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European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN DENMARK

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

The European Charter for Regional or Minority Languages provides a control mechanism for evaluating application of the Charter in states parties with a view to, where necessary, making recommendations for improving legislation, policy and practices. The central element of this procedure is the Committee of Experts, set up under Article 17 of the Charter. Its principal purpose is to report to the Committee of Ministers on its evaluation of a party's compliance with its undertakings, to examine the real situation of regional or minority languages in the State and, where appropriate, to encourage the Party to gradually reach a higher level of commitment.

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

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

Having concluded this process, the Committee of Experts adopts its own report. This report is submitted to the Committee of Ministers, together with suggestions for recommendations that the latter could decide to address to one or more Parties, as required.

CONTENTS

A.	Report of the Committee of Experts on the application of the Charter in Denmark.....	4
	Chapter 1. Background information	4
	1.1. <i>The Charter's ratification by Denmark</i>	<i>4</i>
	1.2. <i>Work of the Committee of Experts</i>	<i>4</i>
	1.3. <i>Presentation of the regional or minority language situation in Denmark</i>	<i>5</i>
	1.4. <i>General legal framework.....</i>	<i>6</i>
	1.5. <i>General issues arising in the evaluation of the application of the Charter in Denmark</i>	<i>6</i>
	Chapter 2. The Committee of Experts' evaluation in respect of Part II and Part III of the Charter	8
	2.1 <i>The evaluation in respect of Part II of the Charter</i>	<i>8</i>
	2.2 <i>The evaluation in respect of Part III of the Charter</i>	<i>12</i>
	Chapter 3 Findings of the Committee of Experts.....	24
	APPENDIX I : INSTRUMENT OF RATIFICATION	26
	APPENDIX II: COMMENTS BY THE DANISH GOVERNMENT	28
B.	Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Denmark.....	31

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

adopted by the Committee of Experts 21 November 2003
and presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

Chapter 1. Background information

1.1. The Charter's ratification by Denmark

1. Denmark signed the *European Charter for Regional or Minority Languages* (hereafter referred to as the Charter) on 5 November 1992. On 24 November 1999, the Danish Minister for Foreign Affairs presented a proposal for a parliamentary resolution on Denmark's ratification of the Charter (motion for resolution No. B 50). On 29 May 2000, the Danish Parliament (the Folketing) gave its approval for ratification. The instrument of ratification was deposited with the Council of Europe on 8 September 2000. The Charter entered into force in Denmark on 1 January 2001.

2. The instrument of ratification is set out in Appendix I of this report. The instrument specifies that the Charter will apply to German in respect of the German minority in Southern Jutland (Sønderjylland). At the time of ratification, the Danish authorities made a declaration concerning the Faroese language and Greenlandic. On the basis of the Acts on the Home Rule of the Faroe Islands and the Greenland Home Rule, Denmark stated that the government does not intend to submit periodical reports as far as these languages are concerned. The Committee of Experts interprets the declaration to cover the languages within the areas where the Home Rule Acts apply.

3. In accordance with Article 15.1 of the Charter, the initial periodical report on the application of the Charter in Denmark was due by 1 January 2002. It was presented to the Secretary General of the Council of Europe on 3 December 2002, almost a year after the official deadline. The Danish Ministry of the Interior and Health drafted the report, with comments and contributions from certain associations and regional authorities¹. The report has been made public on the official website of the Ministry of the Interior and Health (<http://www.im.dk>).

1.2. Work of the Committee of Experts

4. After the Committee of Experts had made its preliminary examination of the initial report, a questionnaire was drawn up and addressed to the Danish authorities. The Committee of Experts organised its "on-the-spot" visit to Denmark in May 2003. The Committee of Experts first visited Aabenraa, Southern Jutland (North-Schleswig), where it met representatives of local authorities, as well as representatives of German speakers, including organisations active in the areas of education, media, and culture. The visit ended in Copenhagen where the Committee of Experts had meetings with relevant state authorities², the Representation of the Faroese Islands and the Greenland Representation, as well as with an NGO representing Roma and finally a staff member of the Danish Institute for Human Rights.

5. The Committee of Experts received a number of comments and additional information from independent organisations and associations, which were very helpful for the evaluation of the implementation of the Charter in Denmark.

6. The Committee of Experts has drawn up a list of general proposals for recommendations which the Committee of Ministers may consider addressing to Denmark, in accordance with Article 16.4 (Chapter 3.2 of this report). The Committee of Experts has also made, where necessary, more detailed observations in the body of the report, which it encourages the Danish authorities to take into consideration when developing their regional or minority language policy.

¹ the Secretariat to the German Minority in Copenhagen, the Danish Institute of Border Region Studies, the Sønderjylland County, and the Association of Local Authorities in Southern Jutland.

² The Ministry of Foreign Affairs, the Ministry of the Interior and Health, the Ministries of Education, Culture, and Justice, the Danish Broadcasting Corporation, and the Association of Local Authorities.

7. This report is based on the political and legal situation prevailing in Denmark when the Charter entered into force (January 2001), and when Denmark presented its initial periodical report to the Council of Europe (December 2002). It is also based on information obtained by the Committee of Experts through the sources mentioned above. The report was adopted on 21 November 2003.

1.3. *Presentation of the regional or minority language situation in Denmark*

8. At the time of ratification, Denmark declared that the Danish Realm comprises Denmark, the Faroe Islands and Greenland. Denmark also made a declaration to the effect that it did not intend to present periodical reports under Article 15 of the Charter in respect of the Faroese and Greenlandic languages.

9. Denmark declared at the time of ratification that the Charter shall apply to German, in respect of the German minority language in Southern Jutland.

10. German is traditionally spoken in Southern Jutland, to the north of the German-Danish border. German speakers live mainly in North Schleswig, just as a Danish-speaking minority lives in Germany close to the border in the *Land* Schleswig-Holstein. Today's German-Danish border was laid down following two referendums organised in 1920 in accordance with the Treaty of Versailles, as a result of which North Schleswig was united with Denmark. After the Second World War, this border was confirmed by the two States, as well as the majority and minority populations on both sides.

11. The German minority is estimated to have 15 000 – 20 000 members, most of whom have Danish nationality and are fluent in both German and Danish. German speakers reside mainly in the southern and western parts of the Sønderjylland County, where they constitute between 5 and 20 per cent of the population in some local authority areas. There is no precise information concerning the boundaries of the settlement area of German speakers. However, the German-speaking minority's political party is represented in the local authorities of five municipalities, namely Højer, Løgumkloster, Tinglev, Tønder and Aabenraa.

12. The German-speaking minority is officially represented by the "Bund Deutscher Nordschleswiger" and its political party, the Schleswigsche Partei (Slesvigsk Parti). A Liaison Committee concerning the German-speaking minority – a forum allowing representatives of the German-speaking minority to negotiate domestic policy affairs with the government and political parties – was set up in 1965. In 1983, a Secretariat to the German-speaking minority was also established in Copenhagen which represents the interests of the minority vis-à-vis the Parliament and the Danish government.

13. By virtue of the Home Rule Act of 23 March 1948, the Faroe Islands enjoy considerable autonomy in their internal affairs, including language policies, as a "self-governing community". The principal language of the Islands is Faroese, a Germanic language of the Nordic variant. Danish may be used as well as Faroese in public affairs as stipulated in section 11 of the Home Rule Act of the Faroe Islands. When cases of appeal are submitted all Faroese documents shall be accompanied by a Danish translation. In other cases, the principal language of the court is Faroese, pursuant to section 149 of the Act of Administration of Justice in the Faroe Islands. According to the information received by the Committee of Experts from the Home Rule representation in Copenhagen, there are around 12 000 Faroese speakers in mainland Denmark.

