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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

APPLICATION OF THE CHARTER IN SPAIN

Initial monitoring cycle

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

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

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

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

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

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

adopted by the Committee of Experts on 8 April 2005
and presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

Chapter 1 Background information and general/preliminary issues

1.1. Introduction

1. Spain signed the European Charter for Regional or Minority Languages (hereafter referred to as the Charter) on 5 November 1992 and ratified it on 9 April 2001. The Charter entered into force with regard to Spain on 1 August 2001.
2. The instrument of ratification is set out in Appendix I to this report.
3. In accordance with Article 15 para. 1 of the Charter, the initial periodical report on the application of the Charter in Spain was presented on 23 September 2002.

1.2. The work of the Committee of Experts

4. After the Committee of Experts' preliminary examination of the report, a questionnaire was drawn up and addressed to the Spanish authorities. An "on-the-spot" visit to Spain was initially planned for May 2003. However, owing to several postponements for reasons beyond the control of the Committee of Experts, the visit finally took place in May 2004. The delegation of the Committee of Experts visited Pamplona/Iruña, Vitoria/Gasteiz, Bilbao/Bilbo, Oviedo and Madrid. Meetings were held with representatives of the speakers of Basque, Asturian, Galician, Catalan and Valencian, including NGOs, politicians, journalists and educationalists. In Pamplona/Iruña the delegation met representatives of the authorities of the autonomous community concerned as well as the judicial authorities of Navarra. In Vitoria/Gasteiz the delegation also met the representatives of the Government of the Basque Country and in Bilbao/Bilbo the judicial authorities present in this autonomous community.
5. The Committee of Experts received a considerable number of comments and additional information from representatives of the speakers, non-governmental organisations and independent experts in Spain. This information has been very helpful in the evaluation of the application of the Charter and the Committee of Experts would like to thank these organisations for their active input and participation in the monitoring process.
6. In accordance with Article 16 para. 4 of the Charter (see Chapter 3.2 of this report), the Committee of Experts has established a list of general proposals for the preparation of recommendations that the Committee of Ministers may wish to address to Spain. Furthermore, in the body of the report, where necessary, it has made more detailed observations where necessary, which it encourages the Spanish authorities to take into consideration when developing their regional or minority language policy.
7. This report is based on the political and legal situation prevailing when the Charter entered into force in Spain (August 2001), on the information presented by the Spanish Government in its initial periodical report to the Council of Europe (September 2002), on additional information provided by the Government at a later stage and on other information obtained by the Committee of Experts as stated above. The report was adopted on 8 April 2005.

1.3. Presentation of the regional or minority language situation in Spain

Preliminary information

8. Modern Spain is the result of the fusion, for multiple reasons, of various kingdoms and principalities. During the XVIIIth and in particular the XIXth centuries different trends towards centralisation of the political

structure developed. Following the French system of departments, Spain was divided into 50 provinces (for some time, however, particular territorial units, the “foral territories”, were maintained in the Basque provinces; see also para. 21 below).

9. In the second half of the XIXth century, a growing regional cultural and literary romanticism appeared, also in the regions where a vernacular language was spoken. At the same time, a social and cultural recognition of the specific identities of the territories concerned developed and this triggered a process towards a new and different territorial organisation. The political battles, and above all the civil wars of the XIXth and XXth centuries prevented a harmonious convergence of the two positions.

10. During the second Spanish Republic (1931-1936), a statute of autonomy was approved by the Spanish Parliament for Catalonia in 1931 and for the Basque country in October 1936. In Galicia the process was not completed owing to the dramatic events of the 1936-1939 Civil War.

11. The Franco regime represents a brutal interruption of the process of recognition and use of traditional regional or minority languages of Spain that had just started. Their public use was forbidden, books written in these languages were burnt in public, and regional names were erased from the toponymy and civil registers. In practice, it was prohibited to speak regional or minority languages. Printing offices were subject to brutal censorship. Many regional or minority language writers and artists decided to go into exile.

12. For many years regional or minority languages survived only in the home. When Franco died, on 20 November 1975, and democracy was restored in Spain by virtue of the 1978 Constitution, half of the population of Spain had been born after 1939 and for an entire generation the use of regional or minority languages had at best been confined to the family sphere, even though from the early 1970s the use of regional or minority languages had surfaced in the public sphere again (in particular, the introduction of their teaching in private schools was tolerated).

13. Under the 1978 Constitution a process was launched which led to the creation of 17 autonomous communities with their own statutes of autonomy and to the official recognition of most of the regional or minority languages spoken in Spain.

The Basque language (Euskera)

14. Basque is one of the most ancient languages spoken in Europe. The original population, the “Vascons”, from which the name “Basque” derives, and other related tribes, was already living on both sides of the Pyrenees before the Indo-European expansion. The roots of the Basque language are still unclear. The toponymic evidence suggests that it was originally spoken in a wide area on both sides of the Pyrenees.

15. A peculiar co-existence between the Basque populations and the Roman colonisation allowed the former to keep their language. The Basque populations began to be christianised between the IIIrd and Vth centuries via the Basque language. From the VIIIth to the XIth century the Basques, having established the Kingdom of Pamplona/Iruña, resisted the Arab expansion, which had extended over the greater part of today’s Spain.

16. At the end of the Xth century the Kingdom of Pamplona/Iruña had become the Kingdom of Navarra. Although the borders of the kingdom changed over time, it extended over large portions of what today constitute the Basque Autonomous Community, Navarre and the French part of Navarre.

17. During the Middle Ages, Basque was the daily spoken language for the vast majority of the population throughout the territory of the Kingdom of Navarre, with the possible exception of the Ribera area. Aristocratic families, however, continued to use Latin. Latin was also the written language used in particular for official texts of the administration, the court and the church, as was the case in many other European kingdoms at this time. Later, the Latin spoken among the upper layers of the society evolved into a Romance language specific to Navarra (“Romance Navarro”).

18. Between the XIIIth and XIVth centuries the three provinces which today constitute the Basque Autonomous Community were incorporated under the Crown of Castile. From this time, in the main urban centres of this area Castilian became the first language of reference in the public sphere and replaced Latin as the language of the administration, the reasons being on the one hand its adoption by the ruling *élites* and on the other hand the application of forms of pressure, especially in the representative bodies, aiming to exclude or marginalise Basque. The latter remained, however, well present in the oral public and administrative spheres of the smaller centres.

