais asked for compensation or indemnification for the additional costs arising from multilingualism. These cantonal proposals were rejected by the National Council¹² and the Council of States¹³, but shortly afterwards their substance was included in the new Constitution on a proposal from the constituent committee of the National Council.

Article 70.5 of the Constitution enjoins the Confederation to support the measures taken by the cantons of Grisons and Ticino to safeguard and promote Romansh and Italian. Given the urgency of the situation, the federal law of 24 June 1983 was revised actually during the debate on the new language article and was approved by both chambers on 6 October 1995¹⁴. This constitutional mandate may therefore be held to have been implemented through existing statutory provisions.

Federal laws

Under the new constitutional language arrangements, the Confederation has promulgated a whole string of legislative acts designed to safeguard and promote Italian and Romansh.

Federal law on financial aid for the protection and promotion of the Romansh and Italian languages and cultures (RS 441.3)

Under this federal law of 6 October 1995 the Confederation can grant financial aid to the cantons of Grisons and Ticino to support the following: general measures for protecting and promoting the Romansh and Italian languages and cultures; organisations and institutions engaged in supraregional work to protect and promote the Romansh and Italian languages and cultures; publishing in Rhaeto-Romanic and Italian-speaking Switzerland. The law also allows the Confederation to support the Romansh press for the purpose of protecting and promoting the Romansh language. Ever since this financial aid to the cantons of Grisons and Ticino for the protection and promotion of the Romansh and Italian languages and cultures has existed, federal contributions have been regularly increased. In 2002 the canton of Grisons received CHF 4 469 300 and the canton of Ticino CHF 2 234 700.

¹² FF 1995 N 227

¹³ FF 1994 S 709

¹⁴ RS 441.3; 441.31

It is planned to incorporate the provisions of this law in the new Languages Act.

Official Publications Act (RS 170.512)

The law of 21 March 1986 on official publications provides that “publication in the *Recueil officiel* [Official Collection of Federal Law] shall be in the three official languages of the Confederation” (Section 8), namely German, French and Italian. As far as Romansh is concerned, it states that “legislative acts of a certain consequence may also be published in Romansh as a supplement to the *Feuille fédérale*” (Section 14.3). After consulting the Grisons cantonal government, the Federal Council will decide on the legislation to be translated into Romansh (*cf.* also Article 11.1 of the ordinance of 15 April 1987 on official publications, RS 170.512.1). The Official Publications Act is currently being revised, on which occasion it is being studied how the Confederation could better meet the Romansh population's actual information needs by publishing official documents in Romansh.

The ordinance of 19 June 1995 on translation within the general administration of the Confederation (RS 172.081) provides that official publications and other important documents shall be translated into all the official languages of the Confederation, with special provisions for Romansh. The latter are also included in the new Languages Bill.

Federal Radio and Television Act (RS 784.40)

Under the Federal Radio and Television Act of 21 June 1991, the Swiss Broadcasting Corporation (SSR) obtained a franchise to broadcast national and regional programmes in the German-, French-, Italian- and Romansh-speaking areas. SSR services therefore take on exceptional importance for promoting national languages. SSR takes account of Switzerland's quadrilingualism and broadcasts radio and television programmes in all the language regions and in all national languages. Under the banner of “*idée suisse*” (“the Swiss idea”), which has formed part of the company's name for some years now (“SRG SSR *idée suisse*”), SSR tries to encourage social and cultural integration in Switzerland, for example by regularly producing supraregional programmes and by broadcasting information on other language regions.¹⁵

The three television studios in Zürich, Geneva and Lugano each produce two programmes in their own language region, programmes which can be received throughout Switzerland by satellite and cable.¹⁶ In addition, the Federal Council lays down the principles ensuring that the needs of Rhaeto-Romanic Switzerland are taken into account in these programmes. SSR provides corresponding time for the interests of the Romansh community in the television programmes of French-, German- and Italian-speaking Switzerland and broadcasts television programmes in Romansh through the German-language channel of Swiss German and Rhaeto-Romanic Television (SF DRS).

SSR broadcasts radio programmes in the four national languages in the corresponding regions. One programme in each of the three official languages (German, French and Italian) is broadcast nationally. The principles of coverage are governed by the directives of 31 August 1994 (modified on 8 May 1996) on the planning of the USW transmitter network: it must be possible to pick up the main radio station of each of the three main language regions in all towns and villages with over 200 inhabitants, in so far as frequency availability permits. The same applies to the Romansh radio station in the canton of Grisons.

Romansh radio can also be picked up by cable, satellite and a new network of digital transmitters (terrestrial digital audio broadcasting: T-DAB) in towns and cities outside the traditional Romansh language area. Since the second half of 2002, it has been possible to pick up Switzerland's sixteen radio stations by satellite throughout the country.

¹⁵ In 2000 the *SRG SSR idée suisse* research department published a study confirming the importance of the integrative function of radio and television in Switzerland (*Medien und Identität - CH*, Bern, March 2000).

¹⁶ For the time being – and probably until 2004 – it has been necessary to abandon the idea of terrestrial broadcasting of all television programmes throughout Switzerland for technical reasons dictated by the design of the new DVB-T system (digital video broadcasting – terrestrial).

The Radio and Television Act is in the process of being reviewed and will be introduced to Parliament in 2003.

Federal law on the Pro Helvetia Foundation (RS 447.1)

Under the Pro Helvetia Act of 17 December 1965, this public-law foundation has the mission of protecting and developing the country's spiritual heritage and maintaining cultural relations with foreign countries. Its main tasks are the following: to maintain Switzerland's spiritual heritage and preserve the original features of its culture; to encourage Swiss cultural creativity in the cantons, the different language regions and various cultural groupings; to promote cultural exchanges between the different regions and these various groupings; and to maintain cultural relations with countries abroad. Founded in 1939, Pro Helvetia is, together with the Federal Office of Culture, the Confederation's main instrument of cultural involvement.

The Confederation grants Pro Helvetia an annual subsidy for carrying out its cultural tasks in Switzerland and abroad. Financial aid for the 2000-2003 parliamentary term totals CHF 130 million, but the Confederation is insisting that special attention be paid to two fields: strengthening the country's national identity and internal cohesion; and upholding Switzerland's prestige abroad and promoting cultural exchanges with foreign countries. To implement the measures to strengthen exchange and understanding between cultures and language regions in Switzerland, the 2000-2003 budget has set aside a total of CHF 2.5 million.

In preparation: Federal law on national languages and understanding between linguistic communities (Languages Act)

As we saw in section 5 of the Introduction, there exists a draft Languages Bill drawn up on the basis of Article 70, paragraphs 1, 3, 4 and 5, of the Constitution. This Bill is the result of extensive and meticulous work, in consultation with the largest possible number of persons and bodies concerned. It introduces measures in the following fields:

- Official languages of the Confederation,
- Promotion of understanding and exchange between linguistic communities,
- Support for multilingual cantons,
- Protection and promotion of the Romansh and Italian languages and cultures.

The Bill has been drawn up jointly by the Confederation, the cantons and their institutions in a Confederation/Cantons Joint Working Party on the Languages Act. The Federal Council will pass its explanatory statement (message) for Parliament during the first half of 2003.

Federal Court decisions concerning languages

The Federal Court plays an important part in interpreting and ensuring compliance with cantonal and federal language law. The list below shows the judgments delivered in this field since the adoption of the new language article in 1996.

- **Corporaziun da vaschins da Scuol** versus Regenza dal chantun Grischun, decision of 6 June 1996 (122 I 93). For the first time, a Federal Court decision requested by the commune of Scuol had to be drafted in Romansh under the new language article adopted by referendum on 10 March 1996. This was the first decision of the Federal Court, after adoption of this article, to concern the Romansh area; it demonstrated that the Federal Court took seriously the recognition by the present Article 70.1 of the Constitution (former Article 116.4) of Romansh as the official language in certain cases and that it intended to implement it immediately.
- **Jorane Althaus** versus the residents of Mörigen and the Public Education Department of the canton of Bern, decision of 15 July 1996 (122 I 236). The Federal Court accepted the appeal of parents who were resident in the German-speaking commune of Mörigen (canton of Bern) but who had enrolled their daughter in a French-speaking school in Biel and who bore the financial consequences themselves. Enrolment at the German-speaking school in Mörigen, demanded by

the commune, was deemed to be a disproportionate restriction of linguistic freedom.

- **Public-law appeal against the State Council of the canton of Fribourg**, decision of 21 June 1999 (125 I 347). The Federal Court accepted an appeal against the State Council of the canton of Fribourg, which was proposing to allow only Protestant pupils to attend free of charge the Freie Öffentliche Schule (free German-speaking state school) in Fribourg. The Court stated that it was not ruling on the question of which of the communes concerned was constitutionally entitled to free education in German, but it refused to accept, on the grounds of denominational discrimination, that the canton should grant this privilege only to Protestant children in the catchment area of the free state school.
- **Public-law appeal of 15 August 2000 against Entreprises Electriques Fribourgeoises**, decision of 15 August 2000 (5P.242/2000). The Court decision could be delivered in the language of the person having lodged the appeal (German in this case) although the proceedings were conducted in French in the bilingual canton of Fribourg, because the opposing party (a business established under public law) should have a command of German, which was an official cantonal language.
- **Decision against the Examining Magistrates' Office of Jura Bernois / Seeland** of 11 October 2001 (1P.500/2001). The Federal Court delivered a decision concerning the restriction, under the territoriality principle in criminal proceedings, of the fundamental right to freedom of language.
- **Decision against the Administrative Court of the canton of Fribourg** of 2 November 2001 (2P.112/2001). The Federal Court recognised that the person having lodged the appeal was entitled to send his children to a school using their mother tongue.

1.3 Cantonal constitutions and regulations

The cantonal constitutions of certain monolingual cantons (Ticino, Vaud, Neuchâtel and Jura) and each of the multilingual cantons (Bern, Fribourg, Grisons and Valais) include an article relating to languages:

- Constitution of the canton of **Bern** (6 June 1993)
Article 6
Languages
 - ¹ German and French are the national and official languages of the canton of Bern.
 - ² The official languages are:
 - a) French in the Jura Bernois,
 - b) French and German in the district of Biel,
 - c) German in the other districts.
 - ³ The canton and the communes may make allowance for special situations resulting from the bilingual nature of the canton.
 - ⁴ Any person may communicate in the official language of his or her choice with authorities competent for the whole of the canton.
- Constitution of the canton of **Fribourg** (7 May 1857)¹⁷:
Article 21
 - ¹ French and German are the official languages. Their use shall respect the principle of territoriality.
 - ² The State shall encourage understanding between the two linguistic communities.

¹⁷ The canton of Fribourg is currently working on a complete revision of its constitution. It was only in 1991 that Article 21, cited here, was included in the constitution in this form.

- Constitution of the canton of **Grisons** (2 October 1892)¹⁸:
Article 46
The three languages of the canton [German, Romansh and Italian] shall be guaranteed as national languages.
- Constitution of the republic and canton of **Ticino** (14 December 1997)
Article 1
Canton of Ticino
¹ The canton of Ticino is a democratic republic of Italian language and culture.

The legislation of the canton of Ticino includes various provisions for settling language questions in the fields of education, justice and culture.
- Constitution of the canton of **Vaud**
Article 3
Official language
The official language of the canton is French.

A new cantonal constitution was adopted by referendum on 22 September 2002. It will come into force on 14 April 2004. The content of the language article is similar.
- Constitution of the canton of **Valais** (8 March 1907)
Article 12
¹ French and German are declared to be national languages.
² Both languages shall receive equal treatment in legislation and administration.
- Constitution of the republic and canton of **Neuchâtel** (20 September 2000)
Article 4
Official language
The official language of the canton is French.
- Constitution of the republic and canton of **Jura** (20 March 1977)
Article 3 Language
French is the national and official language of the republic and canton of Jura.

2. *Please indicate the bodies or organisations, legally established in your state, which further the protection and development of regional or minority languages. Please, list the names and addresses of such organisations.*

2. Organisations associated with policy on languages and mutual understanding

The organisations and institutions listed below play an important part in promoting Italian and Romansh in their respective regions. While some are specifically dedicated to language promotion, others tend towards more general cultural, political and/or journalistic goals.

The three *language organisations* below receive subsidies for their work from the canton of Grisons and the Confederation:

¹⁸ A complete revision of the constitution is also under way in Grisons, in particular for the language article. For further details, see Part 3.

Lia Rumantscha (LR)

Via da la Plessur 47
CH-7001 Cuira

Tel.: +41 81 258 32 22
Fax: +41 81 258 32 23
Website: www.liarumantscha.ch

LR fosters Romansh language and culture in four ways: by federating and supporting Romansh organisations, by promoting and implementing projects in this field, by studying language policy issues and by representing the Romansh language community outside its traditional area. Its programme includes work in the following fields: linguistics, translation, publishing, textbook preparation, information, documentation and public relations.

Pro Grigioni Italiano (PGI)

Martinsplatz 8
CH-7000 Coira

Tel.: +41 81 252 86 16
Fax: +41 81 253 16 22
Website: www.pgi.ch

PGI furthers the existence of Italian-speaking Grisons and endeavours to improve both cultural climate and living standards for the Italian-speaking population of Grisons. It organises lectures, exhibitions, concerts and classes and publishes a number of periodicals. It also supports work intended to protect and spread Italian in Grisons, as well as historical, linguistic, economic and social research. PGI has nine branches outside the Italian-speaking valleys of Grisons: Basle, Bern, Chiasso, Chur, Davos, Lugano, Suisse Romande, Sopraceneri and Zürich.

Agentura da Novitads Rumantscha (ANR)

Comercialstrasse 22
CH-7000 Cuira

Tel.: +41 81 250 48 00
Fax: +41 81 250 48 03
E-mail: anr@spin.ch

Established in 1996, ANR is an independent press agency responsible for supporting the editorial offices of Romansh media by disseminating news in Romansh. The services it provides constitute one of the measures to protect and promote Romansh, since they improve the dissemination of oral and written information in Romansh.

In the fields of *culture* and the *media*, the following organisations are also involved in promoting languages but without the support of the Confederation or the canton.