14. Greenland also has an autonomous status as a "distinct community within the Kingdom of Denmark", the terms of which are governed by the Greenland Home Rule Act of 29 November 1978. The majority population in Greenland speaks Greenlandic, a language of the Eskimo-Aleut family, Danish being spoken by a minority. According to the Home Rule Act, section 9 "(1) Greenlandic shall be the principal language. Danish must be thoroughly taught. (2) Either language may be used for official purposes". According to the information received by the Committee of Experts from the Home Rule representation in Copenhagen, there are around 10 000 speakers of Greenlandic in mainland Denmark.

15. In their initial report, the Danish authorities state that speakers of Romani only arrived in Denmark in the late 1960s, and that Romani is therefore not a language traditionally spoken in Denmark. According to the Danish authorities, the absence of a historical or long-term connection of the Romani language with Denmark implies that the Charter will not apply to Romani. This view has been contested and will be dealt with in paragraph 29.

1.4. *General legal framework*

16. With the notable exceptions of the Danish Act on Private Independent Schools and Private Independent Basic Schools and the Danish Library Act, which contain a special provision for German private schools and libraries respectively, the existing legal framework does not make any reference to the German language in Denmark.

17. In their initial report, the Danish authorities have drawn the Committee of Experts' attention to the Copenhagen-Bonn Declarations of 1955, concerning the rights of the minorities on both sides of the Danish-German border. The Copenhagen Declaration is of particular importance with regard to the use of German in Denmark, as its counterpart, the Bonn Declaration is for the use of Danish in Germany. Article 2, paragraph 2 of the Copenhagen Declaration provides that members of the German-speaking minority and their organisations may not be hindered from speaking and writing the language of their choice, and that the use of the German language in courts and administrative agencies shall be governed by the relevant legal provisions. Despite the fact that it is not a legally binding instrument, the Copenhagen Declaration is considered a strong political tool by German speakers.

18. The Danish authorities consider that the existing regulations comply with the principles of the Charter. Consequently, the Danish authorities did not adopt new legislation, amend existing legislation or take other measures in connection with the obligations that Denmark undertook by ratifying the Charter.

1.5. *General issues arising in the evaluation of the application of the Charter in Denmark*

19. The Committee of Experts notes that Denmark has a particular situation with respect to regional or minority languages due to a relative linguistic homogeneity compared with many other States Parties. Consequently, despite the fact that Danish is not explicitly defined as the official language in the Constitution or in Danish legislation, it is practically the only language used in public life in Denmark. The Danish legal framework is furthermore characterised by the absence of a linguistic policy for the German language in particular.

20. The principle of local self-government is an important element of the internal structure of the Danish State. The Committee of Experts acknowledges that this has had a beneficial impact for the German speakers overall, as they can influence local policies in the areas where German has been traditionally spoken. However, this situation might cause difficulties concerning the implementation of Denmark's undertakings under the Charter. The responsibility for the implementation of the Charter rests with the central authorities, despite the fact that German is spoken mainly at the regional and local levels. In many policy areas, local and regional authorities merely receive recommendations from the central State and are otherwise free to take their own decisions. Bearing in mind that Denmark has a "dualist" system under which international agreements to which Denmark becomes a party are not automatically incorporated into domestic law, the Committee of Experts considers that a more proactive stance from the central authorities is necessary to ensure Denmark's compliance with its undertakings ensuing from the Charter.

21. It has also been brought to the attention of the Committee of Experts that the Danish authorities tend to justify the absence of a proactive approach and a minority language policy vis-à-vis the German-speaking community by reference to the fact that all members of this community are fluent in Danish. In this context, the Committee of Experts would like to emphasise that the Charter aims to promote the use of regional or minority languages in public and private life. Therefore, in the opinion of the Committee of Experts, the fluency of regional or minority language speakers in the official majority language does not justify a lack of active promotion of these languages.

22. Both the Faroese and the Greenlandic Home Rule Authorities were consulted prior to ratification, in accordance with the respective Home Rule Acts. The two authorities also had bilateral discussions. The Committee of Experts is not aware, however, of the extent to which the speakers of these two languages have been informed of the Charter and the benefit the application of the Charter would entail for these languages.

23. Although the Greenlandic authorities initially intended the Charter to be applicable to Greenlandic as a regional language, both authorities finally decided that Faroese and Greenlandic enjoy a sufficient degree of protection by virtue of the respective Home Rule Acts. As a result, Denmark declared at the moment of ratification that the Charter shall not apply to these two languages.

24. Even though the Greenlandic and Faroese languages enjoy a high level of legal protection within the respective home rule areas, the Committee of Experts would have welcomed that these languages be covered by the Charter. It considers that the protection afforded to these languages by the respective Home Rule Acts is compatible with the special protection granted by the Charter.

25. From the discussions between the delegation of the Committee of Experts and the two representations in Copenhagen, it appears as if the situation of the Faroese language is good. The Committee of Experts welcomes this. The Committee, however, was unable to obtain a clear picture of the situation in Greenland. It would seem from information made available to the Committee of Experts that there are problems in a number of areas in Greenland.

26. The Committee of Experts therefore encourages the Danish authorities to renew consultations with the Home Rule Authorities of the Faroe Islands and Greenland on a possible extension of the application of the Charter in the Home Rule areas.

27. The Committee of Experts did not receive any information from the Danish authorities concerning the situation of the Greenlandic and Faroese languages in mainland Denmark. However, according to information received from other sources, there are substantial numbers of speakers of Greenlandic and Faroese in mainland Denmark (see paragraphs 13 and 14). The Committee of Experts invites the Danish authorities to clarify the issue of the traditional presence of these languages in mainland Denmark, in co-operation with the speakers of these languages, and inform the Committee of Experts of the outcome in the forthcoming periodical report.

28. The Committee of Experts had its attention drawn to conflicting views regarding the historical links of Romani to Denmark.

29. The Committee of Experts has noted Denmark's position according to which the Romani language has not traditionally been spoken in Denmark. However, it has been brought to the Committee of Experts' attention that the Advisory Committee of the Framework Convention referred to the "historic presence of Roma in Denmark" in its opinion on Denmark. This point of view was also defended by a representative of the Romani language during the Committee's "on-the-spot" visit to Denmark, which would correlate with the fact that Romani(s) has been traditionally spoken throughout the continent. At present the Committee of Experts lacks the information to evaluate this issue and would therefore welcome more information in the next report.

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

30. The text of the Charter, when read in conjunction with the instrument of ratification, indicates the undertakings that apply in respect of the different languages in the areas covered by the Charter. The Committee of Experts has therefore evaluated how the State has fulfilled each undertaking in Part II (Article 7) and Part III (Articles 8-14), using the paragraphs and sub-paragraphs specified at the moment of ratification.

2.1 The evaluation in respect of Part II of the Charter

31. Part II of the Charter sets out a number of general objectives and principles that a Party is obliged to apply to all the regional or minority languages on its territory. The following paragraphs examine Denmark's compliance with Article 7 in respect of the German language, insofar as the objectives and principles set out by this Article are not covered by the more precise undertakings under Part III of the Charter, to which the Danish government consented at the moment of ratification.

Article 7 – Objectives and principles

"Paragraph 1

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

a. *the recognition of the regional or minority languages as an expression of cultural wealth;"*

32. Through the 1955 Copenhagen declaration Denmark recognised the German language as an expression of cultural wealth in Denmark, a recognition that was reinforced by identifying the German language under Part III in its instrument of ratification of the Charter.

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

33. The Committee of Experts has been informed that the Danish government has established a structural commission, whose task is to make proposals for reforming the public sector in Denmark, in order to make it more efficient and cost-effective. One of the possible outcomes of this reform process would be the dissolution of Southern Jutland (North Schleswig) County, which currently has 250 000 inhabitants, into a larger administrative unit, with a much greater number of inhabitants. During the "on-the-spot" visit of the Committee of Experts, the organisations representing the German-speaking community voiced their concern that such a change would have severe repercussions for both the cultural identity of the community, deeply rooted in the Sønderjylland county, and the transfrontier exchanges and co-operation with Germany.