19. In 1512 Castile gained control of the whole of Navarre. What is today the French part of Navarre was abandoned a few years later. By this time “Romance Navarro”, which had been evolving closer and closer to Castilian, had already become the language of the administration in Pamplona/Iruña. However, Basque continued to be spoken in daily life and at local level also in the public and administrative spheres.

20. In its relations with the population, and particularly in the catechism, the church continued to use Basque. The first book in Basque was published in 1545 but religious themes remained dominant in the Basque literature for a long time. In fact, a good deal of the Basque texts of the XVIth, XVIIth and XVIIIth centuries came from the clergy and the religious archives of the diocese and of the cathedral of Pamplona/Iruña, for example, constitute major sources of historical documents in Basque.

21. The territories which today belong to the Basque Autonomous Community and to Navarre kept a number of different rights known as “fueros”, ie local customs that the Crown of Castile committed itself to respecting. In the XIXth century, these traditional rights were replaced or abolished in the context of the Carlist wars.

22. In the course of time the use of Basque regressed, in particular in the main urban centres and in the South of Navarra. In several regions it survived nevertheless among a significant part of the population. Although data vary according to the various sources, even the lowest figures indicate that in Pamplona/Iruña, for example, the Basque-speaking population amounted to 25% in 1863 and 14% in 1935, ie just before the beginning of the 1936-1939 Civil War¹.

23. According to the 1998 data provided by the Spanish Government (see pp. 16-20 of the initial periodical report), 29% of the population of the Basque Country (which amounted to 2 101 478 people in 2001) at least understands and speaks Basque, and this is also the case for 16% of the population of Navarra (which amounted to 556 263 people in 2001).

Catalan

24. Catalan is a Romance language which began to be distinguished from Latin around the Xth century.

25. The Catalan counties formed a union with the Kingdom of Aragon in the XIIth century but preserved their own autonomy. The Catalan language appeared for the first time in written documentation during the second half of the XIIIth century.

26. In the XIIIth and XIVth centuries the Catalan Counts launched a policy of expansion in the Mediterranean and during this period the enlarged Kingdom of Aragon (comprising also Catalonia) affirmed itself as a leading power in the Western Mediterranean. In particular, after the end of the Arab domination in the XIIIth century, the Balearic Islands became part of the Aragonese-Catalan union and Catalan spread rapidly over the islands.

27. The enlarged Kingdom of Aragon successively incorporated the Kingdom of Valencia, Sicily, Sardinia and Naples under its authority. It also ruled over Murcia during the XIIIth century.

28. In the XIIIth century the Catalan language boasted its first great literary talent (Ramón Llull, actually a Balearic writer and philosopher). The XVth century was described as the “Golden Century” for Catalan literature. Following the extinction of the Catalan dynasty of Aragon in 1410 and the election of the Castilian King Ferdinand I the Just, Catalonia, as well as the rest of the enlarged Kingdom of Aragon, entered a union with Castile at the end of the XVth century.

29. After the War of Succession (1705-1715), Philip V dissolved all the autonomous institutions in Catalonia and in the Balearic Islands (as well as in Aragon and Valencia), applied Castilian laws and restricted the use of Catalan in several areas of public life.

30. In the XIXth century a phase of economic and cultural recovery and Catalan national revival began under the name of “Renaixença”. At this time Catalan also experienced a revival in the Balearic Islands, whose inhabitants had continued to speak the language.

31. According to the 1998 data provided by the Spanish Government (see pp. 16-20 of the initial periodical report), 79% of the population of Catalonia (which amounted to 6 361 365 people in 2001) at least understands and speaks Catalan, and this is also the case for 72% of the population of the Balearic Islands (which amounted to 878 627 in 2001).

¹ Data available on the website of the Navarra Government: www.navarra.es/Educación/Dirección General de Universidades y Política Lingüística/EI Vascuence en Navarra/Retrosceso del vascuence en Navarra.

32. According to the initial periodical report (see p. 23), Catalan is also spoken in a region of Aragon bordering Catalonia known as “Franja de Poniente”. It is spoken in all or parts of the following six areas: Ribagorza, la Litera and Bajo Cinca in the Province of Huesca, Caspe in the Province of Saragossa, and Bajo Aragon and Matarraña in the Province of Teruel. It is calculated that 83 out of the 107 municipalities located in the mentioned areas are Catalan-speaking. The Catalan-speakers appear to amount to 40 000 out of 65 000 inhabitants.

Valencian

33. In the context of the overthrow of the Arab domination, in the XIIIth century, James I of Aragon annexed the Kingdom of Valencia to the enlarged Kingdom of Aragon, comprising also Catalonia and the Balearic Islands (see para. 27 above).

34. The Kingdom of Valencia nevertheless kept its own language, which was named Valencian. At the end of the XVth century, writers such as Joan Esteve and Jerónimo Amiguet stated that Valencian was the native language of Valencia. Also, during the XVIIth and XVIIIth centuries, the name of Valencian was used in numerous cases.

35. Despite the progressive penetration of Castilian after the incorporation of Valencia under the Crown of Castile (see para. 33 above), Valencian remained the mother-tongue and daily language among a substantial part of the population, especially in the coastal portion of Valencia.

36. The lexical and grammatical characteristics of the Valencian language do not significantly differ from the Catalan language. The Valencian Academy of the Language recognises that Valencian formed part of the same linguistic system in use in the following territories once they had been placed under the Crown of Aragon: Catalonia, the Balearic Islands, the Principality of Andorra, Eastern Aragon (“Franja oriental Aragonesa”), the Sardinian city of Alguer and today’s French department of “Pyrénées-Orientales”. The Valencian Academy of the Language stresses that the name assigned to the language in Valencia, ie “Valencian”, represents one element of differentiation of the centuries-old Valencian identity and compares the situation to the relationship existing for example between the Portuguese and the Brazilians.