**Cuminanza Rumantscha
Radio e Televisiun (CRR)**

Via dal teater 1
7002 Cuira

Tel.: +41 81 255 75 75
Fax: +41 81 255 75 00
Website: www.rtr.ch

CRR is one of the four member organisations of the Swiss Broadcasting Corporation (SSR); it is also affiliated to the Lia Rumantscha. It represents Romansh speakers and ensures that there are radio and television programmes in Romansh. Through its programmes, CRR helps to convey Swiss identity and regional diversity. In addition to their mission – which is to inform, educate and entertain – CRR broadcasts do their best to protect and promote the Romansh language and culture.

Pro Svizra Rumantscha (PSR)

7188 Sedrun

E-mail: psradmin@rumantsch.ch
Website: www.rumantsch.ch

The object of PSR is to protect and promote the Romansh language and culture, especially in the press, including basic and advanced training for Romansh journalists. It champions Swiss quadrilingualism and supports the efforts of the Lia Rumantscha and its affiliated organisations.

Walservereinigung Graubünden (WVG)

Postfach 15
7435 Splügen

Tel.: +41 81 664 14 42
Fax: +41 81 664 19 41
Website: www.walserverein-gr.ch

The WVG is the cultural and language association of the Grisons Walser. It is concerned mainly with protecting Alpine and Walser civilisation in the broadest sense. It is active, amongst other things, in preserving Walser dialects and encouraging writings in dialect; it supports scientific research into the language, history and ethnography of the Walsers.

**Internationale Vereinigung
für Walsertum (IVfW)**

Bahnhofstr. 15
CH-3900 Brig

Tel.: +41 27 923 11 18 (home)
+41 27 922 29 22 (work)
Fax: +41 27 922 29 25
Website: www.wir-walser.ch

The IVfW has among its members the WVG as well as other Walser regions such as Bosco-Gurin, Pomatt (Val Formazza) and Vorarlberg. It publishes the half-yearly *Wir Walser* magazine, which contains articles on the ethnography, history and language of the entire Walser area.

Organisations to promote understanding

Other institutions and organisations working for understanding between the language communities are to be found on the website: www.punts-info.ch/de/frame_organisation_inhalt_links.htm (in German). Below are the addresses of organisations subsidised by the Confederation for their work to promote understanding:

Schweizer Feuilleton-Dienst, Mr Andreas Iten, President, Bödlistrasse 27, 6314 Unterägeri

Forum du bilinguisme/für die Zweisprachigkeit, Mr Jean Racine, Director, Case Postale 1180, 2501 Bienne - Biel

Rencontres Suisses/Treffpunkt Schweiz, Mr Niklaus Lundsgaard-Hansen, President, 18, rue Beau-Séjour, 1003 Lausanne

Fondazione Lingue e Culture, Mr Gianni Ghisla, Secretary, Case Postale 120, 6949 Comano

Service de Presse Suisse, Mr Diego Salvatore, President, 26, rue de la Gare, 1820 Montreux

Schweizerische Arbeitsgemeinschaft für Demokratie, Mr Ulrich Sigrist, President, Himmelrych 8, 5600 Lenzburg

Forum Helveticum, Prof. Arnold Koller, former member of Federal Council, President, Bleicherain 7, 5600 Lenzbourg 1

Coscienza Svizzera, Mr Fabrizio Fazioli, President, Case Postale 1559, 6501 Bellinzona

3. *Please indicate if any body or organisation has been consulted about the preparation of this periodical report or about the implementation of the recommendations of the Committee of Ministers addressed to your state. In the case of an affirmative answer, specify which one(s).*

3. Collaboration in preparing this report

In preparing this report and implementing the recommendations of the Committee of Ministers of the Council of Europe, the Confederation has endeavoured specifically to collaborate with the cantons concerned, namely Grisons and Ticino. The canton of Grisons is particularly affected by

implementation of some of the recommendations. The canton in turn consulted the organisations and institutions responsible for Italian and Romansh in its territory.

The Confederation met Swiss representatives of travelling people, with whom it considered practical steps for protecting and promoting Yenish (see Part 2).

4. *Please indicate the measures taken (in accordance with Article 6 of the Charter) to make better known the rights and the duties deriving from the application of the Charter.*

4. Briefing on the Language Charter

Switzerland's first report relating to the European Charter for Regional or Minority Languages, together with the report by the Committee of Experts of the Council of Europe (dated 1 June 2001) and the recommendations of the Committee of Ministers of the Council of Europe (dated 21 November 2001), was forwarded to the cantons of Grisons and Ticino. The canton of Grisons, for its part, informed the organisations concerned. For the preparation of this second report, in-depths discussions took place with the Grisons Cantonal Office of Culture on the experts' report, the Council of Europe recommendations and the options for implementing them.

The Confederation also plans to publish on the Internet its second report on application of the European Charter for Regional or Minority Languages. The report will be translated into the four national languages before publication.

For the draft Languages Bill, there was an extensive procedure of consultation with the cantons, political parties and institutions. The results of this consultation were published in a report dated 16 October 2002. In Switzerland the consultation procedure is an essential statutory step, which allows all bills to be submitted to wide-ranging public debate. Every citizen has an opportunity to comment on the Bill during the consultation.

5. *It is understood that full details of the measures taken to implement the recommendations of the Committee of Ministers will appear in the body of the report. Nevertheless, please summarise those measures for each recommendation.*

5. Implementation of the recommendations

Switzerland has studied in depth not only the recommendations of the experts' report but also those of the Committee of Ministers of the Council of Europe. In view of the federalist structure described above and the cantons' sovereignty with regard to languages, we shall distinguish below between the recommendations applying to the Confederation and those devolving on the cantons of Grisons and Ticino. In Part 3 below, the latter will provide information on the measures they have taken to implement the recommendations.

5.1 *Recommendations of the Council of Europe experts' report (dated 1 June 2001)*

The Council of Europe experts' report contains thirteen specific recommendations interpolated in the text which aim to ensure that greater account is taken of minority languages in certain fields covered by the European Charter for Regional or Minority Languages, as well as eight general findings (A-H). The Federal Office of Culture has already commented in detail on the latter, on 9 October 2001, which is why we shall not be returning to them here.

Below are the responses to some of the recommendations made by the Council of Europe experts. Other comments on the recommendations appearing in §§ 70, 81, 105, 118, 122, 142, 198 and 210 of the report and concerning the canton of Grisons will follow in Part 3 of this report.

The Committee invites 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 the language of the Walser. (Report of the Committee of Experts on the Charter, § 15)

One of the main aims of Swiss language policy is to safeguard and promote quadrilingualism. Given the relative preponderance of German and French in Switzerland and the existence of a category of “less widely used official languages”, Switzerland has decided to use the Charter to protect the two weakest national languages, Italian and Romansh. But since in some cantons all four national languages are, for historical reasons, traditional minority languages, Article 7 of the Charter also applies to German and French (*cf.* Federal Council message of 25 November 1996 on the European Charter for Regional or Minority Languages, p. 11f.). Constitutional recognition of the four national languages includes only their standard forms but also their corresponding dialects (Federal Council message of 4 March 1991 on revision of Article 116 of the Constitution, p. 28). Switzerland recognises all the national languages and their dialect forms as an expression of its cultural wealth. The Walser association (Walservereinigung) is supported by the canton of Grisons. However, because of its policy of Confederal understanding, the Confederation attaches particular importance to a good knowledge of the standard forms of the national languages.

Under Article 1, paragraph a (ii) of the Charter, dialect forms of official languages do not constitute “regional or minority languages”. Walser is deemed to be a dialect of German and is the language of an extensive Alpine civilisation, which also encompasses Vorarlberg and the north of Italy. Walser is one of the many dialect variants of the German-speaking Swiss, variants which are spoken throughout Switzerland and constitute an essential element of the country's cultural and linguistic wealth.

As we have already seen in section 2.1 of the Introduction, the Walser spoken in the Ticino commune of Bosco-Gurin is defended by private institutions and organisations. During the discussions on complete revision of its cantonal constitution, Ticino stated that it wished to respect the commune's special situation but did not think it necessary to make specific reference to it in the constitution, given that German and Italian had always coexisted peacefully in Bosco-Gurin (*cf.* A. Macheret and A. Previtali, *Avis de droit du 25 avril 2000 relatif à l'article sur les langues* (“Legal opinion of 25 April 2000 on the language article”), p. 13, note 71). Article 1 of the Ticino constitution describes Ticino as a democratic republic of Italian language and culture (*cf.* Part 1, 1.3).

The Committee invites 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 Yenish and Yiddish. (Report of the Committee of Experts on the Charter, § 20)

The Committee invites the Swiss authorities to engage in an open discussion with the representatives of the Yenish- and Yiddish-speaking communities on the issue of the protection and promotion of their languages. (Report of the Committee of Experts on the Charter, § 53)

To answer the questions asked by the experts before the publication of Switzerland's first report, the Federal Office of Culture had already invited a delegation from each of the Yenish and Yiddish language groups to Bern on 22 September 2000. At that point the umbrella group of Jews in Switzerland, the Swiss Federation of Jewish Communities, abandoned the idea of a hearing (see Introduction, section 4, for the grounds). That is why the Swiss Federation of Jewish Communities has not been consulted for the preparation of this second report.

During the same discussions, the Radgenossenschaft, on the other hand, stressed the need for Yenish to be supported by the Confederation. The Radgenossenschaft der Landstrasse is the umbrella group

for travelling people and Yenish communities in Switzerland. It also defends the interests of Holocaust victims as well as Roma and Sinti travelling across Switzerland.

Radgenossenschaft der Landstrasse
Hermetschloostrasse 73
CH-8048 Zürich

Tel.: +41 1 432 54 44
Fax: +41 1 432 54 87

Details of its statements are to be found in Part 2 (under the section on Article 7, paragraph 5).

The Committee suggests that the federal authorities take all necessary measures to guarantee the presence in their administration of staff with a sufficient command of Romansh and that the documents in Romansh are available in due time. (Report of the Committee of Experts on the Charter, § 108)

This recommendation on Romansh within the federal administration overlaps with the third recommendation of the Committee of Ministers of the Council of Europe and will therefore be dealt with later (under 5.2).

The Committee suggests the Swiss authorities explore the possibilities as to how the broadcasting of television programmes in Romansh may be encouraged. (Report of the Committee of Experts on the Charter, § 143)

From Monday to Friday, Swiss German and Rhaeto-Romanic Television (SF-DRS) broadcasts on its first channel (SF 1) a 6-10 minute news programme in Romansh (*Telesguard*), which is also carried by the second channel of Italian Swiss Television (TSI 2). SF-DRS also broadcasts a 25-minute magazine in Romansh every week as well as regular documentaries and children's programmes. The weekly magazine is carried on channels in other language regions (TSI and TSR).

Films made by Romansh Television (*Televisiun Rumantscha*, TvR) frequently attract attention, even outside its own area. Since 1997 TvR has been showing its productions regularly at the Solothurn Film Festival.

Over the past few years, efforts to expand programmes in Romansh have resulted in the news broadcasts that had been appearing three times a week since April 1994 being increased to five a week from August 1999. Since 2000 these broadcasts have been carried every weekday on TSI 2. The increased volume of production has also meant recruitment of additional staff: between 1998 and 2001 the number of full-time jobs rose from 16.9 to 20.8.

The current review of the Radio and Television Act will enable the Federal Council to lay down the principles governing consideration of the needs of Rhaeto-Romanic Switzerland. These provisions will make it possible to accommodate Romansh speakers' demands concerning the broadcast media to a greater extent. Such efforts are nevertheless limited by the difficulty of recruiting Romansh journalists given the scarcity of candidates and the smallness of the potential audience. Although TvR attaches great importance to basic and advanced training for its journalists, it has regularly to contend with the departure of fully trained staff.

The Committee suggests that the findings of the institutions monitoring the teaching of and in Italian be made public in an appropriate manner. (Report of the Committee of Experts on the Charter, § 198)

The Committee invites the Swiss authorities to remove the practical and legal obstacles hampering the effective use of Italian before the courts. In particular, the Administrative Court Ordinance should be amended and efforts should be made to remedy the lack of command of Italian by administrative judges. (Report of the Committee of Experts on the Charter, § 210)

Concerning the canton of Ticino, no comments will be made on these two recommendations, since they have already been implemented there, as indicated in the letter from the Federal Office of Culture dated 9 October 2001. Italian in the canton of Grisons will be dealt with in Part 3.

5.2 Recommendations of the Committee of Ministers of the Council of Europe (dated 21 November 2001)

*The Committee of Ministers,
Recommends that Switzerland, whether at federal, cantonal or municipal level as the case may be, take account of all the observations of the Committee of Experts and, as a matter of priority:*

- 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;*
- 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 Grisons;*
- 3. explore possibilities of improving the use of Romansh and Italian at the level of the federal administration.*

Reply to Recommendation 1

Article 70.2 of the Constitution specifies that cantons shall decide on their official languages whilst respecting the traditional territorial distribution of languages and taking indigenous linguistic minorities into account. As has already been made clear in the reply dated 9 October 2001 from the Federal Office of Culture to the findings of the Committee of Experts of the Council of Europe (B and C in particular), this constitutional provision can be implemented only by the cantons. However, it is correct that it is incumbent on them to do so.

As for its own field of competence, we can state that the Confederation respects the traditional territorial distribution of languages and communicates with each community in its own official language.

Other replies concerning implementation of Article 70.2 of the Constitution in the canton of Grisons and concerning **Recommendation 2** (use of Romansh and Italian in court proceedings in the canton of Grisons) will follow in Part 3.

Reply to Recommendation 3

Rules governing the use of official languages within the federal administration

Before commenting on the rules concerning use of official languages within the federal administration and those planned for the new Languages Act, we should state that at federal level all three powers (executive, legislative and judicial) generally use three official languages as working languages and four in their relations with the public.

The use of official languages for communication within the Confederation's general administration and with third parties is based on Article 70.1 of the Constitution as well as the federal law of 21 March 1986 on official publications (RS 170.512), the ordinance of 19 June 1995 on translation in the general administration of the Confederation (RS 172.081), the directives of 26 November 1986 on Confederation translations into Romansh, the Federal Council instructions of 19 February 1997 on promoting multilingualism in the general administration of the Confederation (FF 1997 II 499), the new law of 24 March 2000 on Confederation staff (RS 172.220.1) and, lastly, the ordinance of 3 July 2001 on Confederation staff (RS 172.220.111.3).