34. The Committee of Experts understands that the German-speaking minority will be consulted during the process of change, and urges the Danish authorities to give full consideration to their undertakings under the Charter and the Framework Convention for the Protection of National Minorities before implementing any changes to the relevant administrative divisions.

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

35. In view of the dual purpose of the Charter, namely to promote as well as to protect linguistic diversity in Europe, the Committee of Experts has taken the view that compliance with certain undertakings under the Charter requires more than passive tolerance from States Parties. According to the Committee of Experts, adoption of a language policy and corresponding specific legislation (or measures) or regulations in certain areas (administration, justice, media, etc.) would promote the effective implementation of the Charter's provisions in Denmark. The Committee of Experts encourages the Danish authorities to build upon the positive step they took when they signed and ratified the Charter.

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

36. The term “public” should be interpreted in a broad sense to include the use of languages in education, the courts, administration, and economic, social and cultural life. It should be underlined that this obligation does not only imply passive permission to use regional or minority languages in public and private life, but requires the State Party to facilitate and/or encourage the use of the languages in these specific public spheres. This would evidently require a pro-active approach.

37. From the information available to the Committee of Experts, it appears that the use of German in public life in Denmark, outside the organisations of the German-speaking minority, is very limited and almost non-existent. Moreover, the Committee of Experts has not been informed of any measures, adopted or envisaged by Danish authorities, to actively promote such use.

The Committee invites the authorities to adopt measures with a view to facilitating and/or encouraging the use of German in public life in Southern Jutland.

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

38. The Committee of Experts had no information as to the existence of links between German speakers and other groups using different languages. The Danish authorities, in their replies to the questions addressed to them by the Committee of Experts, have stated that no wishes have been expressed by German, Faroese or Greenlandic speakers to establish such links.

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

39. The teaching and studying of German will be examined under Part III.

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

40. Pursuant to Article 5, paragraph 3 of the Act on the Folkeskole (primary and lower secondary schools), all schools in Denmark have to offer “instruction in German at the 7th to 9th form levels”. Thus, about 90% of pupils in Denmark study German as their second foreign language after English.

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

41. The study of and research into German will be examined in Part III of this report.

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

42. The transnational exchanges between Denmark and Germany will be covered in Part III of this report.

"Paragraph 2

The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages."

43. The Danish legal framework does not have a specific provision prohibiting discrimination on the grounds of language. Article 70 of the Danish Constitution prohibits discriminatory or preferential treatment by reason of a person's descent, which, according to Danish authorities, provides adequate protection for German speakers. The Committee of Experts was not informed of any specific measure in Danish law which amounted to an unjustified distinction, exclusion, restriction or preference for the purposes of this undertaking.

"Paragraph 3

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

44. The general purpose of this undertaking is to develop an understanding for language plurality within a State. The development of this spirit of tolerance and receptiveness through the education system and the media would be an important factor in the practical preservation of regional or minority languages in Denmark.

45. In Denmark's initial report, the Danish authorities make reference to the Danish Folkeskole Act, which provides that the Folkeskole shall "familiarise the pupils with the Danish culture and contribute to their understanding of other cultures" (Article 1, paragraph 3). The Committee of Experts was informed during the "on-the-spot" visit that there is no mention of the German-speaking minority in the history curriculum. The Committee of Experts would welcome further information on achievements in this area in the next periodical report.

46. Article 10 of the Danish Radio and Broadcasting Act provides that public service broadcasters should place particular emphasis on "Danish language and culture. The programming shall cover all genres in the production of art and culture and provide programmes which reflect the diversity of cultural interests in Danish society". However the Committee of Experts considers that this provision in itself does not constitute sufficient encouragement for the mass media to promote mutual understanding between the country's linguistic groups, and would therefore welcome more information on this point in the forthcoming periodical report.

47. It became clear during the "on-the-spot" visit, that the general public in Denmark is unaware of German's status as a minority language in Denmark. Furthermore, the Committee of Experts was not informed of any further initiative adopted with the intention of complying with this undertaking.

<i>The Committee invites the authorities to adopt appropriate measures to promote mutual understanding between linguistic groups.</i>

"Paragraph 4

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

48. The Committee of Experts understands that the Danish authorities regularly consult representatives of German speakers on issues that are of particular interest to this community. This was notably the case

during the ratification process of the Charter. The Liaison Committee for the German-speaking minority and the Secretariat of the German-speaking minority are moreover in regular contact with the Danish government.

"Paragraph 5

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

49. As regards Romani in Denmark, the Committee of Experts has requested the Danish authorities to provide more information in the forthcoming report (see paragraph 29). For this reason, the Committee of Experts has not evaluated any measures taken in regard of this undertaking.

2.2 The evaluation in respect of Part III of the Charter

50. The Committee of Experts has examined in more detail the protection of the German language, which is the only language identified by Denmark under the protection mechanism of Part III of the Charter. The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Denmark.

Article 8 – Education

Preliminary remarks

51. In 1991, the Danish Parliament adopted a new private school act, introducing a new public grant system for private schools with a view to covering their operational costs. This system functions on a “per pupil per year” basis, which in principle matches the corresponding public expenditure in the municipal schools – less the fees paid by parents which amount to roughly 16-17% of the yearly cost. Article 2, paragraph 3 of the Danish Act on Private Independent Schools and Private Independent Basic Schools allows the setting up of private independent schools providing teaching in German. These schools receive subsidies from the Danish State in the same way as other private schools in Denmark, as stated above. The State also grants a supplementary yearly subsidy to German-language schools in particular, which was fixed at a yearly DKK 4 million in the 2002 Finance Act. This subsidy is aimed at compensating the higher costs associated with bilingual education and additional expenses arising from services provided separately from the Danish school system, such as special psychological and vocational guidance. This subsidy is then distributed between the schools by the Deutscher Schul- und Sprachverein für Nordschleswig (DSSV), the German-speaking minority’s school and language association. In Denmark, the system of private provision of education appears to work well since the Committee of Experts has not received any complaints of gaps in provision.

“Paragraph 1

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

Pre-school education

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

52. Pre-school education in Denmark consists of a one-year class preceding 1st form. Pre-school education in German is offered in German-language private independent schools, which receive a state subsidy pursuant to the Act on Private Independent Schools in the same way as Danish Private Independent Schools. For both finances and subject matter, the municipal and private institutions function according to the same principles. According to the report prepared by the German speaking minority’s school and language association (DSSV) and the authorities, 131 pre-school pupils were enrolled in 13 German private primary schools offering German-medium pre-school education.

53. The minimum number of pupils in private independent pre-schools and primary schools in Denmark is fixed at 28 pursuant to the Danish Act on Private Independent Schools. However, the Minister of Education may dispense with this rule under section 19 of this Act. German private schools benefit in this way from a general exemption fixing the minimum number of pupils at 10.

54. Beside pre-school classes in private independent schools, the DSSV also runs 24 German kindergartens or day-care facilities, which in 2002 accommodated a total number of 529 children. Although these institutions receive the same amount of national subsidies as similar private establishments around the country, the Committee of Experts has received reports that German kindergartens, which also cater for children from neighbouring communes, do not always receive additional funds normally offered by local authorities, despite the existence of government guidelines in this matter. This was reported to be the case

also with respect to extracurricular activities offered by the DSSV. The Committee of Experts would welcome a clarification of this issue in the forthcoming monitoring cycle.

55. The Committee of Experts considers this undertaking fulfilled.

Primary school education

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

56. The Danish school system makes no clear distinction between primary and lower secondary school levels. The minimum number of pupils in private independent primary schools in Denmark is fixed at 28 pursuant to the Danish Act on Private Independent Schools. However, the Minister of Education may dispense with this rule by virtue of section 19 of this Act. German private schools benefit in this way from a general exemption fixing the minimum number of pupils at 10.