37. Valencian is mainly spoken in the most populous areas along the coast (see also paras. 102-104 below).

38. According to the 1998 data provided by the Spanish Government (see pp. 16-20 of the initial periodical report), 56% of the population of the Community of Valencia (which amounted to 4 202 608 people in 2001) at least understands and speaks Valencian.

Galician

39. Galician developed from Latin, which had been introduced in the mountainous regions of the North-West of Spain under Roman rule. It maintained its close links with Latin even after the arrival of the “Gallaecis”, a Celtic people who settled in this region around the Vth century A.D., from which it derived its name.

40. As from the XIIth century, Galician was spoken in both the north and the south of historical Galicia (today’s Galicia and northern Portugal respectively). Galician literature developed at an early stage and in the XIIIth century had already reached a peak.

41. This territory did not however manage to develop into a well-defined political entity and in 1139 the Kingdom of Portugal extended its rule to the existing northern border between Portugal and Spain. As of the XVth century, the Portuguese rulers no longer referred to the “Galician” language, but replaced it with the term “Portuguese”, to which the Galician language today is still very close.

42. In the following centuries the influence of Castilian in the then Spanish part of Galicia grew considerably. The local nobility turned to Castilian and this language started to be systematically used in administration. Galician therefore quit the public sphere and was confined to an essentially popular dimension. From the XVIth to the XVIIIth century the use of Galician in writing underwent a serious decline and suffered from an inferiority complex vis-à-vis Castilian, even if it remained the daily language for a substantial part of the population. It is only in the XIXth century that a new revival of the language began.

43. According to the 1998 data provided by the Spanish Government (see pp. 16-20 of the initial periodical report), 89% of the population of Galicia (which amounted to 2 732 926 people in 2001) at least understands and speaks Galician.

44. According to the additional information provided by the Spanish Government, the Galician language is also spoken in some centres of the north-western part of the province of León, bordering Galicia. In particular, in the district of Bierzo Galician is spoken in some of the rural areas by about 22 000 people. According to an atlas published by the Institute of Studies of Bierzo, Galician speakers are mainly concentrated in Vega de Valcarce (844 inhabitants), Barxas (368 inhabitants), Trabadelo (532 inhabitants), Oencia (457 inhabitants), Sobrado (521 inhabitants) and Puente de Domingo Flórez (1 930 inhabitants). The Spanish Government recognises that there is a renewed interest in Galician in these areas, partly thanks to television broadcasts in Galician received from Galicia.

45. Furthermore, a variant of Galician ("Gallego Asturiano") is spoken in Asturias. Asturian Galician has been described to the Committee of Experts by the competent authorities as belonging to the Galician-Portuguese linguistic branch. Some linguists refer to it as a Galician of transition towards Asturian. It is spoken in the Western part of Asturias, in an area between the rivers Navia and Eo. This mainly rural territory is inhabited by a total of about 40 000 persons.

Asturian ("Bable")

46. Asturian (or "Bable") is a Romance language which kept its Latin roots even though the territory concerned was first conquered by the Arabs at the beginning of the VIIIth century and then became a refuge for the Visigoths, who founded a Christian Kingdom in 718 (which in the Xth century became the Kingdom of León).

47. The first documents in Bable/Asturian appeared in the XIIth century and from the XIIIth century Bable/Asturian was also present in legal texts and in a literary form. The influence of Castilian, however, grew rapidly, starting in the East of Asturias and then towards the South. The Kingdom of León and the Kingdom of Castile merged in the XIVth century (since 1388 the heir of the Spanish throne bears the title of "Prince of Asturias") and Castilian became the language of the administration. Bable/Asturian then disappeared from official documents.

48. In the following centuries Bable/Asturian survived essentially through oral transmission. A modern Asturian literature appeared however in the XVIIth century (in particular thanks to Antón de Mari Reguera's poems "Pleitu ente Uviéu y Mérida", written in 1639). In 1788 the first Bable/Asturian dictionary was written by Carlos González de Posada. In the first half of the XIXth century, poetry and drama were the most common literary form. The standardisation of Bable/Asturian began with the "Sudimientu" movement in 1973-1974.

Aragonese ("Fabra")

49. Aragonese ("Aragones") is an evolution of a popular Latin language. There is evidence of this language from the VIIIth century, the first written traces dating from the Xth century.

50. In the Middle Ages, the language was used by the administration of the Kingdom of Aragon, as well as by lawyers for legal transcriptions (the "Aragon Fueros"), and by writers of historical chronicles. The first traces of literature date from the XIIth century with the commentary of the bishop of Huesca to Aragon's fueros. The territory of Aragon was larger in the second half of the XIIIth century and during the XIVth century.

51. At the end of the XVth century Aragon entered a union with the Kingdom of Castile (see para. 28 above). In the XVIth century, the language began to decline and to progressively lose its prestige. It was no longer written and was only spoken at home. The Aragonese language survived essentially in the countryside.

52. A new revival started in the XIXth century and it was then that the first Aragonese-Castilian dictionary appeared. This linguistic and cultural revival did not however prevent further decline in the use of the language. Nowadays Aragonese is used mainly by the older generation of inhabitants of upper Aragon and principally in the countryside and in small villages. More recently, however, in some urban centres of Aragon groups of young people are reviving an interest in learning the language.

Aranese

53. According to the initial periodical report (see p. 23), Aranese, closely related to Gascon, is a variant of Occitan spoken in the Aran valley, a district of the Province of Lleida/Lerida in Catalonia, covering 620 square kilometres and including nine municipalities. According to the 2001 census, the total population of the region is 7 938 persons, of whom 55% understand and speak the language, 16% understand, speak and read it, and 9% are also capable of writing it.

Portuguese in Extremadura

54. According to the additional information provided by the Spanish Government, Portuguese is still used in Olivenza (10 827 inhabitants), which was finally ceded to Spain in 1801, in the Autonomous Community of Extremadura.

Berber in the Autonomous City of Melilla

55. According to the additional information provided by the Spanish Government, a dialect of Berber ("Chelha") is spoken by a significant minority in the city of Melilla, probably amounting to 25% of the total population.

Arabic in the Autonomous City of Ceuta

56. According to the additional information provided by the Spanish Government, Arabic is spoken by a part of the population of this city, although it is not easy to distinguish immigrant Arabic-speakers from those who originate from Ceuta.