These legal bases apply to the use of official languages not only within the federal authorities, i.e. the Federal Council and the federal administration, but also in the authorities' relations with the public.

The public may communicate with the federal authorities in any of the four national languages, and the authorities will reply in the language used. Romansh speakers may communicate with the authorities in any of the five Romansh dialects or in Rumantsch Grischun; the reply will be in Rumantsch Grischun.

In accordance with Chapter 31 of the Federal Council instructions of 19 February 1997 on promoting multilingualism in the general administration of the Confederation, the written and spoken working languages are the three official languages (German, French and Italian). But in order to encourage multilingualism in the workplace and make the most of cultural diversity in the administration, it is also specified that the country's four language communities shall be represented fairly within it (Chapter 1).

Italian is as much a working language of the Confederation as German or French. The full equality of official languages as working languages is also emphasised in the law on relations between the Councils (RS 171.11): as a general rule, explanatory statements (messages), reports, bills and motions must be submitted in German, French and Italian if they are to be considered by the Councils and their committees. Consequently, Italian translation services have been considerably expanded over the past few years (see further details below).

According to Article 70.1 of the Constitution, Romansh is an official language only for Confederal relations with Romansh speakers and is therefore not a working language for general administration. The draft Languages Bill makes no provision for change on this point. Adoption of Romansh as a working language within the federal administration would be unworkable in practice as well as unrealistic, given the small number of Romansh speakers in the administration and the disproportionate cost of the operation.

Federal notifications, signs and identity papers are also designed in the four official languages or the language of the population concerned (Federal Council instructions, Chapter 10; draft Languages Bill, Section 11).

Fair representation of the language communities in the administration

To ensure proper use of the official languages within the general administration of the Confederation, it is essential that the language communities should be represented at all levels.

Statistics

The regular statistical record kept for some years now on the number of staff shows a marked improvement in the situation, especially in comparison with the early 1990s. As is apparent from the table below, the proportion of Italian- and French-speaking staff in the federal administration rose slightly between 1996 and 2002 at the expense of the German speakers. However, the proportion of Romansh speakers has continued gently to decline since 2000.

| Year | 2002 | 2001 | 2000 | 1999 | 1996 | 1990 | 1983 |
|------------------------------|------------------------|------------------------|------------------------|------------------------|-------------------------------------|--------------|--------------|
| Total number of staff | 100% 33 791 | 100% 32 353 | 100% 31 307 | 100% 30 741 | 100% | 100% | 100% |
| German speakers | 71.8% 24 275 | 71.7% 23 183 | 71.4% 22 363 | 71.7% 22 052 | 72.9% | 77.3% | 78.1% |
| French speakers | 20.4% 6 900 | 20.6% 6 670 | 20.7% 6 490 | 20.6% 6 378 | 19.6% | 15.7% | 16.2% |
| Italian speakers | 6.7% 2 249 | 6.6% 2 138 | 6.6% 2 062 | 6.4% 1 973 | 6.3% | 4.8% | 4.7% |
| Romansh speakers | 0.46% 156 | 0.50% 162 | 0.53% 165 | 0.53% 164 | | 0.6% | 0.6% |
| Other | 0.62% 211 | 0.62% 200 | 0.73% 227 | 0.57% 174 | 1% (including Romansh) | 1.7% | 1.5% |

Sources: Written answer by the Federal Council to Columberg's parliamentary question of 22 June 1990 (90.636); OFPER report on implementation of 1996-1999 instructions; report by Mr Gudet (OFPER) for the Federal Office of Culture (2002)¹⁹

A comparison of language representation in the general administration of the Confederation with the language breakdown of the resident population shows that in 1990 and 2000 German speakers were decidedly overrepresented (in 1990, 63.6% of inhabitants claimed German as their first language and in 2000 63.7%); French speakers were still underrepresented in 1990, but their share is now correct (1990: 19.2%; 2000: 20.4%); in 1990, the proportion of Italian speakers (7.6%) and Romansh speakers (0.6%) was less than their actual importance, but the gap had been virtually closed by 2000 (with 6.5% and 0.5% respectively). All figures refer to the total population and not to Swiss citizens only.

Instructions on promoting multilingualism in the general administration of the Confederation

The Federal Office of Personnel (OFPER) has delivered a report to the Federal Council on implementation of these instructions²⁰ over the 1996-1999 period.

Following this report, on 18 October 2000 the Federal Council gave various mandates for promoting multilingualism to the Federal Chancellery (ChF) and the Department of Finance (more specifically, to OFPER). They included:

- Establishing human resources performance monitoring (with multilingualism indicators);
- Harmonising the Federal Council instructions with the new law on Confederation staff;
- Actively and consistently ensuring fair language representation, not only for the general average but at all levels of the hierarchy, in accordance with the Federal Council instructions;
- Collecting background information on multiculturalism and preparing an introductory course on multilingualism and multiculturalism;
- Setting annual priorities and implementing them through booster programmes;
- Setting up a qualified personnel support system by determining qualifications required for multilingualism co-ordinators in the Departments and the Federal Chancellery.

Implementation of the *Federal Council instructions on promoting multilingualism in the general administration of the Confederation* is decentralised. It is therefore the responsibility of the Departments and the Federal Chancellery to define their annual objectives, establish an order of priority for the proposed measures and ensure that they are implemented.

OFPER has a human resources information system covering all units of the federal administration. Personnel managers in the Chancellery, the Departments and the Offices supply it with the relevant indicators. A computerised performance-monitoring program is used to summon key indicators for

¹⁹ A short report (de/fr/it) on personnel policy indicators can be consulted on <http://www.personal.admin.ch/themen/bupers/f/kennz.htm>.

²⁰ This report can be consulted on <http://www.personal.admin.ch/themen/ppolitik/f/bericht-sprache.pdf>.

staff management, provide “snapshots” of all the Offices and make useful comparisons. Language representation is an important element of the system.

Each Department has appointed a multilingualism co-ordinator. Most of the Offices also have someone in charge of this field. In addition to their advisory role, the latter are responsible for supplying certain indicators to the Department co-ordinators.

Every four years, OFPER prepares a report assessing the quantitative and qualitative development of multilingualism within the federal administration. The next report will be delivered in 2004, the reference date being 31 December 2003.

The Federal Council instructions of 19 February 1997 will be harmonised with Section 4.2 (e) of the new law on Confederation staff (RS 172.220.1) and Article 7 of the ordinance on Confederation staff (RS 172.220.111.3).

Language requirements for federal staff recruitment

All job vacancies are published in the three official languages (German, French and Italian) and updated weekly on the following website: <http://www.stelle.admin.ch/f/Emploi.html>. They are also published every week in the Confederation's list of vacancies (*Die Stelle – L'Emploi – Il Posto*), to which individuals can take out a subscription. Again at weekly intervals, group advertisements appear in the newspapers of all the language regions. The language requirements are always specified. As a rule, at least a good knowledge of a second official language is needed. Knowledge of other languages may be called for depending on the nature of the job.

Developing federal employees' language skills

The Confederation offers its staff manifold opportunities to develop their language skills, whether through passive understanding, detailed listening or speed reading in a second or third language, or through an improved command of their first language (mother tongue). It also makes use of computer-assisted language learning (CALL) for French and English. A pilot CALL course in Italian is planned for autumn 2003.

To improve command of Italian, the Confederation further offers on-the-job training, certificate courses (evening classes) and the possibility of job exchanges.²¹

The Confederation also offers courses promoting Romansh. In 1996, 21 people attended Romansh classes for non-Romansh speakers. However, the cultural and language courses offered in 1998/1999 had to be cancelled owing to lack of interest.

Expansion of Italian translation services

As early as 1991 the Federal Council decided to expand Italian translation services in two stages. During the first phase (1996), 13 new posts were created, especially for translation of documents used in legislative work and parliamentary debate. In the second phase (1999), a further expansion of 10 posts was intended to guarantee internal communication in Italian. With these two measures, the Federal Council took account of communication needs both in relation to Parliament and public and within the administration itself. Between 1991 and January 2002, 18 new posts were therefore created in succession, representing an increase from 75 to 93. However, the Italian translation services are not quite as developed as the French ones, in which there are 129 posts. To make good this deficiency, a new expansion has been requested.

²¹ The CALL courses available can be consulted on <http://www.admin.ch/educ/f/index.htm>, under the heading “Langues”.

6. *Indicate what steps your state has taken to inform the following of the recommendations :*

- *all levels of government (national, federal, local and regional authorities or administrations) ;*
- *judicial authorities ;*
- *legally established bodies and associations.*

6. Briefing on the recommendations

The federal authorities studied the recommendations when they were published by the Committee of Ministers. At cantonal level, priority was given to notifying the cantons concerned, Grisons and Ticino, which were instructed to forward the recommendations to the responsible bodies.

7. *Please explain how your state has involved the above, in implementing the recommendations.*

7. Co-operation in implementing the recommendations

For implementation of Recommendations 1 and 2, the Confederation turned specifically to the government of the canton of Grisons, which was directly concerned and which is responsible for enforcing Article 70.2 of the Constitution.

With regard to implementation of Recommendation 3, as detailed above, the Federal Council has turned to the offices and specialists responsible for language matters, in particular the Office of Personnel and the Federal Chancellery.

A further response to the recommendation on improving the use of Romansh and Italian in the general administration of the Confederation is the preparation of the draft Languages Bill. For all matters relating to the cantons' sphere of competence, the Confederation co-operates closely with the cantons and their bodies.

PART TWO

1. *Please indicate what measures your State has taken to apply Article 7 of the Charter to the regional or minority languages referred to in paragraphs 1 and 3 of part I above, specifying the different levels of government responsible.*

1. Measures to implement Article 7 of the Languages Charter

This section summarises the legal and political measures taken by the Confederation to implement Article 7 of the European Charter for Regional and Minority Languages.

Article 7, paragraph 1 (a)

“Recognition of the regional or minority languages as an expression of cultural wealth” already appears in the Federal Constitution: all the languages traditionally spoken in Switzerland and having an area of their own are recognised as national and official languages, with all that this implies for their use in public and private life, education, training and research. The new Languages Act will further strengthen the quadrilingualism which is one of Switzerland's basic features. The constitutions of the

multilingual cantons also describe the languages spoken on their territory as national languages and recognise them as official languages. The constitutions of some monolingual cantons also contain an article relating to languages.

As we have seen, the Confederation grants financial aid to various institutions and organisations campaigning for cultural and linguistic diversity and in particular for linguistic minorities in Switzerland. The Yenish, a national minority with no territorial base, are also supported by the Confederation. The establishment of the foundation “Assurer l’avenir des gens du voyage suisses” [“Safeguarding the future of Swiss travelling people”] marks the official recognition of the cultural wealth of travelling people in Switzerland. Other options for helping the Yenish to preserve their language and culture are being studied with the assistance of those concerned (see commentary on Article 7, paragraph 5).

Article 7, paragraph 1 (b)

“Respect of the geographical area of each regional or minority language” is the responsibility of both federal and cantonal levels.

In its relations with authorities and institutions, the Confederation uses the language of the area concerned. Users of the national languages communicate with the Confederation in their own languages.

The cantons are required by the Constitution to respect the traditional territorial distribution of languages and take indigenous linguistic minorities into account (Article 70.2). They enforce both the fundamental right of linguistic freedom and the principle of territoriality, especially for education, training, the judicial system, government administration and signs. The two minority languages (Romansh and Italian) are official languages of the cantons where they are spoken.

The constitutional division of Switzerland into sovereign cantons forbids arbitrary alteration of existing administrative structures. The Confederation has no influence over the organisation of cantonal government (see Introduction, 1.3, on this subject).

Article 7, paragraph 1 (c)

The Confederation insists on the “need for resolute action to promote regional or minority languages” by supporting Romansh and Italian with all means available to the best of its ability. Use of the official languages and promotion of quadrilingualism occurs in all fields for which the Confederation has responsibility, including the federal administration, political institutions, the federal courts, higher education, vocational schools and research. The Confederation is committed to promoting multilingualism both among individuals and within institutions.

Federal support for the multilingual cantons (Bern, Fribourg, Grisons and Valais) in the fulfilment of their particular tasks (Article 70.4) as well as for Romansh and Italian in the cantons of Grisons and Ticino (Article 70.5) is provided for in the Constitution. The new Languages Act will take account of the canton's right to be supported by the Confederation. It will also contain measures to encourage multilingualism, exchange and understanding between language communities.

Article 7, paragraph 1 (d)

The foundations of “facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life” are already laid in the Constitution, which expressly recognises the four national languages (Article 4) and establishes the fundamental right of linguistic freedom (Article 18). Constitutional and statutory provisions thus enable minority languages to be promoted and cultural and linguistic diversity to be strengthened. The State also has a duty to establish the legal basis governing the use of regional or minority languages. In private life, free use of a regional or minority language is unreservedly guaranteed by freedom of language (Article 18 of the Constitution). As regards relations with the State, and to some extent also in public life, freedom of language is limited by the territoriality principle. The cantons – and sometimes even the communes –

themselves determine the use of languages within the administration, the judicial system and education/training and lay down the rules for promoting these languages.

Article 7, paragraph 1 (e)

In Switzerland “maintenance and development of links ... between groups using a regional or minority language and other groups in the State” is the responsibility of a range of organisations and institutions, some of which are funded by the Confederation.

Italian speakers in Switzerland get together in various organisations and maintain links with each other and the relevant regions of Ticino and Grisons (see Part 1, section 2). Romansh speakers also cultivate their links, both in Grisons and in the rest of Switzerland. The Lia Rumantscha and its affiliated regional organisations (Romania, Uniun dals Grischs, Uniun Rumantscha da Surmeir, Renania) are active mainly in the canton of Grisons, but some branches maintain links with Romansh speakers outside the traditional area. The Writers' Union (Uniun da Scripturas e Scripturs Rumantschs, USR), for instance, has a number of members outside Grisons, while the Uniun da Rumantschas e Rumantschs en la Bassa (URB) brings together all Romansh associations defending their language and culture outside Grisons and maintaining links between Romansh speakers; in a number of places in Switzerland, for example, there are choirs which have a Romansh repertory.