57. The Danish authorities informed the Committee of Experts that, according to figures provided by the DSSV, 838 out of 1275 pupils in German-language schools were enrolled between 1st and 7th forms.

58. The Committee of Experts considers this undertaking fulfilled.

Secondary school education

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

59. The two sub-paragraphs chosen by Denmark (iii and iv) are alternative options of which only one should have been chosen.

60. The DSSV runs a German Gymnasium in Aabenraa, which is equivalent to a Danish upper secondary school. This school is subsidised by the Danish government as other private upper secondary schools in Denmark. The state subsidy accounts for a total of 85 per cent of the county's annual expenses per pupil. The Gymnasium provides education in German and Danish, and allows pupils to take the Danish "Studentereksamen" as well as an "Anerkennungsprüfung" modelled on the German Abitur. 124 pupils were enrolled in the German Gymnasium in the 2002/2003 school year. The education in the Gymnasium is in principle identical to the Danish upper secondary schools, except that the students are more competent in German.

61. German is taught as a subject in regular Danish secondary schools.

62. The Committee of Experts considers this undertaking fulfilled.

Technical and vocational education

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

63. German is in most cases offered as an optional subject within vocational education. The Committee of Experts considers this undertaking fulfilled.

University and higher education

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

64. German is offered as a subject at Danish universities and other institutions of higher education, such as business schools. The Committee of Experts considers this undertaking fulfilled.

Adult and continuing education

"f ii to offer such languages as subjects of adult and continuing education;"

65. There are a total number of 55 General Adult Education Centres (VUC) in Denmark, some of which have "satellite" departments. By virtue of the Danish Act on Preparatory Adult Education, German is one of the subjects that these centres have the obligation to offer. Consequently, all 9 adult education institutions located in Southern Jutland offer German as a subject. The Committee of Experts considers therefore that this undertaking is fulfilled.

Teaching of history and culture

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

66. In their initial periodical report, the Danish authorities informed the Committee of Experts that the teaching of history, social studies and German included Denmark's historical relations with Germany as well as the cultural and social conditions in German-speaking countries. The Committee of Experts has not received sufficient information to evaluate whether the history and culture of the German minority language in Northern Schleswig is reflected in the teaching. The Committee of Experts cannot therefore comment on the fulfilment of this undertaking and would like to receive more information in the forthcoming Danish periodical report.

Teacher training

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

67. There are no teacher training facilities for German teachers in Denmark. Teaching staff in German private schools are normally trained in Germany. For the purposes of this training, students are entitled to educational grants under the Danish State Education Grant and Loan Scheme. The Committee of Experts considers the undertaking fulfilled.

Monitoring

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

68. In the initial periodical report, the Danish authorities made reference to a working group comprising the leader of the German-speaking minority Secretariat and representatives from the Ministries of Education, Justice, Foreign Affairs and the Interior. This group has been set up to discuss and evaluate the measures taken with regard to Denmark's undertakings under Part III of the Charter. During the Committee of Experts' "on-the-spot" visit, however, the authorities clarified that the working group cannot be considered as fulfilling

the monitoring role required by this undertaking, as it has no official mandate or agenda and its meetings are informal.

69. A body set up within the Ministry of Education fulfils a general monitoring function with respect to all private schools in Denmark, including German-speaking minority schools. However, this monitoring has a general scope and does not focus on the use of the German as a traditional regional or minority language.

70. The DSSV draws up annual reports on the activities of the association and the education provided by German private independent schools in North Schleswig, which are made public. However, the Committee of Experts has no information as to the extent to which this report is taken into account by educational authorities in Denmark in their teaching policy for German.

71. After the visit, the Danish education authorities provided the Committee of Experts with information on a supervision scheme for education in private independent basic schools. This scheme, based on Section 9 of the Danish Act on Private Independent Schools, consists of three different elements: a parents group, an external and independent supervisor and, in very specific cases, extended supervision of a school by the Minister of Education. The first element, the parents group, supervises more generally the education offered by the school. The second element, the external and independent supervisor, is appointed by the parents group or the municipality to examine specified criteria, including the language of teaching (German for the German schools). The supervisor must submit a written statement to the parents group and the school board on the outcome of the monitoring. The school is required to publish the results and to improve the parts of the education considered unsatisfactory. The third element is the Minister of Education's power to require extended supervision of a school to ensure it meets the requirements of a Folkeskole. If conditions are no longer being fulfilled, the Minister can decide that the school is no longer a private school and revoke its funding. One evaluation of an independent supervisor has been carried out for the German school (DSSV). This report was made public.

72. The Committee of Experts considers that the undertaking is fulfilled.

"Paragraph 2

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

73. Courses of German are offered by the Folkeskole at 7th to 9th form levels throughout Denmark (see paragraph 40 above). The Committee of Experts considers this undertaking fulfilled.

Article 9 – Judicial authorities

"Paragraph 1

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

b in civil proceedings:

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

74. Danish legislation does not distinguish between German and foreign languages for the purposes of this undertaking. The right to produce documents and evidence in a language other than Danish before the courts is set out in section 149, paragraph 2 of the Danish Administration of Justice Act. According to this provision, such documents must be accompanied by a translation, which must be certified by an authorised translator if the court or the adversary so requires. This obligation can be waived, however, if both parties agree upon it and the court believes that it has adequate knowledge of the foreign language.

75. Although the right to submit documents and evidence in German is guaranteed under Danish legislation, the Committee of Experts was unable to obtain information on the use made of this right by members of the German-speaking minority in practice.

76. The Committee of Experts considers therefore that this undertaking is only formally fulfilled.

"c in proceedings before courts concerning administrative matters:

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

77. Danish legislation does not make a distinction between civil and administrative proceedings with regard to documents and evidence produced in languages other than Danish. Thus, the findings for paragraphs 76-77 also apply to this undertaking. The Committee of Experts considers therefore that this undertaking is fulfilled.

"Paragraph 2

The Parties undertake:

- a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or**
- b not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or**
- c not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language."**

78. The Committee of Experts would like to point out that the sub-paragraphs (a), (b) and (c) are alternative options, and it shall therefore consider options (b) and (c) redundant. It shall thus only evaluate Denmark's compliance with sub-paragraph (a), which necessarily includes the undertakings under sub-paragraphs (b) and (c).

79. Under section 149, paragraph 2 of the Administration of Justice Act, the validity of legal documents is not denied on the grounds that they have been drafted in German. However, it has been pointed out by representatives of the German-speaking community that little use is made of this right and that the courts are reluctant to allow the use of documents in German on the grounds that the German-speaking minority is bilingual. The refusal of a court to accept the statutes of an association in German has been brought to the attention of the Committee of Experts as an example of this reluctance.

80. The Committee of Experts concludes therefore that this obligation is formally fulfilled. It would welcome further information regarding the practical implementation of this undertaking in the next report.

Article 10 – Administrative authorities and public services

"Paragraph 1

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

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

81. In Denmark's initial report, the Danish authorities state that the right to validly submit documents in German to the State authorities in Southern Jutland is implied by section 7 of the Danish Public Administration Act: "in cases when a person with insufficient command of the Danish language communicates – in person or in writing – with a public authority on a matter pending a decision". The

Committee of Experts is of the view that this effectively excludes the German-speaking community from the scope of this provision, since all members of this community are perfectly proficient in Danish.

82. Nevertheless, the Danish authorities have indicated that certain administrative authorities in Southern Jutland – such as the Employment Service, the Customs and Tax Authority and the Health Inspection Authority – process documents and answer oral inquiries in German, thanks to staff members who have a full command of German. They have also pointed out that in treating job applications, the Government Office of Sønderjylland County attaches importance to applicants' knowledge of German.

83. The view prevailing among the representatives of German speakers is that the lack of proactive measures on the part of the government to encourage public service employees to use the German language hampers the implementation of this undertaking, despite the fact that many civil servants speak good German in Southern Jutland. They have pointed to some isolated cases where members of the German-speaking community have actually been asked not to speak German in their dealings with the administration or where documents in German have not been accepted by administrative authorities, on the grounds that the German-speaking minority speaks and understands Danish.