Romany

57. Roma people have been present in Spain since the beginning of the XVth century. They have made a considerable contribution to some of the distinctive features of the Spanish culture, particularly in the field of music, dance and literature.

58. According to the initial periodical report, less than 100 people still speak Romany in Spain. In the additional information provided to the Committee of Experts, the Spanish Government also referred to 4 000 speakers of a different idiom called Caló. According to further information gathered by the Committee of Experts, however, Romany actually seems no longer to be used in Spain, in spite of the fact that about 450 000 Roma currently live in Spain, half of them in the Southern Spanish region of Andalusia.

1.4. General issues arising from the evaluation of the report

59. A general issue concerns the exact scope of the Spanish instrument of ratification. How the instrument of ratification appears to operate with regard to the territorial scope of Part III obligations will be discussed under point 1.5 below.

60. As to the question of identifying the languages covered by Part III of the Charter, the Committee of Experts notes that the first paragraph of the declaration appended to the instrument of ratification states that "for the purposes of the mentioned articles", ie presumably the articles of Part III of the Charter explicitly listed in the third paragraph of the declaration, are considered as regional or minority languages the languages recognised as official languages in the statutes of autonomy of the Basque Country, Catalonia, the Balearic Islands, Galicia, Valencia and Navarra. The second paragraph of the declaration then states that "(f)or the same purposes, Spain also declares that the languages protected by the Statutes of Autonomy in the territories where they are traditionally spoken are also considered as regional or minority languages". These languages are Bable/Asturian, Asturian Galician, Aragonese ("Fabra"), Catalan in Aragon and Aranese. The phrase "for the same purposes" seems at first sight to suggest that the purposes in question are the same as those mentioned in the first paragraph, ie with regard to the articles of Part III which are explicitly mentioned in the declaration. This would seem to imply that these languages too are protected by Part III provisions. However, the third paragraph of the declaration corrects this apparent reading by stating that the provisions of Part III listed therein will apply to the languages mentioned in the first paragraph, ie those recognised as official languages by the statutes of autonomy of the mentioned autonomous communities. According to the combined reading of the first three paragraphs of the declaration, the languages mentioned in the second paragraph appear to be protected only under Part II of the Charter.

61. The declaration appended to the instrument of ratification contains nevertheless an additional and final clause, stating that all the provisions of Part III of the Charter which can reasonably apply according to the objectives and principles laid down in Article 7 will apply to the languages mentioned in the second paragraph, ie those covered only by Part II of the Charter. However, since the Spanish authorities have not indicated a minimum of 35 paragraphs or sub-paragraphs of Part III, as required by Article 2 para. 2 of the Charter, which should apply to these languages in order for them to be covered by Part III of the Charter, these languages remain only covered by Part II. When evaluating compliance with Article 7 (Part II) in respect of these languages the Committee of Experts will therefore confine itself to taking into consideration, where relevant, the information provided by the Spanish authorities with regard to certain Part III provisions, but will not actually evaluate compliance with the latter (see the first evaluation report on the application of the Charter by Austria, ECRML (2005) 1, paras. 51-52).

62. Another issue concerns the various difficulties, beyond the control of the Committee of Experts, that have considerably delayed this first monitoring process concerning Spain (see para. 4 above). The “on-the-spot” visit eventually took place and the co-operation with the Spanish authorities was excellent in this context, but the Committee of Experts hopes to be able to carry out future monitoring rounds in smoother conditions.

63. An additional difficulty derives from the basic approach taken by the Spanish Government in providing information to the Committee of Experts. Most of the information provided especially in the initial periodical report is in fact of a formal nature, in that it refers essentially to the formal regulatory framework, but very little is said concerning the practice. An additional difficulty comes from the fact that in several cases the Spanish Government submitted overall comments referring to various undertakings at the same time instead of specifically commenting on the fulfilment of each individual undertaking. In a number of cases the mentioned difficulties have prevented the Committee of Experts from reaching a conclusion. The Spanish authorities are encouraged to take account of these remarks in the preparation of their next periodical report and in their further contribution to the next monitoring round.

1.5 Preliminary issue concerning the instrument of ratification and in particular the protection of Basque in Navarra

64. As was already mentioned above (see para. 60), the declaration attached to the Spanish instrument of ratification reads as follows:

“Spain declares that, for the purposes of the mentioned articles, are considered as regional or minority languages, the languages recognised as official languages in the Statutes of Autonomy of the Autonomous Communities of the Basque Country, Catalonia, Balearic Islands, Galicia, Valencia and Navarra.

For the same purposes, Spain also declares that the languages protected by the Statutes of Autonomy in the territories where they are traditionally spoken are also considered as regional or minority languages.

The following provisions of the Part III of the Charter will apply to the languages mentioned in the first paragraph:

(...)”

65. The languages concerned by Part III protection appear to be those that are defined as co-official by the statutes of the autonomous communities where they are spoken (see para. 60 above). However, the territorial scope of the protection under Part III may not be self-evident when the language enjoys co-official status only on part of the territory of the autonomous community concerned. This is especially the case in Navarra.

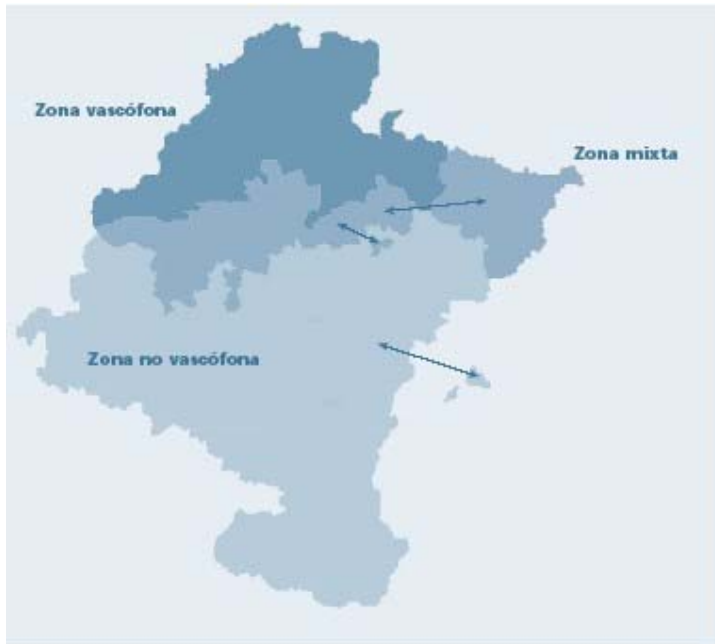
66. Article 9 of the State Authorities Act 13/1982 on the Integration and Improvement of the Special Status of Navarra provides as follows:

“1. Castilian shall be the official language of Navarra.