Encouraging understanding and exchange between linguistic communities is a central concern of Swiss language policy (Article 70.3 of the Constitution). However, it does not form a separate policy field but is one of a number of federal tasks which must be taken into consideration as far as possible in any material policy decisions. It is therefore clearly a “transversal” task. The Languages Bill makes provision for practical language measures. For the time being, the Confederation is supporting a whole battery of organisations working for understanding (see Part 1, section 2).

Within the cantons, co-ordination occurs through a body set up expressly for the purpose, the Intercantonal Platform for Matters of Understanding. In Switzerland as a whole, school exchanges are organised by the cantons and co-ordinated mainly by the Swiss Foundation for Confederal Collaboration (Youth Exchange Division). Various federal Offices and the Swiss Conference of Cantonal Ministers of Education contribute to the cost. For the Expo.02 national exhibition in 2002, the Exchange.02 project was specially designed for schools: with support from the cantons hosting the exhibition (Fribourg, Jura, Neuchâtel, Vaud and Bern) and from the Swiss Foundation for Confederal Collaboration, the Confederation earmarked CHF 1 million for a school exchange project.

The Intermundo organisation is an umbrella group for promoting international out-of-school exchanges. In addition to its advisory and co-ordination role it offers exchange years, language courses and work and solidarity placements outside Switzerland. Together with the Federal Office of Culture and the Federal Office for Education and Science, it manages the European Union YOUTH programme.

Article 7, paragraph 1 (f)

“Provision of appropriate forms and means for the teaching and study of regional or minority languages” is above all a matter for the cantons, which are responsible for teacher training and textbook provision at virtually all levels of education. Teachers are trained in the cantonal teachers' colleges (Hautes Écoles Pédagogiques (HEPs)) and the cantonal universities.

Article 7, paragraph 1 (g)

Romansh courses are provided, mainly by the Lia Rumantscha (supported by the Confederation and the canton of Grisons), as well as by some private adult-education organisations. Italian courses are also available throughout Switzerland from various private adult-education institutions.

Article 7, paragraph 1 (h)

In Switzerland's universities the “promotion of study and research” in the fields of Italian and Romansh is provided in various ways: the universities of Fribourg and Zürich have their own chairs in Romansh. Proseminars, seminars, lectures, courses and symposia on Romansh language and literature

can also be attended at the universities of Bern, Geneva and Saint-Gall. Italian is on the curriculum of virtually all Swiss universities: Basle, Bern, Fribourg, Geneva, Lausanne, Neuchâtel and Zürich offer degrees in Italian language and culture. In Lugano, the University of Italian Switzerland offers optional Italian courses in its three faculties (Architecture, Economics and Communication Sciences).

Through the Swiss National Science Foundation (SNSF) the Confederation also supports research into Italian and Romansh in Switzerland. The SNSF is currently contemplating the launch of a multi-year national research programme on “Languages and Linguistic Diversity in Switzerland”. The Confederation also pays a contribution to the Verein für Bündner Kulturforschung, which studies Grisons linguistic culture in various projects.

The new Languages Act provides for the establishment of a scientific institution promoting multilingualism as well as for financial support for translating and publishing scientific work on multilingualism and policy relating to languages and understanding.

Article 7, paragraph 1 (i)

The promotion of “transnational exchanges” between Romansh speakers in Grisons, the Dolomites and Friuli is mainly the responsibility of the Lia Rumantscha. With regard to cultural policy, there is regular exchange of information between Italy, the Confederation and the cantonal authorities of Grisons and Ticino within the “Consulta”²².

Article 7, paragraph 2

Title 2, Chapter 1 of the Federal Constitution, devoted to fundamental rights, prohibits discrimination (Article 8.2), including on grounds of language. Freedom of language is guaranteed under Article 18 of the Constitution.

Implementation of special measures for Romansh and Italian, which, under the terms of the Charter, do not constitute discrimination against the more widely used languages in Switzerland, is also provided for in the Constitution (Article 70.5). To achieve fair language representation at every level of the federal administration, “positive discrimination” in favour of minority language users is also permitted if candidates are equally qualified.

Article 7, paragraph 3

In order to implement the main principles of the policy relating to languages and understanding the Federal Council has instructed the administration to prepare a legal basis.

In this respect, the electronic media also play an important role. The Confederation has granted the Swiss Broadcasting Corporation (SSR) a franchise which requires the latter, as a national and regional broadcaster, to produce and broadcast radio and television programmes in the four national languages. In doing so, SSR must take account of Switzerland's cultural and linguistic diversity (see Part 1, 1.2).

Article 7, paragraph 4

In view of their respective powers, collaboration between the Confederation, the cantonal authorities and the relevant organisations is imperative. The new Languages Bill is the fruit of this collaboration. Democratic processes such as consultation procedures and referenda also ensure that the needs and wishes of groups using minority languages are adequately taken into consideration in Swiss language policy.

²² The Italo-Swiss Cultural Advisory Committee, set up in 1982 by an agreement between the Swiss Federal Council and the Italian Government for the purpose of promoting cultural exchanges between Italian-speaking Switzerland and the Italian border regions.

Article 7, paragraph 5

Recommendation, experts' report §20:

The Committee invites 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 Yenish and Yiddish.

Recommendation, experts' report §53:

The Committee invites the Swiss authorities to engage in an open discussion with the representatives of the Yenish- and Yiddish-speaking communities on the issue of the protection and promotion of their languages.

In Switzerland, Yiddish is a language which does not have a specific territorial base. As we have seen above (Introduction, section 4), the Swiss Federation of Jewish Communities considers that it has never served as a minority language in Switzerland and that it is not distinguished by the autonomy laid down in the Charter.

The Confederation recognises and promotes the cultural wealth of travelling people in Switzerland. Following the Report of the Committee of Experts of the Council of Europe dated 23 November 2001 (§§ 20 and 53), the Confederation invited the Radgenossenschaft der Landstrasse for a discussion of appropriate measures to protect and promote Yenish in Switzerland, a meeting which took place on 21 June 2002. A number of possibilities for promoting Yenish through the policy on languages and understanding were considered:

- Generally speaking, the travelling people wanted more to be done in order to have their status recognised in society, in particular through research into their history, putting together reference material, making the sedentary population more aware of Yenish culture, especially in schools, and taking practical measures to promote their language.
- The effort of memory made by historical research can make a significant contribution to the identity of travelling people and their social recognition. Various questions have not yet been studied and others must be examined in greater depth, such as the Association for Assistance to Traveller Children (which sanctioned abduction of Roma children). It is also important that historical research should highlight the distinctive features and the independence of the Yenish and not treat them as part of a larger whole or as one social group amongst others (people whose children have been taken away from them, for example).
- Nor can Yenish culture be studied solely within Switzerland. Because of their origin, mobility and language, travelling people are all bound together by a single culture transcending borders.
- The new generation of travelling people is increasingly aware of Yenish. By providing financial support, the Confederation could significantly contribute to preserving and promoting it. An important work on the Yenish language in Switzerland was of course published last year (Hansjürg Roth, *Jenisches Wörterbuch. Zur Sprache der Jenischen in der Schweiz*, Frauenfeld 2001), but educational facilities are lacking.
- In the cultural field, Yenish music and song have an important role for travelling people. It is thus extremely desirable, in their eyes, that this music should be archived and recordings distributed, including for language promotion.
- In all measures to promote Yenish, an effort must be made to target girls and women, since, within the family, it is they who contribute most to maintaining and passing on Yenish.

Practical measures

Short term

- Under the heading of out-of-school activities for young people, the Federal Office of Culture (OFC) can co-finance cultural projects organised by young people for young Yenish speakers. Granting of a subsidy is decided on the basis of a funding application for a specific project.
- Under the heading of activities for language communities and understanding, the OFC can support cultural and language exchanges, including those abroad. Here again, granting of a subsidy is decided on the basis of a funding application for a specific project.

Medium term

- As part of the (present) preparation of the new Languages Act, the OFC has been studying the possibility of including in it the necessary conditions for promoting Yenish (encouraging understanding and exchanges).
- For preparation of science projects the OFC has been studying the possibilities of taking account of Yenish speakers' language concerns.

2. *If appropriate, state any future measures which are envisaged in your country.*

2. Other proposed measures

As we have seen, the final draft of the Languages Bill is imminent. The results of the consultation procedure were published on 16 October 2002 (<http://www.bak.admin.ch> (language policy)). Generally speaking, the Bill has met with a favourable reception. The information still required for the drafting of the government message (explanatory statement) is in the process of being collected with the help of the cantonal authorities. In 2003 the Federal Council is determined to concretise the objectives laid down in the legislative programme and to adopt the message for Parliament.

PART THREE

I Report by the canton of Grisons on application of the European Charter for Regional or Minority Languages

1. Background information²³

1.1 Authorities

The main authorities in Grisons are the Grand Council (Parliament) and the government. (The various judicial authorities are explained later in 2.2.)

The legislative body of the canton of Grisons, the Grand Council, is “the canton's supreme political and administrative authority” (Article 13 of the cantonal constitution). Under the law of 4 June 1972 on representation of the districts in the Grand Council it comprises 120 members. The members are elected under Section 3 of the same law, revised in 1995. Each district is entitled to at least one member, even districts without the necessary quorum, such as Safien (478 inhabitants) or Avers (187). Members are elected by the majority system. Attempts to move to proportional representation have hitherto failed. However, there are districts where the parties have voluntarily agreed to use the proportional system.

The canton's supreme executive body is the government, elected by the majority system and consisting of five members. Under Article 25 of the cantonal constitution, the latter are elected for a four-year period and are eligible for re-election twice.

Section 2 of the Communes Act adopted in 1974 pronounces thus on the autonomy of the communes: “The communes shall have the right to decide their own affairs, within the limits of federal and cantonal legislation.

“They shall draft their own constitutions, promulgate the laws, ordinances and regulations necessary for the fulfilment of their tasks and enforce them through the exercise of their administrative and police powers.”

Section 4 of the Grisons Communes Act specifically makes the communes responsible for taking their own decisions in the fields of language, education and culture.

1.2 Romansh and Italian language areas

The Romansh language area in Grisons is divided into a number of regions: Val Müstair and Lower Engadine (between Zernez and Martina), Upper Engadine (between Maloja and Zernez), Surselva (Upper Rhine upstream from Flims to the cantonal border), Sutselva (Domleschg/Heinzenberg, Schams), Sursés (between Bivio and Tiefencastel) and the Albula valley. There still exist various “islands” such as the villages of Trin, Rhäzüns and Domat/Ems, all situated west of Chur. The area can be roughly divided into three zones: Surselva (Sursilvan dialect), Centre (Sutsilvan and Surmiran dialects), and Engadine and Val Müstair (two Ladin dialects: Putèr and Vallader). The densest area is still Surselva. On Romansh, *cf.* also the 1996 “Facts & Figures” appendix, with supplements up to 2000.

The four southern Grisons valleys where Italian is spoken are known as the *Valli*. They are Mesolcina, Val Calanca, Val Bregaglia and Val Poschiavo. They are distinguished by marked linguistic peculiarity and extremely varied local dialects. Bregagliot (Val Bregaglia) is a mixture of the Lombard

²³ This background information on the canton of Grisons is drawn partly from Leo Schmid, *Der Kanton GR, Staatsbürgerliches Brevier*, Chur 2002.

and Ladin dialects, Pus'ciavin (Val Poschiavo) resembles the Valtellina dialect, while the Moesano dialects (Mesolcina and Val Calanca) are closely related to the Ticino dialects.

1.3 New draft cantonal constitution

As far as the canton of Grisons is concerned, an important new development since the first report is the consultation procedure for a complete revision of the constitution. On 17 January 2002 the Grisons government adopted a draft prepared by the Constituent Committee and forwarded it to the Grand Council. On 17 June 2002 the Grand Council approved it subject to a few amendments, including to the language article. The new constitution gives much more weight to trilingualism than was previously the case (*cf.* Part 1, 1.3).

The new language article reads as follows:

Article 3

- ¹ The national and official languages of the canton are German, Romansh and Italian.
- ² The canton and communes shall support and take the measures needed to preserve and promote Romansh and Italian. They shall encourage understanding and exchange between the linguistic communities.
- ³ The communes and districts shall decide on their official language(s) and the language(s) of tuition in schools whilst respecting the traditional distribution of languages and taking indigenous linguistic minorities into account.

Article 4 also deals with understanding and exchange between the various parts of the canton and the language communities in Switzerland; Article 7 guarantees freedom of language.

The Grand Council amended Article 3 by specifying that the communes and districts should now decide on their official language(s) and language(s) of tuition in schools in consultation with the canton. It is in this form that the language article will be submitted to a referendum in 2003.

In the second reading on 7 October 2002, the Grand Council amplified Article 3.1 of the draft constitution by specifying that German, Romansh and Italian were official languages *in equal measure*.

1.4 Implementation of the Committee of Ministers recommendations

To prepare Switzerland's second report on the European Charter for Regional or Minority Languages, the canton of Grisons consulted the Lia Rumantscha, the Pro Grigioni Italiano association and the Romansh Press Agency. The necessary information was also requested from the competent authorities, namely the Department of Public Education, the Department of Justice and the State Chancellery. Lastly, contact was made with regional officials (regional courts, associations of communes, and communes).

Once they are published, Switzerland's reports and the replies from the Council of Europe will be publicised through the media.

Committee of Ministers, Recommendation 1

The Committee of Ministers recommends that Switzerland 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.