84. On the basis of the information received, the Committee of Experts notes that there are no specific measures directed towards the use of German by the German speakers in this region. In the light of this and the findings cited above, the Committee of Experts considers the undertaking not fulfilled.

The Committee encourages the authorities to take the necessary measures in order to ensure that German speakers may submit documents in German.

"Paragraph 4

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

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

85. The Committee of Experts understands that an important number of public service employees in Southern Jutland have a good command of German, and that knowledge of German is an important criterion for certain administrative authorities in assessing job applications (see paragraph 82 above). Owing to the high number of public service employees competent in German, it became clear to the Committee of Experts during its discussions with the administration of the County of Southern Jutland, that there is enormous potential for the administration to be more visible in the German language. With small and not very costly changes, the administration could take steps to use German more actively in its work and relations with the speakers of the German language. The speakers themselves confirmed they never addressed the administration in German, and stated they would be pleased to be able to use the German language where possible. The Committee of Experts considers the undertaking fulfilled but the authorities should make use of the potential available by taking steps to ensure the practical implementation of this provision.

"Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned."

86. The Danish authorities recognise the names, including the letters ü, ö and ä, of the German-speaking minority in all relations. The Danish Names Act allows the adoption of foreign family names except for special cases regulated by sections 6 and 8 of this Act. The Committee of Experts has not been informed of any problems in this respect and considers the undertaking fulfilled.

Article 11 – Media

"Paragraph 1

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

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

87. In their instrument of ratification, the Danish authorities have chosen the strongest option with respect to this undertaking, i.e. to encourage and/or facilitate the creation of at least one radio station in the German language. However, currently there is no German language radio station in Southern Jutland. The creation of radio stations in German is subject to the same rules applicable to the creation of any radio station in Denmark. The authorities allow the creation of a radio station, while no measures have been taken to encourage and/or facilitate the creation of German language radio stations. The Committee of Experts therefore does not consider this undertaking fulfilled.

The Committee encourages the Danish authorities to take steps to encourage and/or facilitate the creation of at least one radio station in German.

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

88. Sub-paragraphs i and ii are alternative options, making paragraph 1.b.ii redundant. The Committee of Experts could at most say that since the stronger option is not fulfilled it has looked to see if at least the weaker one is fulfilled and found that this is not the case: there is no radio station in Southern Jutland that broadcasts programmes in German, and the Committee of Experts has not been informed of any measures aimed at encouraging or facilitating the broadcasting of such programmes.

"c i to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages;"

89. As for radio stations, the Danish authorities have chosen the strongest option for television, namely they undertake to encourage and/or facilitate the creation of at least one television channel in German. However, there is no German language television channel in Southern Jutland, and there are no measures aimed at encouraging or facilitating the creation of such a television channel. The Committee of Experts is aware of TV-Syd, a local public television channel, which broadcasts a 10-minute programme in German titled "On the other side" once every month, in association with Nord-deutscher Rundfunk. No programme in German is produced in Southern Jutland. However, in the view of the Committee of Experts this would not even be fulfilment of c ii). The Committee of Experts is concerned that so little is done relating to television transmission in German in this area. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee encourages the Danish authorities to take steps to encourage and/or facilitate the creation of a television channel in German.

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

90. Sub-paragraphs i and ii are alternative options, making paragraph 1.c.ii redundant.

"d to encourage and/or facilitate the production and distribution of audio and audio-visual works in the regional or minority languages;"

91. The Committee of Experts received no information regarding the implementation of this undertaking. It is therefore not in a position to evaluate whether this undertaking is fulfilled, and encourages the Danish authorities to provide more information on the implementation of this undertaking in the forthcoming report.

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

92. "Der Nordschleswiger" is the main newspaper for the German-speaking community in Denmark. It is a daily newspaper in German, which has its head office in Aabenraa. The newspaper has received financial assistance under the Danish Act on financial Support to the Financial institutions of the Daily Press. However, the Committee of Experts understands that there is a decrease in the number of public announcements (of central, regional or local authorities) which also affects the German-language newspaper. While the Committee of Experts considers this undertaking fulfilled, it invites Danish authorities to assess their public information policy, especially concerning matters that touch the interests of the German-speaking community.

"f ii to apply existing measures for financial assistance also to audio-visual productions in the regional or minority languages;"

93. To the Committee of Experts's knowledge there are no measures for financial assistance applied to audio-visual productions in German. The Committee of Experts considers this undertaking not fulfilled.

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

94. There is no specific programme in Danish universities for training journalists in the German language. The authorities have pointed out that the State Education Grant and Loan Scheme is available for anyone who wants to study journalism, however this programme is available to all Danish students, and is not focused in particular on students of journalism in minority languages, in the understanding of this undertaking. The Committee of Experts has not been informed to what extent this support in practice gives access to training for journalists and for other media staff using regional or minority languages. The Committee of Experts is therefore not in a position to conclude whether this undertaking has been fulfilled and would welcome further information in the forthcoming report.

"Paragraph 2

The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

95. There are a number of radio and television stations broadcasting from neighbouring Germany that can be received in Southern Jutland. There are no restrictions concerning the reception of German-language programmes or the circulation of the German written press. The Committee of Experts considers this undertaking fulfilled.

Article 12 – Cultural activities and facilities

"Paragraph 1

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

- a to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;"***

96. There are a number of cultural associations in Southern Jutland furthering the culture of the German speaking minority, including, the Bund deutscher Nordschleswiger, the Deutscher Jugendverband für Nordschleswig, the Verband deutscher Büchereien, Sozialdienst Nordschleswig and the Nordschleswigsche Musikvereinigung. The authorities financially support these organisations and the German speaking minority's cultural activities. The Committee of Experts considers this undertaking fulfilled.

- "b to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;"***

97. In Germany, works produced in German are regularly dubbed or subtitled on public radio and television stations into Danish. There are very few works produced in German in Denmark, however, and the Committee of Experts does not have information as to whether the works that are produced in Denmark in German are dubbed, translated, post-synchronised or subtitled. The Committee of Experts is therefore not in a position to conclude whether this undertaking is fulfilled.

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

98. Although the Danish authorities affirm in the initial periodical report that the German-speaking minority participates in the ordinary cultural activities in the region, the Committee of Experts has no information regarding either the bodies responsible for organising these activities or the way in which these bodies make appropriate allowance in accordance with this undertaking. The Committee of Experts considers therefore that at present it is not in a position to conclude whether this undertaking is fulfilled, and would welcome further information in the next periodical report.

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

99. The authorities affirm that bodies responsible for organising or supporting cultural activities will generally have at their disposal staff who have a full command of both Danish and German. However the Committee of Experts has not been informed about which bodies are responsible for organising or supporting cultural activities. The Committee of Experts will not conclude on the fulfilment of this undertaking, and would welcome further information in the forthcoming report.

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

100. The initial report states that the German-speaking minority is usually requested to participate in the cultural activities of the region. However, the Committee of Experts has no concrete information about the implementation of this undertaking. It is therefore in no position to conclude if this undertaking is fulfilled or not, and it would appreciate further information in the next periodical report.

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

101. Pursuant to section 17(1) of the Danish Libraries Act, the Danish government "provides subsidies for the libraries of the German speaking minority in Southern Jutland". Under this provision, the Danish Ministry of Cultural Affairs contributes DKK 2.5 million annually to the German-speaking minority's libraries, which are run by the "Verband deutscher Büchereien". These libraries receive additional funding from the Southern Jutland County, as well as from local authorities. The "Verband deutscher Büchereien" puts approximately 230,000 works (mainly German-language books, magazines, games, CDs and cassettes) at the disposal of the local community, and organises book and art exhibitions, public readings by German-language writers and literary discussions. The Committee of Experts considers this undertaking fulfilled.