2. Basque shall also have the status of official language in the Basque-speaking areas of Navarra.

A special act (ley foral) shall determine the said areas and shall regulate the official use of Basque; within the framework of general state legislation, it shall organise the teaching of this language.”

67. Article 5 of the Act 18/1986 of 15 December, passed by the Parliament of Navarra, identifies the Northern part of the community as being “Basque-speaking”. The central part is defined as “mixed” and the Southern part is defined as “non Basque-speaking” (see the map reproduced below; see also p. 21 of the initial periodical report).



68. In the light of the above provisions, the instrument of ratification by Spain could be interpreted in the sense that since Basque in Navarra is co-official only in the “Basque-speaking zone”, it is only this portion of Navarra which is covered by the undertakings entered into by Spain under Part III of the Charter. The Spanish authorities seem to follow such an interpretation. Taking this interpretation as a starting-point, the Committee of Experts sees an important issue concerning the status of the Basque language under the Charter in the “mixed zone”. According to the statistics made available to the Committee of Experts, here 17,513 persons are bilingual (ie 5.7% of the whole population of this area) and 40,555 more have some knowledge of Basque (ie another 13.2% of the total population of the area). The figures concerning the city of Pamplona/Iruña alone, ie the main urban centre of the whole of Navarra, are as follows: here 10 992 people are bilingual (ie 7% of the total number of inhabitants, which amounts to 166 279) and 13 890 more (ie 8% more of the population of the city) have some knowledge of Basque. These figures indicate, at the same time, that Pamplona/Iruña has the highest concentration of Basque-speakers in a single town in the whole of Navarra (the “Basque-speaking zone” included).

69. A more specific, but very important datum concerns education: from the information received by the Committee of Experts from various sources, it appears that about 30% of the pupils in the “mixed zone” follow the D model in school (ie 4/5th of the curriculum in Basque and 1/5th for the teaching of Spanish and English). This is a higher share than the overall percentage of speakers, which means that education is playing a particularly important role in strengthening the Basque language among the younger generations. Also, and not least, this suggests a strong motivation among a substantial part of the population to preserve the language in this area too.

70. The presence of Basque-speakers in the “mixed zone”, and in particular in Pamplona/Iruña, must also be seen against the socio-economic context of Navarra. As has been noted above (see especially para. 22 above), Basque has a traditional presence in the mixed area, in particular in and around Pamplona/Iruña. Several interlocutors reported to the Committee of Experts, during the “on-the-spot” visit, that the northern zone of Navarra is affected by a demographic decline to the advantage of Pamplona/Iruña, which is the main urban and administrative centre of the whole autonomous community. More importantly, they reported, there is a traditional mobility of Basque-speakers between the North of Navarra and Pamplona/Iruña, which is the

natural centre of the region. In this respect, the Committee of Experts recalls that a regional or minority language is a living reality and that its framework of protection and promotion should always be seen in the socio-economic context in which it lives and be adapted/developed accordingly (see the first evaluation report of the Committee of Experts on the implementation of the Charter by Slovenia, ECRML (2004) 3, para. 52).

71. In principle it is possible for a contracting state to consider it preferable, for reasons which lie within its discretion, not to extend the benefit of the provisions of Part III of the Charter to a given language, or to a given territory. However, the reasons for not extending Part III protection to a given language, or to a given territory as in the present case, must still be compatible with the spirit, objectives and general principles of the Charter (see paragraph 42 of the explanatory report to the Charter).

72. The Committee of Experts therefore encourages the Spanish authorities to provide more detailed information regarding the characteristics of the presence of Basque in the “mixed zone” (places concerned, degree of concentration of the speakers, proportion of the latter compared to the population of the places concerned), and to reflect on whether there may be a need for an appropriate level of Part III protection within the mixed zone, all the more so as a number of important measures, in particular in the field of education (see para. 142 below), corresponding to some typical Part III undertakings, are already in place. It should also be pointed out that this issue is independent from that of the granting of co-official status, which is relevant only from the point of view of the domestic legal system.

73. In any event, the Basque language in the “mixed zone” is already covered by Part II of the Charter. In this regard, the Committee of Experts refers to the evaluation under Part II of the Basque language in the “mixed zone” (see paras. 119-120 and 142 below).

74. As far as the “non-Basque-speaking zone” is concerned, the Committee of Experts notes that according to the statistics made available to it, especially the most recent ones dating back to 2003, it appears that 2 065 persons living in this area are bilingual. This represents about 1% of the population of the zone concerned, which amounts to 206 504 people (in this respect it must be noted, however, that 2.6% of the pupils in this zone follow model D in the legalised Ikastolas). It also appears that 12 390 more people have some knowledge of Basque, which represents an additional 6% of the population. The speakers in this area seem to be present in a rather dispersed manner but during the “on-the-spot” visit, the Committee of Experts was informed that in some places the Basque language has built up around the Ikastolas and that this has generated a local linguistic and cultural network. The Committee of Experts lacks in fact a more precise picture of the structure and the characteristics of the territorial presence of the Basque-speakers in this area (in particular where, with what degree of concentration and in what proportion compared to the population living in the places concerned). This information is needed in order to enable the Committee of Experts to assess whether in this area Basque is covered by Article 7 of the Charter.