The traditional Romansh-speaking regions are in Grisons. Article 70.2 of the Constitution gives the cantons the responsibility of deciding on their official languages. According to Article 46 of the Grisons cantonal constitution, the official languages are German, Romansh and Italian. As we have seen in section 1 above, the Grisons communes enjoy extensive autonomy and usually make their own decisions concerning their official languages and their languages of tuition in schools under the terms of the cantonal constitution. During parliamentary debate on the complete revision of the cantonal

constitution, considerable importance was attached to the wording of the new language article. The discussion showed that, because Romansh is in a weak position, especially in areas where the languages are very mixed and it is a minority language, the canton should be entitled to have a say in the choice of official languages and languages of tuition in schools. Ultimately, the Federal Constitution and the cantonal constitution require the three levels of public authority (Confederation, cantons and communes) to take linguistic minorities into account. The adoption in 2003 of the new cantonal constitution by the sovereign power of Grisons will make it possible to prepare legislation implementing the new provisions on languages.

Committee of Ministers, Recommendation 2

The Committee of Ministers recommends that Switzerland 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 Grisons.

The passages of the Administrative Court Ordinance which do not take adequate account of Romansh and Italian will be revised. However, for legal reasons this revision will take place only after the new cantonal constitution has entered into force.

Use of Romansh in the regional courts will be encouraged through the translation of sample documents.

2. Charter provisions and measures to promote Romansh

2.1 Article 8: Education

a. Provisions applicable

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

b. Implementing measures

Paragraph 1, sub-paragraph a (iv)

Section 1.1 of the Kindergartens Act gives kindergartens the task of fostering language. Needless to say, Romansh is the predominant language in kindergartens in Romansh communes. In communes on a language border, some kindergartens use Romansh and others German, while a few are bilingual. In Chur, the canton's capital, the Lia Rumantscha (the Romansh language organisation) runs a Romansh kindergarten.

Romansh kindergartens have – and are recognised as having – an important role to play in helping children who speak other languages to acquire Romansh and thus in protecting the Romansh language. The canton therefore contributes towards the cost of employing the auxiliary staff needed to teach children speaking other languages (Kindergartens Act, Section 29 (a)).

The canton assumes responsibility for Romansh kindergartens by training Romansh-speaking kindergarten teachers in a special department of the teacher training college in Chur. From the 2003/2004 academic year, training for these teachers will be provided by a teachers' college which is going to be set up (Teachers' College Act of 27 September 1998).

Sub-paragraph b (i)

The Compulsory Schooling Act (in force since 1 August 2001), the ordinance implementing this act, and the various school curricula all distinguish between German-language, Italian-language and Romansh-language primary schools. The communes themselves choose the language most appropriate to their schools. Thus the rules relating to schools also allow Romansh-language schools to be run in a Romansh area.

Romansh can be chosen as the first foreign language in communes with German-language primary schools (Compulsory Schooling Act, Section 8). A number of communes on the border between Romansh and German language areas have exercised this option.

In addition to the three types of monolingual school (German, Romansh and Italian), bilingual teaching is available in particular instances. This system enables mixed communes to preserve and promote both languages without having to favour one at the expense of the other.

The canton provides Romansh-language primary schools with the necessary Romansh teaching materials (Compulsory Schooling Act, Section 22). Responsibility for this lies with the Education Committee and the cantonal textbook publisher.

The canton provides training for Romansh-language primary-school teachers. At present they are trained in the Grisons Teacher Training College. Following the revision of the Secondary Schools Act and the adoption of the Teachers' College Act on 27 September 1998, their training has been completely reorganised. It will in future be provided at tertiary level by the Teachers' College which is going to be established. To guarantee training of Romansh-speaking primary school teachers, Romansh teaching will be significantly improved at upper secondary level, where it must be possible to choose Romansh as a first language. A bilingual baccalaureate (Romansh/German) will also be available. The lack of knowledge of Romansh is also to be offset by future teachers in the Teachers' College, which will open its doors at the start of the 2003/2004 academic year.

The canton is responsible for providing continued in-service training for teachers, including in languages (Compulsory Schooling Act, Section 38).

Sub-paragraph c (iii)

To extend teaching of a second language, a new model of language-learning will come into effect in upper primary education from the 2002/2003 school year, with the teaching of a second cantonal language and English. At this level, pupils in Romansh schools will have German, Romansh and English lessons. For communes on a language border, the principle is that pupils having had Romansh classes in primary school should be able to continue this language at the next level. Romansh secondary-school teachers are trained mainly at the University of Fribourg, where Romansh can be taken as a main subject. At the University of Zürich, training of secondary-school teachers will be transferred to the new Teachers' College from autumn 2002. Initial contacts have been made in order to include training of Romansh teachers.

During revision of the Secondary Schools Act of 27 September 1998, the status of Romansh in secondary education was thoroughly reassessed. Since the 1999/2000 school year a bilingual baccalaureate (Romansh/German) has been available in the canton of Grisons. In addition to teaching of the language itself, two basic subjects have to be taught in Romansh. Since the revision of the Secondary Schools Act, Romansh can be chosen at upper secondary level as the main language (with the corresponding number of classes), as a foreign language, as a special option or as a pupil's option.

Sub-paragraph d (iii)

The curricula of vocational schools are determined by the Confederation for the majority of occupations, and Romansh carries very little weight. In addition, the majority of applied arts and crafts schools in Grisons train students with different mother tongues. For organisational reasons it is difficult to offer Romansh in vocational schools.

In business schools in Ilanz and Samedan, Romansh students have one compulsory Romansh class a week. Tuition at the applied arts and crafts school in Samedan is usually in German, but Romansh has its place in modules for Romansh students.

Reply to recommendation in § 70 of the experts' report

Since the 2001/2002 academic year, general-education courses at the applied arts and crafts school in Ilanz (Surselva) have been offered in two languages (German and Romansh) in order to promote

Romansh. Split teaching has been introduced in collaboration with the applied arts and crafts school in Chur. In this way, Surselva students who receive their vocational training in Chur can attend general-education courses in Ilanz and thus have some of their tuition in Romansh. Some 85% of Surselva students attending vocational courses in Chur go to the Romansh general-education courses in Ilanz. For students with transport problems who cannot travel to Ilanz, an optional course in Romansh is being set up at the vocational school in Chur.

Sub-paragraph e (ii)

The University of Fribourg has a chair in Romansh language and culture. After an abeyance of several years, Romansh is again being taught at university level in Zürich. The chair in Romansh is now attached to the university's Romance Languages Department and no longer to the Federal Institute of Technology.

Sub-paragraph f (iii)

In the canton of Grisons, adult education is run by the private sector. The course programmes of the various organisations usually include Romansh courses. The canton makes a contribution to the cost of these courses under Section 6 of the Further Training Act.

With the introduction of the European Language Portfolio, the canton of Grisons has committed itself to taking full account of Romansh. The European Portfolio, which was launched in Switzerland by the Conference of Cantonal Ministers of Education, will be introduced in Grisons only when a version also including Romansh is available.

Sub-paragraph g

Cultural and literary history is an integral part of Romansh teaching in the curricula of Romansh-language general schools and secondary schools. The revision of the Secondary Schools Act and the broader teaching of Romansh have made it possible to teach certain aspects of cultural history, linguistic policy, etc., in greater depth at upper secondary level.

Sub-paragraph h

For teacher training, please refer to the comments above on the individual levels of education.

Sub-paragraph i

Inspection of the provision and quality of Romansh courses forms part of schools' usual inspection work. It is carried out primarily by the relevant committees and inspectors (Compulsory Schooling Act, Sections 39ff.). Following the revision of the Secondary Schools Act, a new quality-control system was introduced for secondary education. In cantonal schools an outside inspection takes place in addition to internal inspections, and a report on it is sent to the Department of Public Education, Culture and Environmental Protection.

The "2001 Education Report" (*Bildungsbericht 2001*) is a new publication produced by the Department of Public Education, Culture and Environmental Protection which provides information on the main developments at all levels of education in the canton of Grisons. Work relating to Romansh is also considered.

Reply to the recommendation in § 81 of experts' report

Monitoring of the implementation of language directives in primary schools devolves primarily on the communes' school boards. At cantonal level, school inspectors act as supervisors. They check that languages are being taken into account as provided for in the cantonal curricula. The Department of Public Education, Culture and Environmental Protection keeps a list of German-, Romansh- and Italian-language schools.

2.2 Article 9: Judicial authorities

a. Provisions applicable

Paragraph 1, sub-paragraphs a (ii), a (iii), b (ii), b (iii), c (ii); paragraph 2, sub-paragraph a; paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraph a (ii)

Following the referendum of 12 March 2000, the Grisons courts have been re-organised from top to bottom, especially the courts of first instance. The former district courts have disappeared. Presiding district judges deal with simple cases. In the new district courts, the language used is not determined by cantonal law. Normally it is the districts which are responsible for choosing it. If a district is in a Romansh area, Romansh may be chosen as the language of the case and the proceedings may be conducted in that language. This practice is confirmed by Federal Court case-law on the territoriality principle. In practice, the question of the language to be used in court is not governed by any express provisions: the fact that Romansh-speaking parties express themselves in their own language in courts in Romansh areas is more in the nature of a custom.

Romansh is a national language of the canton under Article 46 of the cantonal constitution and may therefore be used in criminal proceedings. This is stated in Article 28 of the ordinance on the organisation and administration of the cantonal court in the following terms: “The languages which may be used in court are the national languages within the meaning of the cantonal constitution.” For preliminary inquiries, the Code of Criminal Procedure provides in Article 87.4 that statements made by the accused and the witnesses must be included in the record of the hearing in a national language of the canton within the meaning of Article 46 of the cantonal constitution.

Use of Romansh by the regional courts will be promoted with the aid of sample documents. The *Grisons Book of Legal Instruments (Bündner Urkundenbuch)* is an important tool for cantonal notaries and land registers. This work, which provides sample legal instruments, will be translated into Romansh.

Sub-paragraph a (iii)

Inasmuch as Romansh is held to be a language which may be used in court, requests and evidence can be formulated in this language.

Sub-paragraph b (ii) and (iii)

See comments for sub-paragraph a (ii) and (iii).

Sub-paragraph c (ii)

Under Section 20 of the law on administrative courts in the canton of Grisons, the languages of the administrative courts are the national languages of the canton within the meaning of the cantonal constitution. Romansh is therefore one of these languages. If parties to administrative proceedings have to appear before the courts, they may use Romansh. Article 13 of the ordinance on the organisation, administration and emoluments of administrative courts, which specifies German as the sole language of proceedings, cannot alter this: Section 20 of the law on administrative courts takes precedence. The canton of Grisons intends to amend the above-mentioned ordinance.

Paragraph 2, sub-paragraph a

Under Swiss law the validity of legal documents does not depend on the language used. The choice of language is a private matter for the parties concerned. It is therefore possible to use Romansh in all legal matters. Romansh can of course also be used for the purpose of authenticating legal documents.

Paragraph 3

Article 1.2 of the ordinance on publication of a new compendium of Grisons laws and management of the official compendium of laws makes the government responsible for publishing the main cantonal

statutes in Romansh. The Romansh version of the compendium of laws now includes virtually all the statutes already existing in German. Pursuant to the referendum decision of 10 June 2001, the official compendium of laws will now be translated into Rumantsch Grischun rather than Vallader and Sursilvan.

Reply to recommendation in § 105 of the experts' report

As we have seen above, use of Romansh in the relevant regional courts will be encouraged through the use of sample documents. The *Grisons Book of Legal Instruments (Biindner Urkundenbuch)* is an important tool for cantonal notaries and land registers. This work, which provides sample legal instruments, will be translated into Romansh. The canton of Grisons intends to revise the ordinance on the organisation, administration and emoluments of administrative courts.

2.3 Article 10: Administrative authorities and public services

a. Provisions applicable

Paragraph 1, sub-paragraphs a (i), b and c; paragraph 2, sub-paragraphs a, f and g; paragraph 3, sub-paragraph b; paragraph 4, sub-paragraphs a and c; paragraph 5

b. Implementing measures

Paragraph 1, sub-paragraph a (i)

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). The cantonal administration of Grisons is therefore required also to use Romansh in its official activities. The status of Romansh as a minority language in the canton of Grisons nevertheless means that official use of the language is usually ensured by translations. The details, especially as regards which documents must be translated, are governed by the government directives on the translation of official documents into Italian and Romansh.

Sub-paragraph b

Article 10 of the government directives on translation of official documents into Italian and Romansh requires departments and services to draft samples in Romansh for decisions and letters whose content is repeated. This requirement has been met in part.

Reply to recommendation in § 108 of the experts' report

The referendum of 10 June 2001 on a partial revision of the law on exercise of political rights in the canton of Grisons and on a partial revision of the Grand Council ordinance concerning publication of a new official compendium of Grisons law, has strengthened the position of Rumantsch Grischun. The canton now uses only Rumantsch Grischun to communicate with the Romansh-speaking population. The cantonal translation service has thus been able to release posts, which can be enlisted for stricter use of Romansh in official forms.

Sub-paragraph c

Romansh is held to be an official language of the canton under Article 46 of the cantonal constitution and must, in principle, be used by the canton's administrative authorities in their official activities.

Paragraph 2, sub-paragraphs a and f

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). The choice of language(s) used officially at communal and regional levels is a matter for the relevant commune or regional association (of communes). Romansh communes and regional associations may therefore decree that Romansh is the official language. This means that Romansh can be used by the authorities and also by individuals in their relations with the authorities. In Romansh communes and regional associations, official documents are usually published in Romansh. In communes with a high proportion of Romansh speakers, council meetings are held in Romansh. The situation is more complicated in communes where the language mix is broader and in regional associations, which generally are not solely Romansh. In such cases, it is usually German which is used as the language of proceedings.

Since the choice of the official language(s) used in the communes and regions is outside the canton's jurisdiction, its possibilities for action are also limited. In order to promote languages, the canton funds regional language services which are responsible for supporting the communes and any other organisation in the use of Romansh.

If the new language article is accepted in the form proposed by the Grand Council for the revision of the cantonal constitution, the communes will in future be obliged to determine their official language(s) and the language(s) of tuition in schools in consultation with the canton. The referendum on the complete revision of the cantonal constitution will be held in 2003.

Reply to the recommendation in § 122 of the experts' report

Under present arrangements, members of Parliament still have the option of speaking in the language of their choice. In practice, however, business is generally conducted in German. The predominance of German in the Parliament arises principally from the growing importance of this language as an official language since the canton of Grisons joined the Confederation (1803) and especially since the German-speaking community overtook the Romansh- and Italian-speaking communities in absolute figures in the early 1920s, since when it has steadily increased its majority. However, parliamentarians do sometimes speak in a minority language, especially on language matters. The formation in 2002 of a Romansh-speaking parliamentary group points to a new linguistic awareness.