"Paragraph 2

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

102. According to the initial report, organisations of the German-speaking community are allowed to initiate cultural activities in all parts of Denmark. The musical society "Nordschleswigsche Musikvereinigung" has thus been able to organise concerts in Copenhagen, Ribe and Viborg. However, the Committee of Experts understands that there are no specific measures to encourage such activities or to provide cultural facilities outside Southern Jutland. While encouraging the Danish authorities to adopt such measures, the Committee of Experts nevertheless considers this undertaking fulfilled in practice.

"Paragraph 3

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

103. The Danish government states in the initial periodical report that this provision has not been fulfilled at present, but that the Danish Secretariat for International Cultural Relations is intending to discuss possibilities for development in this field with the representatives of the German speaking minority. The Committee of Experts considers the undertaking not fulfilled but looks forward to hearing about positive developments in this area in the next monitoring cycle.

Article 13 – Economic and social life

"Paragraph 1

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

- a to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;"***

104. Danish legislation does comply with the obligation set out under this subparagraph. In particular, the Danish Act on the Employer's Duty to inform the Employee of the Terms of Employment does not specify the language in which the contract of employment should be drawn up. Regarding technical documents, the authorities state that the requirement in some cases that information has to be available in Danish does not prevent the provision of the same information in German as well. The Committee of Experts therefore considers this undertaking fulfilled.

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

105. The Committee of Experts has not been informed of any practices designed to discourage the use of German in connection with economic and social activities. The Danish authorities state in the initial report that this provision has been implemented in compliance with the Copenhagen Declaration of 1955 and in

relation to the measures described elsewhere in the report. However, the Committee of Experts has not received any concrete information concerning specific measures taken in this respect. The Committee of Experts is therefore not in a position to conclude whether this undertaking has been fulfilled, and would welcome further information in the forthcoming report.

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

106. The Danish government has published a brochure including information about the language situation of the German speakers and about the implications of the Charter for the linguistic rights of the speakers of regional or minority languages, which was brought to the attention of the Committee of Experts.

107. The Danish government also supports several organisations of the German-speaking minority, including the agricultural organisation "Landwirtschaftlicher Hauptverein für Nordschleswig", which provides agricultural assistance to its members. The Committee of Experts considers this undertaking fulfilled.

"Paragraph 2

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

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

108. The Danish authorities have informed the Committee of Experts that there is no specific legislative provision ensuring the application of this undertaking and that neither the Sønderjylland county, with respect to hospitals, nor most of the local authorities in Southern Jutland, with regard to retirement homes and home-help services, have adopted special regulations concerning the use of German in social care facilities. The authorities claim that this state of affairs poses no problem in practice as members of the German-speaking minority are bilingual and many social care facilities have staff members who understand German.

109. The Committee of Experts has been made aware of the organisation "Sozialdienst Nordschleswig" of the German-speaking minority, which provides social services on a voluntary basis. The authorities report that this organisation received a total of DKK 90,000 for 2001/2002.

110. While the Committee of Experts welcomes the assistance provided to "Sozialdienst Nordschleswig", it is of the view that a more systematic approach encompassing regional and local authorities is necessary to fulfil this undertaking. The Committee of Experts considers therefore that this undertaking is only partly fulfilled.

Article 14 – Transfrontier exchanges

"The Parties undertake:

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

111. Although the Copenhagen-Bonn Declarations of 1955 are not legally binding, The Committee of Experts considers that this provision is complied with by their practical implementation. Furthermore, Denmark and Germany signed a bilateral cultural agreement in 1974, under which a number of scholarships are granted annually to Danish and German students enrolled in educational programmes in Germany and Denmark respectively. The Committee of Experts considers therefore that this undertaking is fulfilled.

"b for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form."

112. Germany and Denmark are States Parties to the European Outline Convention on Transfrontier Co-operation between Territorial Communities and Authorities. On 16 September 1997, the Border Region Sønderjylland/Schleswig was established by the Sønderjylland County on the Danish side, and by the town of Flensburg and the counties of Schleswig-Flensburg and Nordfriesland on the German side. The aim of this entity, whose activities include education and transborder cultural projects, is to promote the development of the region in a European context. The German-speaking minority is directly represented in the regional council. The Committee of Experts considers this undertaking fulfilled.

Chapter 3 Findings of the Committee of Experts

The Committee of Experts hereby presents its general findings on the application of the Charter in Denmark.

A. The Committee of Experts compliments the Danish government on having ratified the Charter in close co-operation with the representatives of the German language.

B. Danish legislation and national policy portrays mainland Denmark as linguistically homogenous and accordingly it is characterised by the absence of a regional or minority language policy. The combination of these interrelated factors seems to have impeded the recognition of the German language as an integral part of Danish society. The German language enjoys very little presence in public life in Denmark. The Committee of Experts believes that measures could be taken to ensure that Danish society becomes more conscious of the cultural wealth deriving from the German language, in particular in education and through the media.

C. Denmark has a language policy for the Greenlandic and the Faroese languages, of which the general public is well aware, but these languages have not been included in the field of application of the Charter. The Committee of Experts considers this to be surprising, as it is precisely for these kinds of languages the Charter was conceived. It is regrettable that the Faroese and the Greenlandic languages, which are part of Denmark's cultural wealth, are not included in the family of languages protected under the Charter. It is recognised that the Home Rule Authorities of Greenland and the Faroe Islands expressed the wish not to benefit from the protection of the Charter. The Committee of Experts would therefore encourage the Danish authorities to initiate new contacts with the Home Rule Authorities of the Faroe Islands and Greenland concerning a possible extension of the application of the Charter to the Faroe Islands and to Greenland.

D. With few exceptions, in particular the Danish Act on Private Schools and the Act regarding Library Services, Danish legislation does not make reference to Denmark's regional or minority languages. In this respect, German is often treated by the Danish legal system in the same way as any foreign language, including in the area where it is traditionally spoken. In the view of the Committee of Experts, this could be one of the factors hampering the recognition of the special status of the German language and culture as elements of Denmark's cultural wealth, both by public authorities and by the general public.

E. The Committee of Experts understands that the German-speaking community is well-integrated in Danish society, and that it is a recognised partner of the Danish authorities at relevant local and regional levels where it is democratically represented, as well as at the central level through special structures set up in Copenhagen, such as the Liaison Committee and the Secretariat of the German-speaking minority. Representatives of the German-speaking minority have also actively participated in the ratification process of the Charter.

F. The Committee of Experts has noticed that in many domains the Danish authorities have refrained from actively promoting the use of German, especially within public authorities, on the assumption that the German-speaking minority does not need such promotion owing to the ability of its members to use Danish as proficiently as German. This is further reflected in the fact that the authorities have not introduced new legislation, modified existing legislation or adopted any measures with a view to implementing the Charter since the ratification, on the grounds that Danish legislation is already in conformity with Denmark's undertakings under the Charter. The Committee of Experts would like to reiterate the purpose of the Charter, which is to protect regional or minority languages and to promote their use in public and private life, as an element of cultural wealth and as a common heritage of the entire nation. The fact that speakers of a regional or minority language, such as the German speakers in Denmark, are proficient in the majority language should not impede the active encouragement and promotion of this language in all domains of public and private life covered by the Charter.

G. The Committee of Experts observed during its "on-the-spot" visit that there is a significant potential in Southern Jutland concerning the use of German in public life, as a large number of majority language speakers, including staff in public authorities, also speak good German, thanks to the proximity of Germany and the important position that German, as an international language, occupies in mainstream Danish education. This potential could easily yield good results, if the authorities adopted measures to actively encourage the use of German in public life.

H. During the initial monitoring cycle, the Committee of Experts was made aware of the German-speaking community's concern regarding the possible dissolution of the Sønderjylland County into a larger

administrative unit. The Committee of Experts trusts that the Danish authorities will fully take into account the potential consequences of such a dissolution on the use of the German language in Denmark, in connection with Denmark's undertakings under the Charter.