1.6 Regional or minority languages not mentioned by the instrument of ratification

75. The Committee of Experts has found that a number of languages that are not mentioned, in one way or another, in the instrument of ratification submitted by Spain, do nevertheless, according to the information provided by the Spanish Government itself, have a traditional presence in Spain and a minimum significance as far as the number of speakers is concerned. These languages are the following:

- Galician in Castilla y León (see para. 44 above);
- Portuguese in the town of Olivenza (see para. 54 above);
- Berber in the Autonomous City of Melilla (see para. 55 above);
- Arabic in the Autonomous City of Ceuta (see para. 56 above).

76. The position of the Spanish Government is that none of the situations that have been indicated in the instrument of ratification (co-official languages according to the statutes of the autonomous communities or languages that are protected by statutes of autonomous communities in the territories where they are traditionally spoken) applies to the above languages, with the result that they are not covered by the Charter.

77. The Committee of Experts observes that any language which meets the fundamental criterion laid down in Article 1.a of the Charter, according to which a regional or minority language within the meaning of the Charter is one which, *inter alia*, is “traditionally used within a given territory of a State”, is covered by at least Article 7 of the Charter (see, *mutatis mutandis*, the first evaluation report of the Committee of Experts on the implementation of the Charter by Slovenia, quoted above, paras. 35-38). This is an objective consequence of the application of the Charter and the fact that a language which meets the above-mentioned criterion is not

mentioned by a State in the instrument of ratification or in the initial periodical report does not deprive it of the benefit of Part II protection.

The Committee of Experts encourages the Spanish authorities to clarify, in co-operation with the speakers, the situation of the following languages and to comment in a detailed manner, in the next periodical report, on the application of Article 7 of the Charter to them:

- Galician in Castilla y Leon;***
- Portuguese in the town of Olivenza;***
- Berber in the Autonomous City of Melilla;***
- Arabic in the Autonomous City of Ceuta.***

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

2.1 The evaluation in respect of Part II of the Charter

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;"*

General remark

78. Article 3, paragraph 3 of the Spanish Constitution provides as follows:

"The richness of the linguistic varieties of Spain is a cultural patrimony which will be the object of special respect and protection".

79. The Committee of Experts considers that this provision represents one of the most exemplary formal recognitions of regional or minority languages as an expression of cultural wealth that can be found in Europe. The granting of co-officiality to some of the regional or minority languages spoken in Spain by the statutes of the autonomous communities concerned constitutes a very strong way of implementing this very high constitutional commitment. Inevitably, the broader picture, to which the following paragraphs are also devoted, is more complex. Nevertheless, Article 3 para. 3 of the Spanish Constitution, which was adopted before the Charter, is in itself an optimal expression at domestic level of the principle embodied in paragraph 1.a of Article 7 of the Charter.

The Basque language (Euskera) in the Basque Country

80. The granting of co-official status to the Basque language in the Basque Country (Article 6 of the Statute of Autonomy of the Basque Country, approved by State Law 3/1979 of 18 December) is a very strong recognition of its value.

The Basque language (Euskera) in Navarra

81. In Navarra the Basque language is also granted a co-official status but limited to the "Basque-speaking zone", which coincides roughly with the Northern part of Navarra (Article 9 of State Law 13/1982 on the Integration and Improvement of the Special Status of Navarra and Article 5 of Law 18/1986 of 15 December, passed by the Parliament of Navarra).

82. Irrespective of the granting of co-official status and of the issue, independent from the former, of the extension of Part III protection to the "mixed zone" of Navarra (see paras. 64-73 above), the Committee of Experts observes that the elements that it has gathered seem to give a contradictory picture as to whether the Basque language is in reality recognised as an expression of cultural wealth with regard to the "mixed zone" as well. During the "on-the-spot" visit the Committee of Experts nevertheless detected encouraging signs, which seem to show that the Basque language is increasingly perceived as an element of cultural wealth and as a heritage of all the citizens of Navarra. This momentum should be fully exploited by all the competent authorities, which are encouraged to translate the said perception into concrete measures of protection and promotion.

Catalan in Catalonia

83. The Statute of Autonomy of Catalonia, approved by State Law 4/1979 of 28 December, makes Catalan, defined as the vernacular language of Catalonia, a co-official language alongside Castilian (Article 2). According to Article 3, the Autonomous Administration shall guarantee the normal and official use of both languages and shall adopt the necessary measures to guarantee that they are learnt and shall create the

conditions enabling them to achieve full equality with respect to the rights and duties of the citizens of Catalonia.

84. The Committee of Experts considers that the granting of co-officiality to a regional or minority language constitutes the strongest way of officially recognising its value.

Catalan in the Balearic Islands

85. The Statute of Autonomy of the Balearic Islands, approved by State Law 2/1983 of 25 February, makes Catalan, defined as the vernacular language of the Balearic Islands, a co-official language alongside Castilian (Article 1). According to Article 2 everyone shall have the right to learn and use Catalan. Article 3 stipulates that the institutions of the Balearic Islands shall guarantee the normal and official use of both Castilian and Catalan. They shall also take the necessary measures to guarantee that they are learnt and shall create the conditions enabling the two languages to achieve full equality with respect to the rights of the citizens of the Balearic Islands.

86. The Committee of Experts considers that the granting of co-officiality to a regional or minority language constitutes the strongest way of officially recognising its value.

Valencian

87. The Statute of Autonomy of the Community of Valencia, approved by State Law 5/1982 of 1 July, stipulates that the two official languages of the Community of Valencia shall be Valencian and Castilian and everyone shall have the right to learn and use them (Article 7, first paragraph). The same provision also provides: that the Autonomous Administration of Valencia shall guarantee the normal and official use of both languages and shall adopt the necessary measures for ensuring that they are learnt (second paragraph); that the revival of Valencian shall receive special protection and respect (fourth paragraph); that the criteria governing the use of Valencian in the administration and education shall be established by law (fifth paragraph).

88. The Committee of Experts considers that the granting of co-officiality to a regional or minority language constitutes the strongest way of officially recognising its value.

Galician

89. The Statute of Autonomy of Galicia, approved by State Law 1/1981 of 6 April, defines Galician as the vernacular language of Galicia (Article 5 para. 1) and provides that Galician and Castilian shall be the official languages of Galicia and that everyone shall have the right to learn and use them (Article 5 para. 2). The Statute also stipulates that the Galician authorities shall guarantee the normal and official use of both languages, shall strengthen the use of Galician at all levels of public and cultural life as well as in the media, and shall have available the necessary resources for facilitating the learning of it (Article 5 para. 3).