Sub-paragraph g

In the Romansh part of the canton of Grisons the names of many localities, districts and communes were formerly marked in German. Things have changed, and the majority of districts, communes and localities now bear their authentic names.

The listing and altering of names of localities, districts and communes are governed by the ordinance of 30 December 1970 on the names of places, communes and railway stations (RS 510.625). Article 3 of this ordinance states that the main criterion when listing or altering these names is accuracy. The Federal Department of Justice and Police, the Federal Department of Home Affairs and the Federal Department of the Environment, Transport, Energy and Communications can appeal against a name change demanded by a canton. It is the Federal Council which settles appeals concerning name changes.

Paragraph 3, sub-paragraph b

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). This means that any Romansh speakers may use their mother tongue when dealing with the cantonal authorities. Replies are usually drafted in the same language as the original applications.

Paragraph 4, sub-paragraph a

The canton of Grisons has a professional translation department responsible for ensuring systematic use of Romansh and Italian as official languages (Article 5 of the government directives on translation of official documents into Italian and Romansh).

Sub-paragraph c

For vacancies in public services whose work affects the canton's Romansh region, knowledge of Romansh is generally required, or the candidate's attention is drawn to the fact that knowledge of Romansh would be an advantage.

Paragraph 5

Civil status, and therefore the family register in which the decisive family names appear, is largely governed by federal law, which does not limit the use of Romansh surnames.

2.4 Article 11: Media

a. Provisions applicable

Paragraph 1, sub-paragraphs a (iii), b (i), c (ii), e (i) and f (i); paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraph a (iii)

Legislation concerning radio and television is a matter for the Confederation, and the opportunities for the canton of Grisons to influence the operation of radio and television are therefore limited. Under Section 23.2 of the Federal Radio and Television Act, cantons are entitled to be heard when franchises are being granted to local or regional broadcasters. In accordance with Section 21 of the same law, which requires that the particular features of the region served be taken into consideration, the canton of Grisons insists that both minority languages are taken into account when franchises are being assigned to local and regional broadcasters serving its area. Consequently, Radio Grischa and Radio Piz are each required to broadcast a minimum proportion of their programme schedules in Romansh.

Sub-paragraph b (i)

Under Section 3 of the Federal Radio and Television Act, the electronic media are instructed to take account of the diversity of the country and its inhabitants and to convey this to the public. The Swiss Broadcasting Corporation (SSR), provider of national and regional programmes, is required under Section 27.1 of the Federal Radio and Television Act and Clause 2.1 (a) of its franchise to offer its own radio programmes in all national languages, including Romansh. The Romansh Radio and Television Company (Cuminanza Rumantscha da Radio e Televisiun), a regional subsidiary of SSR, thus runs a Romansh radio station which broadcasts 13 hours a day on average.

Reply to the recommendation in § 142 of the experts' report

The Confederation has required two franchisees, Radio Piz and Radio Grischa, “to broadcast an adequate level of daily news, together with regular programmes in Romansh and Italian on social and cultural matters”. This open-ended formulation leaves the franchisees certain room for manoeuvre. The authority granting the franchise further reserves the option of stipulating a minimum level of programmes to be broadcast in Romansh and Italian. In their annual reports, the franchisees have to indicate the impact of their broadcasts on language diversity and describe their work with the organisations promoting language and culture, the Lia Rumantscha and Pro Grigioni Italiano. During contacts for the drafting of this report, these two organisations declared the wish to monitor franchise compliance more closely. Complaints must be sent to the federal supervisory body, the Federal Office of Communications.

Sub-paragraph c (ii)

As regards television, the Federal Council is responsible under Section 27.2 of the Federal Radio and Television Act for determining the principles governing consideration of the needs of Rhaeto-Romanic Switzerland in the programmes for the different regions. Clause 2.1 (b) of the franchise granted to SSR requires it to take account of Romansh interests in television programmes for other language areas. Accordingly, the German-speaking channel regularly broadcasts programmes in Romansh. Some of these programmes are repeated on Ticino and French-speaking channels. On this subject see also Part 1, 1.2 and 5.1 (§ 143).

Sub-paragraph e (i)

By providing the necessary financial aid, the Confederation and the canton have helped to establish a Romansh press agency (cf. Grand Council decree concerning annual cantonal subsidies to the body responsible for the Romansh press agency). The services provided by this agency, which has been running since the end of 1996, help the Romansh press to expand and modernise. Since 5 December 1996, the *Engadiner Post* has been appearing thrice weekly with the subtitle *Posta Ladina* and a Romansh editorial section of at least two pages. The launching of the Romansh daily *La Quotidiana* on 8 January 1997 has already considerably revived Romansh journalism scene. This is the leading Romansh daily. It publishes articles in all the dialects and in Rumantsch Grischun.

Reply to the recommendation in § 143 of the experts' report

Training courses for Romansh journalists are offered by the Schools for Applied Linguistics in Zürich and in Chur, by the Romansh Radio and Television Company and by the Lia Rumantscha. The range of courses at the Schools for Applied Linguistics was broadened in 2001, and Romansh also benefited. Negotiations are currently in progress to extend the Lia Rumantscha training courses to the Romansh Press Agency. To the same end, contacts have been made with the Romansh youth magazine *Punts*.

Sub-paragraph f (i)

The Grand Council decree concerning annual cantonal subsidies to the body responsible for the Romansh press agency provides, in paragraph 2, that Romansh newspapers must be indemnified for their important services in promoting the language if they cannot manage to cover their costs. Two small daily newspapers receive financial aid under this provision, but this is merely incidental. The decree is primarily concerned with indirect promotion of the Romansh press through the setting-up and running of the Romansh press agency.

Paragraph 3

SSR, the national radio and television company, is divided into four regional companies. The Romansh Radio and Television Company, Cuminanza Rumantscha da Radio e Televisiun (CRR), is one of these four (cf. Clause 6 of the SSR franchise). CRR structures include an Audience Committee, thus ensuring that the interests of the Romansh population are taken into consideration.

2.5 Article 12: Cultural activities and facilities

a. Provisions applicable

Paragraph 1, sub-paragraphs a, b, c, e, f, g and h; paragraph 2; paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraphs a, b and c

The new Promotion of Culture Act of the canton of Grisons entered into force on 1 January 1998. Section 1.2 provides that the promotion of cultural life is to include the linguistic diversity of the canton's regions and population groups. Promotion of culture therefore specifically encompasses Romansh culture as well. Principal encouragement is given to Romansh speakers' own initiatives and forms of expression. In addition, works in foreign languages are translated into Romansh, and Romansh works are translated into other languages.

The Promotion of Culture Act particularly mentions the safeguarding and protection of the canton's trilingualism and of minority languages as a field for promotion (Sections 3 (c) and Section 12.1). At the same time as giving direct support to specific measures in this sphere, the canton also promotes and safeguards Romansh language and culture by paying annual subsidies to the Lia Rumantscha language organisation (Section 6 of the Act, and Grand Council decree of 27 September 1983 on increasing the annual cantonal subsidy to the Lia Rumantscha and the Pro Grigioni Italiano association). Apart from the canton, it is the main organisation to foster cultural creativity in theatre, music, literature, etc., and make it available to the public. The Lia Rumantscha also promotes translation of foreign literary works into Romansh.

Sub-paragraphs e and f

The Committee for the Promotion of Culture, which plays a central part in implementing the Promotion of Culture Act, must include among its members specialists in the various language and cultural fields (Section 18 of the Act). Two thirds of the staff of the recently created cantonal Office of Culture have a command of Romansh.

Sub-paragraph g

The main organisation responsible for collecting works produced in the fields of theatre, music and literature is the Lia Rumantscha. Romansh television productions are kept by the Romansh Radio and

Television Company and are sometimes rebroadcast. Alongside these institutions, the Grisons cantonal library is responsible for collecting and making available works relating to the canton of Grisons in all media, and therefore works in Romansh and on Romansh language and culture (Articles 3 (a) and 4 of the government ordinance on the Grisons cantonal library).

Sub-paragraph h

The canton has its own translation service, whose work includes drawing up essential Romansh legal and administrative terminology. This service co-operates closely with the Lia Rumantscha language service, which develops the Romansh terminology required for various areas of life. In 2001 the regional language services established in 1996/97 for official and semi-official institutions (communes, districts, etc.) were merged into a single central service known as SLING, which also has a website (www.sling-online.ch).

Paragraph 2

A number of cultural institutions, such as the Grisons cantonal library, the language organisation Lia Rumantscha, the Institut dal Dicziunari Rumantsch Grischun and the Romansh Radio and Television Company are based in the Grisons capital, i.e. outside the traditional Romansh language area. For the many Romansh speakers living in Chur, works of Romansh culture are therefore easily available.

Outside the Romansh language area there is a network of Romansh associations which organise cultural events, amongst other things. The Lia Rumantscha helps to fund these activities through annual grants. Romansh radio and television play an important part in disseminating Romansh culture, being broadcast well beyond Romansh language borders.

Paragraph 3

The canton of Grisons supports intercanton and cross-border cultural exchange (Promotion of Culture Act, Section 2.4). It is required by Section 1.2 of the Promotion of Culture Act to take the canton's linguistic diversity into consideration.

2.6 Article 13: Economic and social life

a. Provisions applicable

Paragraph 1, sub-paragraph d; paragraph 2, sub-paragraph b

b. Implementing measures

Paragraph 1, sub-paragraph d

The Lia Rumantscha is involved in promoting use of Romansh in economic and social life. It is helped in this task by cantonal subsidies. In addition to the Lia Rumantscha, the regional language services funded by the Confederation and the canton undertake, amongst other things, translations for banks, tourist organisations, health insurance funds, etc.

Paragraph 2, sub-paragraph b

The Cantonal Bank of Grisons is an independent establishment under cantonal public law. As a cantonal institution, it reflects the canton's trilingualism. It therefore has a trilingual name and also provides a number of forms in Romansh and Italian. The bank's branches in Romansh territory endeavour to employ staff with a command of the regional language.

As a cantonal institution, Rhaetian Railways ensures that it uses both minority languages to a certain extent. A number of markings on trains and in stations are in both Romansh and Italian, and on some trains announcements are also made in Romansh.

2.7 Article 14: Transfrontier exchanges

a. Provisions applicable
Sub-paragraphs a and b

b. Implementing measures

Sub-paragraphs a and b

Conclusion of agreements with foreign States is the Confederation's responsibility. The canton of Grisons is a member of the Alpine Region Working Community (Arge-Alp), which deals with common interests in the cultural, social, economic and ecological fields through transfrontier co-operation. Language matters may be discussed within this framework. Thus a meeting under the auspices of the canton of Grisons was held in Upper Engadine in autumn 1997 on the subject of multilingual schools.

3. Charter provisions and measures to promote Italian

3.1 Article 8: Education

a. Provisions applicable

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

b. Implementing measures

Paragraph 1, sub-paragraph a (iv)

Article 46 of the Grisons cantonal constitution provides that German, Italian and Romansh are the national languages of the canton. Section 1.1 of the Kindergartens Act gives kindergartens the task of fostering language. Needless to say, Italian is the predominant language in kindergartens in Italian-speaking communes.

The canton assumes responsibility for Italian-speaking kindergartens by training Italian-speaking kindergarten teachers. This training is currently being provided by a special department of the teacher training college in Chur. From the 2003/2004 academic year, training for these teachers will be provided by a teachers' college which is going to be set up (Teachers' College Act of 27 September 1998).

Sub-paragraph b (i)

The Compulsory Schooling Act (in force since 1 August 2001), the ordinance implementing this act, and the various school curricula all distinguish between German-language, Italian-language and Romansh-language primary schools. The communes themselves choose the language most appropriate to their schools. Thus the rules relating to schools also allow Italian-language schools to be run in an Italian-speaking area. Since the revision of the Compulsory Schooling Act, early introduction of a second cantonal language as the first foreign language has also been mandatory in communes where primary schools are German-speaking. It is usually Italian that is chosen as the first foreign language.

The canton provides Italian-language primary schools with the necessary teaching materials in Italian (Compulsory Schooling Act, Section 22). Responsibility for this lies with the Education Committee and the canton's school publishers.

The canton provides training for Italian-speaking primary-school teachers. At present they are trained in the Grisons Teacher Training College. Following the revision of the Secondary Schools Act and the adoption of the Teachers' College Act (on 27 September 1998), their training has been completely reorganised. It will in future be provided at tertiary level by the Teachers' College which is going to be established. To guarantee training of Italian-speaking primary school teachers, Italian will be offered as a first language at upper secondary level. A bilingual baccalaureate (Italian/German,

German/Italian) will also be available. The lack of knowledge of Italian is also to be offset by future teachers in the Teachers' College, which will open its doors at the start of the 2003/2004 academic year.

The canton is responsible for providing continued in-service training for teachers, including in languages (Compulsory Schooling Act, Section 38).

Sub-paragraph c (ii)

To extend teaching of a second language, a new model of language-learning will come into effect in upper primary education from the 2002/2003 school year, with the teaching of a second cantonal language and English. At this level, pupils in Italian-language schools will have German, Italian and English lessons.

During revision of the Secondary Schools Act of 27 September 1998, language teaching at upper secondary level was thoroughly reassessed. The main innovation has been the appearance of a bilingual baccalaureate. To obtain a baccalaureate combining Italian and German, Italian must be taken as the first language and two basic subjects must also be studied in Italian. The bilingual Italian/German baccalaureate has been available in the canton of Grisons since the 1999/2000 school year.

At upper secondary level, Italian can be chosen as a foreign language (the second or third national language under the ordinance on recognition of baccalaureates), a special option or a pupil's option.

Pupils resident in the canton of Grisons are also able to enrol for lower secondary education at an Italian-speaking school in the canton of Ticino. It is mainly teenagers from Mesolcina, adjoining Ticino, who take up this option. The canton of Grisons pays subsidies to the canton of Ticino for these pupils (Secondary Schools Act, Section 17ter).