I. On the whole, an adequate provision of German-medium education is ensured in Southern Jutland through the German-speaking minority's private schools, which benefit from special provisions under Danish legislation and financial support from the Danish authorities. German is furthermore taught as a subject in Folkeskole throughout Denmark.

J. Little has been done to encourage judicial and public authorities to use German, even with regard to Denmark's limited undertakings under the Charter, on the grounds that the German-speaking minority is perfectly able to communicate with these authorities in Danish. Although the Charter can help regional or minority language speakers who have difficulty in communicating with authorities, its principal objective is to give regional or minority languages themselves a public dimension through their use in official situations, which confers an increased legitimacy on these languages. Therefore, Denmark's fulfilment of its undertakings under the Charter implies the adoption of a proactive policy aimed at urging judicial and administrative authorities to put into practice their capacity to use German in official situations, and encouraging German speakers to use their language in their relations with the authorities by building up their confidence.

K. In the field of the media, very little is done to promote the use of the German language concerning radio and television broadcasts. In this respect, the Committee of Experts draws the attention of the Danish authorities to the fact that minority languages are at an inherent disadvantage in the media, which should be addressed through appropriate positive measures. Consequently, the Danish authorities' supposition that sufficient protection is provided by allowing German speakers to benefit from existing provisions in the same way as any other party does not constitute an adequate basis for the implementation of Denmark's undertakings under the Charter.

L. The conditions for the use of German in the cultural field seem generally favourable and the German-speaking minority seems to be very active in this area, although little information is provided concerning the actual support that the Danish authorities provide to cultural activities except for the German libraries. As for the pursuit of Danish cultural policy abroad, the German language and culture are not represented.

M. Regarding economic and social activities there is considerable room for improvement, notably by a more systematic approach to the use of German in social care facilities.

N. There is an active transfrontier co-operation between Denmark and Germany, and the Committee of Experts commends positive initiatives such as the creation of the Border Region Sønderjylland/Schleswig. There is great potential in this region for effective transfrontier exchanges, particularly as both Denmark and Germany have signed and ratified the Charter.

The Danish government was invited to comment on the content of this report in accordance with Article 16.3 of the Charter. The comments received are attached in Appendix II.

On the basis of this report and its findings the Committee of Experts submitted its proposals to the Committee of Ministers for recommendations to be addressed to Denmark. At the same time it emphasised the need for the Danish authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 884th meeting on 19 May 2004, the Committee of Ministers adopted its Recommendation addressed to Denmark, which is set out in Part B of this document.

APPENDIX I : INSTRUMENT OF RATIFICATION



Denmark :

Declaration contained in a Note Verbale from the Permanent Representation of Denmark, handed at the time of deposit of the instrument of ratification on 8 September 2000 - Or. Engl.

In accordance with Article 2, paragraph 2, and Article 3, paragraph 1, of the European Charter for Regional or Minority Languages, Denmark declares that it will apply the following provisions of Part III of the Charter to the German minority language in Southern Jutland:

Article 8, paragraph 1 a iii; b iv, c iii/iv, d iii; e ii, f ii, g; h; i; paragraph 2;
Article 9, paragraph 1 b iii; c iii; paragraph 2 a/b/c;
Article 10, paragraph 1 a v; paragraph 4 c; paragraph 5;
Article 11, paragraph 1 b i/ii, c i/ii; d, e i, f ii; g, paragraph 2;
Article 12, paragraph 1 a; b; d; e; f; g; paragraph 2; paragraph 3
Article 13, paragraph 1 a; c; d; paragraph 2 c;
Article 14, a; b.

The Danish Government considers that Article 9, paragraphs 1 b iii, and 1 c iii, does not preclude that national procedural law may contain rules which require that documents produced in a foreign language before courts as a general rule be accompanied by a translation.

Period covered: 01/01/01 -

The preceding statement concerns Article(s): 2, 3

Declaration contained in a Note Verbale from the Permanent Representation of Denmark, handed at the time of deposit of the instrument of ratification on 8 September 2000 - Or. Eng.

The Danish Realm comprises Denmark, the Faroe Islands and Greenland.

Section 11 of Act No. 137 of 23 March 1948 on Home Rule of the Faroe Islands states that “Faroese is recognized as the principal language, but Danish is to be learnt well and carefully, and Danish may be used as well as Faroese in public affairs.” By virtue of the said Act the Faroese language enjoys a high degree of protection and the provisions of the Charter will therefore not be applicable to the Faroese language, cf. Article 4 (2) of the Charter. For this reason, the Danish Government does not intend to submit periodical reports according to Article 15 of the Charter as far as the Faroese language is concerned.

Denmark’s ratification of the Charter does not in any way prejudice the outcome of the negotiations on the future constitutional status of the Faroe Islands.

Section 9 of Act No. 577 of 29 November 1978 on Greenland Home Rule states that:

“(1) Greenlandic shall be the principal language, Danish must be thoroughly taught.
(2) Either language may be used for official purposes.”

By virtue of the said Act the Greenlandic language enjoys a high degree of protection and the provisions of the Charter will therefore not be applicable to the Greenlandic language, cf. Article 4(2) of the Charter. For this reason, the Danish Government does not intend to submit periodical reports according to Article 15 of the Charter as far as the Greenlandic language is concerned.

Period covered: 01/01/01 -

The preceding statement concerns Article(s): 15, 4

Communication contained in a Note Verbale from the Permanent Representation of Denmark, dated 25 August 2000, handed at the time of deposit of the instrument of ratification on 8 September 2000 - Or. Engl.

Upon instruction the Representation hereby transmits certified translations into English of the Greenland Home Rule Act of 29 November 1978 and the Home Rule Act of the Faroe Islands of 23 March 1948, on the basis of which mandatory consultations were held as part of the ratification process. Attention is drawn to sections 9 and 11 respectively and to the corresponding lists of matters brought under Home Rule.

[Note by the Secretariat : The final versions are available on request to the Treaty Office.]

Period covered: 01/01/01 -

The preceding statement concerns Article(s): -

APPENDIX II: COMMENTS BY THE DANISH GOVERNMENT

The Danish Government is pleased to respond to the invitation of the Committee of Experts of the European Charter for Minority Languages to comment on the proposals for recommendations to the Committee of Ministers, as contained in the first report on Denmark.

Please find below the Danish comments to the following proposals for recommendations to:

- 1. Adopt a more structured policy in the protection and promotion of German in order to achieve a practical implementation of the provisions of the Charter, especially in the fields of administration, justice and the media;**

Denmark fully recognizes and appreciates the purpose of the Charter, which is to protect and to promote the use of German language in all domains of public and private life covered by the Charter in Southern Jutland County. Denmark fully recognizes and appreciates the cultural wealth represented by the German minority in Southern Jutland County.

Denmark has – as is stated in the findings of the Committee of Experts (p. 23, F) - not introduced new legislation or modified existing legislation in order to implement the Charter since the ratification of the Charter due to the fact that Danish legislation already before the ratification of the Charter was in conformity with Denmark's undertakings under the Charter. Denmark has specified that Article 10, paragraph 1, subparagraph a v) and paragraph 4 will apply to German as a minority language. Article 10, paragraph 1 and 4, only concerns administrative districts of the state and paragraph 1, subparagraph a v concerns the right to validly submit a document in German to the state authorities in South Jutland.

It is recognized in the findings of the Committee of Experts (p.23, G) that there is a significant potential in Southern Jutland County concerning the use of German in public life, as a large number of majority language speakers, including staff in public authorities, speak good German. A potential which - as stated in Denmark's report on the European Charter for Regional or Minority Languages, December 2002 - is widely used in everyday public administration.