90. The Committee of Experts considers that the granting of co-officiality to a regional or minority language constitutes the strongest way of officially recognising its value.

Asturian (“Bable”)

91. Asturian (or “Bable”) is officially recognised by the Statute of Autonomy of the Asturias (State Law 7/1981 of 30 December). According to Article 1 of the Statute, Bable/Asturian will be protected and the Principality of Asturias shall promote its use, dissemination and teaching.

92. The Committee of Experts considers that this represents a strong recognition of the Bable/Asturian language. However, during the “on-the-spot” visit the Committee of Experts noted the existence of strong dissatisfaction at Bable/Asturian not being granted co-official status, which among other things would open the way for this language to be covered also by Part III of the Charter by virtue of the way in which the Spanish instrument of ratification operates. It was thus reported to the Committee of Experts, by several official as well as non-governmental sources, that there is at present a gap between the strong social demand for a proper recognition of the place of Bable/Asturian in the Asturias and the fact that co-officiality has not yet been granted to it. This leads on the one hand to the lack of co-officiality being at odds with the measures that are being taken particularly in the field of administration (see paras. 122-123 below), and on the other hand to the fact that Law 1/98 of 23 March on the use and promotion of Bable/Asturian cannot be properly implemented precisely because of the lack of co-officiality of the language. This was presented as an awkward situation to

the Committee of Experts, since the work of standardisation of Bable/Asturian has now been completed by the Academy of the Asturian Language. The latter information seems to contradict the Spanish Government's point of view, according to which the lack of standardisation and of an adequate written literature explains why Bable/Asturian, among others, is not co-official (see p. 21 of the initial periodical report).

Asturian Galician (“Gallego Asturiano”)

93. The Statute of Autonomy of the Asturias also recognises Asturian Galician as a separate language. Article 2 provides in particular that the system of protection, respect, safeguard and development established by the Statute for Bable/Asturian shall be extended through special regulations to Asturian Galician in the areas where it is spoken as a vernacular language. Furthermore, an additional provision in the Statute states that Asturian Galician shall be treated similarly to Asturian as regards protection, respect, teaching, use and safeguard in the areas where it is spoken. The Committee of Experts welcomes this clear formal recognition of the language.

94. However, during the “on-the-spot” visit several non-governmental sources underlined that in practice very little value is attached to this language and that in several instances its specificity compared to Asturian is denied. Although the competent authorities show a commitment in principle to promote this language, a greater effort to promote the specific identity of Galician in the Asturias seems to be necessary.

Aragonese (“Fabra”)

95. The Statute of Autonomy of Aragon (State Law 8/1982 of 10 August) recognises “the various linguistic varieties spoken in Aragon”. According to Law 3/1999 of 10 March on the cultural heritage of Aragon, Aragonese, or “Fabra”, is one of them.

Catalan in Aragon

96. The Statute of Autonomy of Aragon recognises “the various linguistic varieties spoken in Aragon”. According to Law 3/1999 of 10 March on the cultural heritage of Aragon, Catalan is the other linguistic variety of Aragon.

Aranese

97. The Statute of Autonomy of Catalonia recognises the Aranese language and states that Aranese shall be the subject of special teaching, respect and protection (Article 3 para. 4). Furthermore, the Autonomous Community of Catalonia has developed a special legal and administrative system for the Aran valley, which has led in practice to Aranese being co-official in the area concerned (Article 2 para. 1 of Law 16/1990 of 13 July on the special status of the Aran valley; see also paras. 116 and 132 below). The Committee of Experts observes that this is a particularly strong recognition for a language spoken on a limited portion of the territory of the autonomous community concerned.

“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;”

The Basque language (Euskera)

98. The Committee of Experts did not detect any specific problem concerning the internal administrative divisions within the Basque Country.

99. As far as Navarra is concerned, the Committee of Experts has already made reference to the linguistic zoning within this autonomous community. The main consequence of the said zoning as such concerns the exclusion of the “mixed zone” of Navarra from Part III protection (see paras. 64-73 above).

100. The fact that the Basque language is split between two different administrative entities, ie the two autonomous communities in question, implies the need for a close co-ordination between these different administrative entities. The concrete instances where the said co-ordination directly affects the fulfilment of specific undertakings will be dealt with where appropriate (see in particular paras. 133 and 423-426 below).

Catalan

101. The Catalan language is also split in three different autonomous communities, ie Catalonia, the Balearic Islands and Aragon. The need for a close co-ordination between these different administrative entities is therefore particularly relevant also as far as this language is concerned. The Committee of Experts is looking forward to receiving information on the co-operation between Catalonia, the Balearic Islands and Aragon in the next periodical report.

Valencian

102. Article 7, sixth paragraph of the Statute of Autonomy of the Community of Valencia, approved by State Law 5/1982 of 1 July, stipulates that a law shall define the territories in which the use of both Castilian and Valencian shall be the norm and those areas that may refrain from teaching and using the vernacular language of the Community. As was already noted above, Valencian is mainly spoken in the areas along the coast (see para. 37). Starting from this situation, a legal act adopted by the Community of Valencia has defined predominantly Valencian-speaking areas and predominantly Castilian-speaking areas.

103. The former consist of 293 municipalities, listed in the act: 109 are located in the province of Alicante, 83 in the province of Castellón and 101 in the province of Valencia. On the basis of the results of the 2001 census, the population living in these areas represents 88.6% of the total population of the Community (see p. 21 of the initial periodical report).

104. The Castilian-speaking areas consist of 143 municipalities, also listed in the act in question: 30 are located in the province of Alicante, 51 in the province of Castellón and 62 in the province of Valencia. On the basis of the results of the 2001 census, the population living in these areas represents 11.4% of the total population of the Community (see p. 21 of the initial periodical report).