Sub-paragraph d (iii)

In vocational education it is easier to take account of Italian than of Romansh. There is thus a vocational school in Poschiavo where courses are in Italian. In Samedan, where the vocational school is attended by Italian-speaking students, Italian is taught specifically in modules. A large proportion of Italian-speaking students in the canton of Grisons, mainly from Mesolcina and Val Calanca, are able to attend vocational schools in the canton of Ticino, i.e. receive their training in Italian. The canton of Grisons contributes to the cost (Section 29 of the canton's Vocational Training Act).

Sub-paragraph f (iii)

In the canton of Grisons, adult education is run by the private sector. The course programmes of the various organisations usually include Italian courses. The canton makes a contribution to the cost of these courses under Section 6 of the Further Training Act.

Sub-paragraph g

Cultural and literary history is an integral part of Italian teaching in the curricula of Italian-speaking general schools and secondary schools. The revision of the Secondary Schools Act and the broader teaching of Italian have made it possible to teach certain aspects of cultural history, linguistic policy, etc., in greater depth at upper secondary level.

Sub-paragraph h

For teacher training, please see the comments above on the relevant levels of education.

Sub-paragraph i

Inspection of the provision and quality of Italian courses forms part of schools' usual inspection work. It is carried out by the relevant committees and inspectors (Compulsory Schooling Act, Sections 39ff.). Following the revision of the Secondary Schools Act, a new quality-control system was introduced for secondary education. In cantonal schools an outside inspection takes place in addition to internal inspections, and a report on it is sent to the Department of Public Education,

Culture and Environmental Protection. The “2001 Education Report” (*Bildungsbericht 2001*) is a new publication produced by the Department of Public Education, Culture and Environmental Protection which provides information on the main developments at all levels of education in the canton of Grisons. Work relating to Italian is also considered.

Reply to the recommendation in § 198 of the experts' report

Monitoring of the implementation of language directives in primary schools devolves primarily on the communes' school boards. At cantonal level, school inspectors act as supervisors. They check that languages are being taken into account as provided for in the cantonal curricula. The Department of Public Education, Culture and Environmental Protection keeps a list of German-, Romansh- and Italian-language schools.

3.2 Article 9: Judicial authorities

a. Provisions applicable

Paragraph 1, sub-paragraphs a (ii), a (iii), b (ii), b (iii) and c (ii); paragraph 2, sub-paragraph a; paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraph a (ii)

Following the referendum of 12 March 2000, the Grisons courts have been entirely re-organised, especially the courts of first instance. The former district courts have disappeared. Presiding district judges deal with simple cases. In the new district courts, the language used is not determined by cantonal law. Normally it is the districts which are responsible for choosing it. If a district is in an Italian-speaking area, Italian may be chosen as the language of the case and the proceedings may be conducted in that language. This practice is confirmed by Federal Court case-law on the territoriality principle. In practice, the question of the language to be used in court is not governed by any express provisions: the fact that Italian-speaking parties express themselves in their own language in courts in Italian-speaking areas is more in the nature of a custom.

Italian is a national language of the canton under Article 46 of the cantonal constitution and may therefore be used in criminal proceedings. This is stated in Article 28 of the ordinance on the organisation and administration of the cantonal court in the following terms: “The languages which may be used in court are the national languages within the meaning of the cantonal constitution.” For preliminary inquiries, the Code of Criminal Procedure provides in Article 87.4 that statements made by the accused and the witnesses must be included in the record of the hearing in a national language of the canton within the meaning of Article 46 of the cantonal constitution.

Sub-paragraph a (iii)

Inasmuch as Italian is held to be a language which may be used in court, requests and evidence can be formulated in this language.

Sub-paragraph b (ii) and (iii)

See comments for sub-paragraph a (ii) and (iii).

Sub-paragraph c (ii)

Reply to the recommendation in § 210 of the experts' report

Under Section 20 of the law on administrative courts in the canton of Grisons, the languages of the administrative courts are the national languages of the canton within the meaning of the cantonal constitution. Italian is therefore one of these languages. If parties to administrative proceedings have to appear before the courts, they may use Italian. Article 13 of the ordinance on the organisation, administration and emoluments of administrative courts, which specifies German as the sole language of proceedings, cannot alter this: Section 20 of the law on administrative courts takes precedence. The canton of Grisons intends to amend the above-mentioned ordinance.

Paragraph 2, sub-paragraph a

Under Swiss law the validity of legal documents does not depend on the language used. The choice of language is a private matter for the parties concerned. It is therefore possible to use Italian in all legal matters. Italian can of course also be used for the purpose of authenticating legal documents.

Paragraph 3

Article 1.2 of the ordinance on publication of a new compendium of Grisons laws and management of the official compendium of laws makes the government responsible for publishing the main cantonal statutes in Italian. The Italian version of the compendium of laws now includes virtually all the statutes already existing in German.

3.3 Article 10: Administrative authorities and public services

a. Provisions applicable

Paragraph 1, sub-paragraphs a (i), b and c; paragraph 2, sub-paragraphs a, f and g; paragraph 3, sub-paragraph b; paragraph 4, sub-paragraphs a and c; paragraph 5

b. Implementing measures

Paragraph 1, sub-paragraph a (i)

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). The cantonal administration of Grisons is therefore required also to use Italian in its official activities. The status of Italian as a minority language in the canton of Grisons nevertheless means that official use of the language is usually ensured by translations. The details, especially as regards which documents must be translated, are governed by the government directives on translation of official documents into Italian and Romansh.

Sub-paragraph b

Article 10 of the government directives on translation of official documents into Italian and Romansh requires departments and services to draft samples in Italian for decisions and letters whose content is repeated. This requirement has been met in part for Italian.

Sub-paragraph c

Italian is held to be an official language under Article 46 of the cantonal constitution and must in principle be used by the canton's administrative authorities in their official activities.

Paragraph 2, sub-paragraphs a and f

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). The choice of language(s) used officially at communal and regional levels is a matter for the relevant commune or regional association (of communes). Italian-speaking communes and regional associations may therefore decree that Italian is the official language. This means that Italian can be used by the authorities and also by individuals in their relations with the authorities. In Italian-speaking communes and regional associations, official documents are usually published in Italian and meetings are held in Italian.

If the new language article is accepted in the form proposed by the Grand Council for the revision of the cantonal constitution, the communes will in future be obliged to determine their official language(s) and the language(s) of tuition in schools in consultation with the canton. The referendum on the complete revision of the cantonal constitution will be held in 2003.

Sub-paragraph g

In the Italian-speaking part of the canton of Grisons, use of traditional Italian place names is a matter of course. The listing and altering of names of localities, districts and communes are governed by the ordinance of 30 December 1970 on the names of places, communes and railway stations (RS 510.625). Article 3 of this ordinance states that the main criterion when listing or altering these names is accuracy. The Federal Department of Justice and Police, the Federal Department of Home Affairs and

the Federal Department of the Environment, Transport, Energy and Communications can appeal against a name change demanded by a canton. It is the Federal Council which settles appeals concerning name changes.

Paragraph 3, sub-paragraph b

The official languages of the canton of Grisons are German, Italian and Romansh (Article 46 of the cantonal constitution). This means that any Italian speakers may use their mother tongue when dealing with the cantonal authorities. Replies are usually drafted in the same language as the letters received: an application drafted in Italian will therefore be answered in Italian.

Paragraph 4, sub-paragraph a

The canton of Grisons has a professional translation department responsible for ensuring systematic use of Romansh and Italian as official languages (Article 5 of the government directives on translation of official documents into Italian and Romansh).

Sub-paragraph c

For vacancies in public services whose work affects the canton's Italian-speaking region, knowledge of Italian is generally required, or the candidate's attention is drawn to the fact that knowledge of Italian would be an advantage.

Paragraph 5

Civil status, and therefore the family register in which the decisive family names appear, is largely governed by federal law, which does not limit the use of Italian surnames.

3.4 Article 11: Media

a. Provisions applicable

Paragraph 1, sub-paragraphs a (i) and e (i); paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraph a (i)

Legislation concerning radio and television is a matter for the Confederation. Section 3.1 (b) of the Federal Radio and Television Act requires the electronic media to take account of the diversity of the country and its inhabitants and to convey this to the public. Under Sections 27.1 and 27.2 of the Federal Radio and Television Act and Clause 1 (a) and (b) of its franchise, SSR, the provider of national and regional programmes, operates three radio stations and one television channel for Italian-speaking Switzerland.

Sub-paragraph e (i)

With its three regional newspapers and its Italian-language dailies printed in Ticino, the Italian-speaking part of the canton of Grisons has a satisfactory range of print media. There is consequently no need to introduce additional measures to promote the Italian language.

Paragraph 3

SSR, the national radio and television company, is divided into four regional companies. The Italian-language radio and television company, Società Cooperativa per la Radiotelevisione nella Svizzera Italiana, is one of these four (cf. Clause 6 of the SSR franchise).

3.5 *Article 12: Cultural activities and facilities*

a. Provisions applicable

Paragraph 1, sub-paragraphs a, b, c, d, e, f, g and h; paragraph 2; paragraph 3

b. Implementing measures

Paragraph 1, sub-paragraphs a, b, c and d

The new Promotion of Culture Act of the canton of Grisons entered into force on 1 January 1998. Section 1.2 provides that the promotion of cultural life is to include the linguistic diversity of the canton's regions and population groups. Cantonal promotion of culture therefore specifically encompasses Italian culture as well. Principal encouragement is given to Italian speakers' own initiatives and forms of expression. In addition, works in foreign languages are translated into Italian, and Italian works are translated into other languages.

The Promotion of Culture Act particularly mentions the safeguarding and protection of the canton's trilingualism and of minority languages as a field for promotion (Sections 3 (c) and Section 12.1). At the same time as giving direct support to specific measures in this sphere, the canton also promotes and safeguards Italian language and culture by paying annual subsidies to the Pro Grigioni Italiano language organisation (Section 6 of the Act, and Grand Council decree of 27 September 1983 on increasing the annual cantonal subsidy to the Lia Rumantscha and the Pro Grigioni Italiano association). Apart from the canton, it is the main organisation to foster cultural creativity in theatre, music, literature, etc., and make it available to the public. The Italian-speaking population of Grisons can also take advantage of the rich cultural heritage of its neighbours, Italy and the canton of Ticino.

Sub-paragraphs e and f

The Committee for the Promotion of Culture, which plays a central part in implementing the Promotion of Culture Act, must include among its members specialists in the various language and cultural fields (Section 18 of the Act). Half the staff of the new cantonal Office of Culture have a command of Italian.

Sub-paragraph g

The Grisons cantonal library is responsible for collecting and making available works relating to the canton of Grisons in all media, and therefore works on Italian language and culture (Articles 3 (a) and 4 of the government ordinance on the Grisons cantonal library).

Sub-paragraph h

The canton has its own translation service, which is responsible for use of Italian in the official field. Unlike Romansh, Italian can draw on the linguistic and cultural reserves of a neighbouring country. Maintaining and developing appropriate terminology is thus less important than for Romansh.

Paragraph 2

Outside the Italian-speaking area (in Chur, for example) there is a network of Italian-language associations which organise cultural events, amongst other things. Pro Grigioni Italiano helps to fund these activities through annual grants.

Italian-language radio and television play an important part in disseminating Italian culture, being broadcast well beyond the language borders of Grisons and Ticino. The first channel of Ticino television and at least one Italian-language radio station are broadcast nationally (Clauses 2.1 (a) and 3.7 of the SSR franchise).

Paragraph 3

The canton of Grisons supports intercantonal and cross-border cultural exchange (Promotion of Culture Act, Section 2.4). It is required to take the canton's linguistic diversity into consideration under Section 1.2 of the Promotion of Culture Act.

3.6 Article 13: Economic and social life

a. Provisions applicable

Paragraph 1, sub-paragraph d; paragraph 2, sub-paragraph b

b. Implementing measures

Paragraph 1, sub-paragraph d

Use of Italian in economic and social life is less problematic than the use of Romansh. Whenever necessary, Pro Grigioni Italiano supports the use of Italian in this field.

Paragraph 2, sub-paragraph b

The Cantonal Bank of Grisons is an independent establishment under cantonal public law. As a cantonal institution, it reflects the canton's trilingualism. It therefore has a trilingual name and also provides a number of forms in Romansh and Italian. The bank's branches in Italian-speaking territory endeavour to employ staff with a command of the regional language.

As a cantonal institution, Rhaetian Railways ensures that it uses both minority languages to a certain extent. Some markings on trains and in stations are in both Romansh and Italian, and announcements are also made in Italian on trains.

3.7 Article 14: Transfrontier exchanges

a. Provisions applicable

Sub-paragraphs a and b

b. Implementing measures

Sub-paragraphs a and b

Conclusion of agreements with foreign States is the Confederation's responsibility. The canton of Grisons is a member of the Alpine Region Working Community (Arge-Alp), which deals with common interests in the cultural, social, economic and ecological fields through transfrontier co-operation. Language matters may be discussed within this framework. Thus a meeting under the auspices of the canton of Grisons was held in Upper Engadine in autumn 1997 on the subject of multilingual schools.

II Report by the canton of Ticino on application of the Charter

1. Background information

The constitution of the republic and canton of Ticino (14 December 1997) provides in Article 1.1 that “the canton of Ticino is a democratic republic of Italian language and culture”.

In the message of 20 December 1984 on the complete revision of the cantonal constitution of 4 July 1830, we may read, in the comments on this first article:

“In addition to referring to democracy and to Italian language as a feature of our canton, we have also introduced an explicit reference to Italian culture, since the fact that the canton of Ticino forms part not only of the Italian language area but also of the Italian cultural area is an essential element of its history and an integral part of its identity. Moreover, this clear reference to Italian language and culture is not mere rhetoric but represents an important commitment which the Ticino people and authorities must honour in order to promote their own identity even more effectively.”

The regulation of 10 October 1995 implementing the law on Ticino citizenship, pursuant to Section 9.2 of the law of 8 November 1994 on Ticino citizenship, provides in Article 3 (for Swiss

citizens) and Article 7 (for aliens) that “as part of these confirmation measures, the applicant shall undergo an oral examination to test his knowledge of Italian.”