Even though Denmark has not specified Article 10 – paragraph 2 and 3 - to be applied by the local and regional authorities, The Ministry of Interior and Health on 1 October 2003 wrote a letter to the local and regional municipalities in Southern Jutland County in order to point out some special circumstances, that the local and regional authorities should pay attention to when dealing with cases concerning the German minority.

In the letter the Ministry of Interior and Health, among other things, has drawn the attention to the fact that the Copenhagen-Bonn Declarations ensure, that the minorities on both sides of the border can keep their identity and their linguistic and cultural characteristics.

In the letter, the Ministry of Interior and Health also has stated that the Framework Convention for the Protection of National Minorities (the Framework Convention) and The European Charter for Regional and Minority Languages (the Charter) are important in matters relating to the German minority. In the letter the local and regional municipalities were informed, that the Copenhagen-Bonn Declarations, the Framework Convention and the Charter are published on the official website of the Ministry of the Interior and Health, www.im.dk. The website also includes a pamphlet about the Charter and Denmark's first reports to the European Council according to provisions of the Charter and the Framework Convention. The report on the Charter states, which articles in the Charter Denmark has specified to apply to German as a minority language.

As stated in the letter, this letter should be seen as a means to ensure that misunderstandings that could damage the good relations between the two communities in the Southern Jutland County would not arise. It is the hope of the Ministry of Interior and Health that this letter promotes a positive development of the good spirit that both the German Minority and the Danish majority are contributing to in the Southern Jutland County.

The right to use German in *legal proceedings* is for instance safeguarded by the provisions of the Danish Administration of Justice Act. In civil cases, it is thus allowed to produce documents and evidence in German – if necessary by the use of interpreters and/or translations. The validity of legal documents must not be denied solely because they are drafted in German.

It thus appears from section 149(2), first clause, of the Administration of Justice Act that documents issued in a foreign language must be accompanied by a translation into Danish, which, if required by the court or the adversary, shall be certified by an authorised translator. Under section 149(2), second clause, however, the right to a translation may be waived when both parties agree to do so and the court believes it has adequate knowledge of the foreign language.

State authorities in Southern Jutland comply, to the widest possible extent, with the requests of employees having knowledge of German to be appointed in the territory where the German language is used. This is one of the areas where steps are taken to ensure that the German minority has the possibility of being served by the state authorities in Southern Jutland in German.

The Secretariat to the German Minority is also in regular contact with the Government on issues of any nature, including linguistic issues.

The Danish Ministry of Foreign Affairs has published a booklet on the Minority Languages Charter in 2001, available in both a Danish and a German edition. The booklet explains the importance of the Charter in all relevant legal areas. The booklet has been forwarded to the relevant Danish government departments and to the authorities of Southern Jutland, including the Government Office of Southern Jutland County. In addition, the booklet has been sent to the local authorities of South Jutland and to Southern Jutland and County. The German minority has received 6000 copies in German and 1000 copies in Danish for distribution among its members.

Denmark finds that the Danish policy for protection and promotion of German has shown sufficient capacity in order to achieve a practical implementation of the provisions of the Charter in the fields of administration and legal proceedings, and the Danish authorities look forward to a continuous dialogue with the Committee of Experts.

2. Renew consultations with the Home Rule Authorities of the Faroe Islands and Greenland on the possible application of the Charter in the two Home Rule areas;

The Danish Government would like to emphasize that this question falls outside the scope of the Convention due to the declaration made by Denmark in connection with the ratification on 8 September 2000, but has however noted the recommendation. Furthermore it deserves to be mentioned that the Danish Government has received no requests for new consultations from The Home Rule Authorities of the Faroe Islands and Greenland. Should such a request be received, the Danish Government will consider it in a positive manner.

3. Consider the protection of the German language in the context of the possible reform of administrative structures which could affect Southern Jutland County;

Denmark is fully aware of and is recognizing the interest of the German language in the context of the possible reform of administrative structures, which can also affect Southern Jutland County.

Denmark has noted that The Committee of Experts in its findings (p.24, H) has expressed that the Committee trusts that the Danish authorities will take fully into account the potential consequences of such a reform of administrative structures on the use of German language in Denmark, in connection with Denmark's undertakings under the Charter.

The Structural Commission was established by the Danish Government on 1 October 2002. The task of the Commission was to provide a technical analysis of whether the existing administrative structures live up to the demands of a modern welfare society.

In the report submitted by The Structural Commission in January 2004, the Commission has pointed out that dissolution of existing municipalities and counties into larger administrative units could result in a diminished political representation and influence in the local council and in the county council for some groups.

This could for example be the consequence, if a municipality on an island is united with an - often larger - municipality on the mainland, or if the municipalities around the German-Danish border are united in which case the German minorities' political party - Slesvigsk Parti - could have difficulties in maintaining political representation.

The Commission estimates, that it is possible to consider these potential consequences within the frames of the Local Government Act. According to article 17, paragraph 4, the local council can set up select committees for the performance of specific tasks or discharge of preparatory or advisory functions for the local council, the finance committee or the standing committees. Non-members of the local council can be chosen for such committees.

The setting up of such select committees makes it possible to ensure minorities a political platform if they - due to lack of a sufficient number of votes - are not represented after a reform of the administrative structures.

The political debate will be based on the report submitted by the Structural Commission, including what is mentioned there about the German minority. The special interests of the German minority are currently being discussed with the German minority and will naturally be part of the Danish Governments' basis of decision.

4. Ensure that German speakers have the possibility to use their language before administrative authorities in practice;

Reference is made to the comments given to recommendation no. 1.

5. Implement the undertakings chosen in the field of the broadcasting media.

The Committee of Experts recommends that Denmark implements the undertakings chosen in the field of the broadcasting media. These undertakings are Article 11, 1. bi), b)ii, ci), cii) and d. B and c deal with encouraging and/or facilitating the creation of a radio or a television station in the regional or minority language. D deals with encouraging and/or facilitating the production and distribution of audiovisual works in these languages.

The Committee finds that the Danish authorities' supposition that sufficient protection is provided by allowing German-speakers to benefit from existing provisions in the same way as any other party, does not constitute an adequate basis for the implementation of Denmark's undertakings under the Charter.

The Danish Government does not agree with this finding. As described in Denmark's first report on the Charter in December 2002, Danish media legislation does, in our view, facilitate the creation of local radio- and television stations by providing the technical infrastructure for such stations and the possibility of acquiring a broadcasting licence as well as state support for running the stations. The fact that these opportunities are also available to other groups in society does not constitute "not facilitating". As far as German programmes on the public service channels of DR and TV 2 are concerned, the Danish Government considers the provisions in the public service obligations of the two broadcasters i.e. to serve the entire population and place requisite emphasis on freedom of information and expression as sufficient protection, taking the principle of the independence and autonomy of the media into consideration.

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

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

**Recommendation RecChL(2004)2
of the Committee of Ministers
on the application of the European Charter for Regional or Minority Languages
by Denmark**

*(Adopted by the Committee of Ministers on 19 May 2004
at the 884th meeting of the Ministers' Deputies)*

The Committee of Ministers,

In accordance with Article 16 of the European Charter for Regional or Minority Languages;

Having regard to the declarations submitted by Denmark on 8 September 2000, and the Communication dated 25 August 2000;

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

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

Bearing in mind that this evaluation is based on information submitted by Denmark in its national report, supplementary information provided by the Danish authorities, information submitted by bodies and associations legally established in Denmark, as well as information obtained by the Committee of Experts during its "on-the-spot" visit;

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

1. adopt a more structured policy for the protection and promotion of German in order to achieve a practical implementation of the provisions of the Charter, especially in the fields of administration, justice and the media;
2. renew consultations with the Home Rule Authorities of the Faroe Islands and Greenland on the possible application of the Charter in the two Home Rule areas;
3. consider the protection of the German language in the context of the possible reform of administrative structures which could affect Southern Jutland County;
4. ensure that German speakers have the possibility to use their language before administrative authorities in practice;
5. implement the undertakings chosen in the field of the broadcasting media.