2. Charter provisions and measures to promote Italian

2.1 Article 8: Education

In the canton of Ticino, the provisions of Article 8.1 of the Charter (sub-paragraphs a (i), b (i), c (i), d (i), f (i), g and h) have been fully implemented under existing school legislation. Section 1.3 of the Schools Act of 1 February 1990 provides that “education shall be provided in Italian with due regard for freedom of conscience”.

With the establishment of the University of Italian Switzerland, we may now add to the above-mentioned provisions of Article 8.1 that of sub-paragraph e (i) relating to “university and other higher education in regional or minority languages”. Section 1.4 of the law of 3 October 1995 on the University of Italian Switzerland and the University of Applied Sciences of Southern Switzerland provides that “the official language of the University shall be Italian”.

In the field of education, the canton of Ticino is focusing its efforts on the following fields:

2.1.1 Strengthening the position of Italian in schools in the canton of Ticino

The position of Italian in the canton's schools is being strengthened through the following measures:

- Teaching in Italian: As a rule all non-language subjects in all schools are taught in Italian, which is the mother tongue of 80.6% of the pupils attending Ticino schools (2001/2002 school year).
- Teaching of Italian language and culture: Italian as a subject is taught with a respectable number of weekly lessons at all levels and standards of education (during primary school: 5¼ hours in lower primary and 4½ hours in upper primary; during the four years of lower secondary school: 6-5 weekly lessons in the first stage and 5-4 weekly lessons in the second stage).

2.1.2 Familiarisation with Italian language and culture for young non-Italian speakers living in the canton

The Schools Act of 1 February 1990 provides the legal basis for measures relating to pupils who do not speak Italian. Section 72.1 states, “In schools of all levels and all standards it shall be possible to organise Italian-language classes for pupils speaking another language who are unable to keep up with classes normally; steps may be taken in particular to encourage mainstreaming of pupils from non-Italian-speaking countries whilst safeguarding their cultural identity.”

The arrangements for Italian-language classes and mainstreaming activities are laid down in the regulation of 31 May 1994 on Italian-language classes and mainstreaming activities. These classes are intended mainly for pupils having recently arrived in Ticino and having no knowledge of Italian at all or only a very rudimentary knowledge. At the same time as these classes (which last two years), pupils speaking other languages usually attend normal Italian classes together with their classmates.

Preliminary classes for mainstreaming young people aged over 15 who have not been living in the canton long and who have to familiarise themselves with Italian language and culture (cf. Article 35 of the regulation implementing the law of 20 October 1998 on educational and vocational guidance and on vocational and further training) are also available. In addition, the Department of Education and Culture organises between 10 and 15 adult-education classes a year in Italian as a foreign language.

2.1.3 Safeguarding the cultural identity of young non-Italian speakers living in the canton

Various communities of foreign nationals can attend language and civilisation courses in their native language, usually organised by their respective consulates. For these courses they can, upon request, use premises in State establishments (cf. Schools Act of 1 February 1990, Section 17, which governs the use of school premises belonging to the State). In special cases, these communities can also obtain subsidies, again upon application. Many schools (especially primary and lower secondary schools) encourage contacts between teachers in State schools and teachers giving classes organised by communities of foreign nationals (or, in many cases, by consulates). To facilitate mainstreaming of non-Italian-speaking pupils in the Ticino school system, Article 51.4 of the regulation of 18 September 1996 on lower secondary schools provides that “in special cases, French or German classes can be replaced by English classes for pupils whose mother tongue is not Italian. The decision shall depend on the board of governors”.

In 2001 the Swiss Conference of Cantonal Ministers of Education published the Swiss version in French, German, Italian and English of the European Language Portfolio (ELP) (<http://www.sprachenportfolio.ch>) for young people and adults. The ELP, a Council of Europe project, is both a tool and a record. It comprehensively documents the language proficiency acquired at and outside school in a transparently and internationally comparable manner. It bears the logo not only of the Swiss Conference of Cantonal Ministers of Education but also of the Council of Europe and recognises the language proficiency of multilingual pupils. The ELP is now also beginning to become widespread in Ticino schools.

2.1.4 Making the canton's young Italian speakers receptive to other languages and cultures and encouraging the learning of other national and foreign languages

Mention should here be made of the considerable efforts that the canton has made, and is still making, to offer pupils in Ticino schools high-quality language teaching.

French is compulsory from the third year of primary school and German from the second year of secondary school (the seventh year of compulsory schooling); English is at present taught as an option in the fourth year of secondary school (currently under consideration are possible changes in order to extend the teaching of English during compulsory schooling). By the end of their compulsory schooling, all pupils at Ticino schools have therefore studied French for seven years and German for three, and a large number have studied English for at least one year.

In October 2002 the Council of State approved a reform designed to strengthen multilingualism and the teaching of Italian. It will be introduced step by step from the 2003/2004 school year to become general by 2006/2007. It includes the following measures:

- For French: Compulsory classes from the third year of primary school to the second year of secondary school; availability of other forms of teaching (immersion courses, exchanges, etc.) in the third and fourth years of secondary education; possibility of studying French in post-compulsory education as well.
- For German: Compulsory classes from the second year of secondary school and extension of German teaching to all vocational schools.
- For English: Compulsory classes from the third year of secondary school; continuation guaranteed in post-compulsory education.

The canton of Ticino is one of only two Swiss cantons (the other being Grisons) to make classes in two other national languages compulsory for all pupils.

The adult-education classes established by the canton of Ticino also offer over 250 annual language courses every year (in English, German, Spanish, advanced Italian, Russian, modern Greek and French).

In addition to these language-teaching measures, the canton encourages language learning in various ways:

- By promoting individual and class exchanges;
- By encouraging bilingual teaching initiatives and other innovations. The Schools Act of 1 February 1990 allows innovations and pilot schemes such as bilingual teaching in the third and fourth years of the cantonal business school in Bellinzona (an initiative it is not yet possible to assess on the basis of currently available data);
- By subsidising language courses in other regions of Switzerland and abroad (2 to 3 million Swiss francs every year);
- By supporting private initiatives such as “Languages and Sport”, which for over twenty years has been organising sports and language (German, French and English) courses during the summer holidays; in view of their success, these courses, which were originally designed for secondary school pupils, have been extended to primary school level.

But exchanges with other language regions also involve fields outside education. Thus the regulation of 6 March 1996 on the police states, in Article 36.3, “A chief inspector may enter into agreements on temporary exchange of officers with other cantons for the purposes of language learning and instruction, based on the principle of reciprocity.”

2.1.5. Promoting Italian language learning/teaching outside Italian-speaking Switzerland

The position of Italian in the school systems of other cantons – with the notable exception of Grisons – is very precarious.

Since 1970 the Department of Education and Culture has been organising “courses in Italian language and culture” with its counterpart in the canton of Aargau for teachers of all levels and standards. In all, over 1000 German-speaking Swiss teachers have attended these summer schools since they started.

The Department of Education and Culture has helped to introduce Italian in compulsory schooling in the canton of Uri by providing technical assistance and financial support; it has thus collaborated in producing teaching materials and has been organising teaching and language-training courses for all teachers in this canton (since 1991). These are intensive Italian-language courses (two 4-week summer schools for each of the 190 teachers) and courses on teaching Italian as a foreign language.

The canton of Uri has dropped the teaching of Italian as a second foreign language in favour of English. In fact, the growing importance of English makes it harder to promote and encourage the spread of the Italian language at federal level. The weakening of the chairs in Italian language and civilisation at the Zürich Federal Institute of Technology (which is highly symbolic) and in Swiss universities is a revealing sign.

2.2 Article 9: Judicial authorities

The legislation of the canton of Ticino complies with Article 9 of the Charter.

The following legislative provisions are determining:

- The Code of Civil Procedure of 17 February 1971;
- The Code of Criminal Procedure of 19 December 1994;
- The Federal Debt Enforcement and Bankruptcy Act of 27 April 1992;
- The cantonal law of 12 March 1997 implementing the Federal Debt Enforcement and Bankruptcy Act (Section 21);

- The Procedure Act of 6 April 1961 for cases before the cantonal insurance court (Section 1a);
- The Legal Practitioners Act of 15 March 1983, Section 8: “In correspondence, annexes and oral statements to the Ticino authorities, the legal practitioner shall use the Italian language”;
- The Notaries Act of 23 February 1983; this provides that to be eligible for a notary examination candidates must “be familiar with the Italian language” (Section 17.1) and that official documents must be drafted in Italian or in another language, provided that the notary and the parties concerned are familiar with it (Section 47).

Mention is again made here of the recommendation in the experts' report (§ 210) to which a reply has already been given in Part 1, 5.1.

2.3 Article 10: Administrative authorities and public services

Existing law in the canton of Ticino fully complies with the measures provided for by Article 10, paragraphs 1 a (i), 1 b, 1 c, 2 a-g, 3 a, 4 b and 5, of the Charter. The Procedure Act of 19 April 1966 for administrative cases constitutes the legal basis for use of Italian in official relations with the cantonal and communal authorities. Section 8 of the Act provides that “applications and appeals, as well as complaints and, in general, all allegations that can be decided by cantonal, communal, borough or parish authorities, or by other similar public bodies, must be drafted in Italian”.

The Committee of Ministers states that it was made aware of the fact that use of Italian by the federal authorities did not satisfy the Charter requirements. Grievances related in particular to the lack of Italian-speaking staff within the federal administration and delays in delivery of translated documents, if available.

To this may be added a to some extent new phenomenon: national websites generally exist only in French and German (or English). There is no Italian version or, if there is, only for the home page.

2.4 Article 11: Media

As far as they are the responsibility of the canton of Ticino, existing law and practice comply with Article 11 of the Charter.

The existence and operation of Italian Swiss Radio and Television (which in 1997 broadcast 26 294 hours of radio and 6510 hours of television) fully complies with Article 11, paragraph a (i) of the Charter (cf. also the Federal Radio and Television Act of 21 June 1991).

Since autumn 2002 four daily newspapers in Italian have been published in the canton of Ticino (before 1995 there were five). To these may be added numerous Italian-language publications appearing twice or thrice weekly, weekly, bi-monthly and monthly. On the other hand, very few titles are published in other languages (a German-language newspaper appears three times a week). Ticino is one of the European regions with the highest press density.

The Vocational Schools Act of 2 October 1996 provides in Section 21 for a “journalism course” with the status of an advanced training school and designed to “prepare students for professional careers in journalism” (cf. also the regulation on the journalism course in Italian-speaking Switzerland of 27 August 1997). In this connection, mention should be made of training and research at the Faculty of Communication Sciences of the University of Italian Switzerland, established by the 1995 Act.

2.5 Article 12: Cultural activities and facilities

The annual reports delivered by the Department of Education and Culture to the Federal Office of Culture explain the canton's numerous cultural activities and facilities, as well as the use made of the financial aid granted by the Confederation to Ticino for the protection of its language and culture.

2.6 Article 13: Economic and social life

Existing law and practice in the canton of Ticino comply with the provisions of Article 13, paragraphs 1 d and 2 b of the Charter. Section 59.1 of the Public Establishments Act of 21 December 1994 states that “a price list for the main dishes and beverages and any supplementary charges, in Italian, shall be displayed outside public establishments”.

Section 5 of the Public Signs and Notices Act of 29 March 1954 provides as follows:

“Signs, whether permanent or temporary, shall be in Italian. To these signs may be added, in characters no larger and no more prominent than the original text, a translation into one or more national or foreign languages, presented in such a way as to make it clear that it is a translation.

“This section shall not apply to the commune of Bosco-Gurin.”

(cf. also Article 4.1 of the regulation of 16 October 1988 implementing the Public Signs and Notices Act: “They shall not be subject to authorisation if they are in Italian.”)

2.7 Article 14: Transfrontier exchanges

In economic and social life, education, culture, as well as other fields, there are extremely active transfrontier exchanges between Italy and the canton of Ticino, especially with the Italian border provinces, which are associated with the canton of Ticino in the Regio Insubrica working community. Co-operation in many fields is starting to be established between Ticino and Italian local and provincial bodies.

The legislative decree of 18 August 1980 on allocation of a credit line for transfrontier co-operation allocates an annual credit line of CHF 3 million to fund transfrontier co-operation activities.

The legislative decree of 10 March 1998 on the new regulation of relations between the canton of Ticino and the commune of Campione d'Italia, which takes account of the Framework Agreement on Transfrontier Co-operation signed between the Swiss Confederation and the Republic of Italy in 1993, regulates the age-old special relations that have grown up between the commune of Campione d'Italia and the canton of Ticino.

APPENDIX: TABLES, MAPS AND DIAGRAMS²⁴

| | |
|----------------|---|
| Table 1: | Resident population by main language and nationality (absolute figures and %), 1990 and 2000 |
| Table 2: | Cantonal resident populations by main language (%), 2000 |
| Table 2 (ctd): | Cantonal resident populations by main language (%), 1990 |
| Table 3: | Cantonal resident populations by main language (% variation), 1990 to 2000 |
| Table 4: | Communes having changed language area between 1970 and 2000 and their resident populations |
| Table 5: | National and non-national languages by language area (absolute figures and %), 2000 |
| Table 6: | National and non-national languages of nationals from the countries of former Yugoslavia (absolute figures and %), 2000 |
| Table 7: | Resident population by main language with at least 600 speakers (absolute figures), 2000 |
| Maps 1 to 3: | Resident population by main language, 2000: national languages |
| Maps 4 to 6: | Resident population by main language, 2000: non-national languages |
| Diagram 1: | Resident population by main language (%), 1990 and 2000 |
| Diagram 2: | Resident population by nationality, place of birth and national language (%), 2000 |
| Diagram 3: | Resident population by age, gender, place of birth and national language (%), 2000 |
| Diagram 4: | National languages by speakers' age, gender and nationality (%), 2000 |
| Diagram 5a: | National languages by speakers' age, gender and place of birth (%), 2000 |
| Diagram 5b: | Non-national languages by speakers' age, gender and place of birth (%), 2000 |

²⁴ The appendices are available for consultation from the Secretariat of the European Charter for Regional or Minority Languages.