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

The Basque language (Euskera) in the Basque Country

105. The substantial number of legislative and practical measures resulting from the granting of the co-official status to the Basque language in the Basque Country is undoubtedly a significant response to the need for resolute action to promote the Basque language in this community, although the concrete implementation of the legislative measures may still be unsatisfactory in specific areas (see for example paras. 537 and 541 below). However, the need for resolute action also concerns the central authorities, in particular, but not exclusively, in the areas which fall under their direct competence. Here the Committee of Experts sees room for progress and the concrete occurrences of this sort will be dealt with later on (see in particular paras. 504-527, 531-533 and 610-614 below).

106. A more general problem concerns those cases, to which the attention of the Committee of Experts was specifically drawn during the "on-the-spot" visit, where municipalities do not implement policies adopted at the level of the Autonomous Community which are designed to protect and promote the Basque language.

107. The Committee of Experts does not question the principle of local self-government, to which the Council of Europe attaches great importance, and recalls that it fully recognises the value of the devolution of responsibilities to local and regional authorities, which has the advantage of ensuring that the policies and measures for implementing the Charter are determined close to the speakers of the relevant language (see the first evaluation report of the Committee of Experts on the implementation of the Charter by the United Kingdom, ECRML (2004) 1, para. 34., as well as the first evaluation report of the Committee of Experts on the implementation of the Charter by Sweden, ECRML (2003) 1, para. 24). Indeed, the information made available to the Committee of Experts points to interesting and positive developments in a number of municipalities.

108. However, the fact that some specific municipalities can hamper the implementation of the obligations under the Charter raises an important issue under the Charter (cf. the first evaluation report of the Committee of Experts on the implementation of the Charter by Sweden, quoted above, paras. 24-25 and Findings G-H). In this regard, the Committee of Experts recalls that irrespective of the domestic arrangement of the competences involved, Spain remains responsible under international law for the implementation of treaties it has ratified, including the Charter (see the first evaluation report of the Committee of Experts on the implementation of the Charter by the United Kingdom, quoted above, para. 34).

The Committee of Experts encourages the Spanish authorities to seek ways to ensure that the obligations entered into under the Charter are fully implemented, where relevant, also at local level, in particular in the Basque Country.

The Basque language (Euskera) in Navarra

109. As far as Navarra is concerned, the Committee of Experts underlines that irrespective of the issue as to whether the Basque language in the “mixed zone” should benefit from Part III protection (see paras. 64-73 above), the Basque language in this area is at present already covered by Article 7 of the Charter and this calls for resolute action by all the competent authorities at least for the purpose of Part II protection.

Catalan in Catalonia and in the Balearic Islands, Valencian and Galician

110. The Committee of Experts refers to its evaluation under Part III of the Charter.

Asturian (“Bable”)

111. In some areas, particularly administration, the authorities are making efforts in spite of the lack of co-officiality of Bable/Asturian and these efforts are producing results which go beyond what is strictly required by the basic obligations under Part II of the Charter and which approach typical measures corresponding to the relevant provisions contained in Part III of the Charter (see paras. 122-123 below). Serious shortcomings, however, exist in particular in the field of the media (see para. 125 below) and above all in the field of education (see paras. 148-150 below). These require particular urgent and resolute action on the part of the authorities.

Asturian Galician (“Gallego Asturiano”)

112. In spite of the commitment in principle on the part of the authorities to promote this language, which is certainly commendable in itself, it is still unclear whether the authorities are taking resolute action, in particular in the field of education (see paras. 151-153 below).

Aragonese (“Fabra”) and Catalan in Aragon

113. Measures have been taken, particularly in the field of education, but apparently only for the benefit of the Aragonese language (see paras. 154-156 below). Furthermore, the Committee of Experts notes that “the specific legal framework for regulating the co-official status of Aragonese and Catalan, minority languages in Aragon, as well as the effective rights of the respective linguistic communities, both in the field of education of and in the vernacular language and in that of the full standardisation of the use of these two languages in their respective territories” (second final provision of Law 3/1999 of 10 March on the Aragonese cultural heritage), has yet to be approved, which negatively affects both Aragonese and Catalan in Aragon.

114. Non-governmental sources heard by the Committee of Experts during the “on-the-spot” visit described the situation in Aragon as very critical for the Catalan language. No information on measures of protection of Catalan in Aragon was provided by the Spanish Government either in the initial periodical report or in the additional information provided to the Committee of Experts.

115. The competent authorities are encouraged to accelerate the adoption of a specific legal framework for protecting and promoting linguistic pluralism in Aragon.

The Committee of Experts encourages the competent authorities to accelerate the adoption of a specific legal framework for the protection and promotion of Aragonese and Catalan in Aragon and to take the necessary measures of implementation.

Aranese

116. As was already noted above (see para. 97), Aranese, which is a variant of Occitan, is in practice co-official in the Aran Valley. Article 20 of Law of Catalonia 16/1990 of 13 July on the special status of the Aran Valley states that the administration of the Autonomous Community shall have full powers over the promotion

and teaching of Aranese and its culture, in accordance with the general laws in force throughout Catalonia on language education and policy. Furthermore, according to Article 7 of Law of Catalonia 1/1998 of 7 January on language policy, the use of Aranese is governed by Law 16/1990 of 13 July on the special status of the Aran Valley and in addition by the provisions of the 1/1998 Law, which may never be interpreted to the detriment of the use of Aranese.

117. The competent authorities must be praised in this respect, all the more so since the main linguistic stock to which Aranese belongs, ie Occitan (see para. 53 above), is situated elsewhere.

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

The Basque language (Euskera) in the Basque Country

118. As far as the Basque Country and the "Basque-speaking zone" of Navarra are concerned, the Committee of Experts refers to the evaluation of the relevant undertakings under Part III.

The Basque language (Euskera) in Navarra

119. As for the "mixed zone", users have a right to address the administration in Basque. The Committee of Experts has however received no information pointing to a clear policy of encouragement of the use of Basque in the official sphere and in public life and some elements actually suggest a decline in the use of Basque in this sphere in the "mixed zone". Thus bilingual roadsigns in Pamplona/Iruña no longer exist and the Committee of Experts received complaints, during the "on-the-spot" visit, according to which fewer and fewer applications are actually submitted in Basque.

120. The Spanish authorities are encouraged to clarify, in the next periodical report, the measures taken in this field with specific regard to the "mixed zone".

Catalan in Catalonia and in the Balearic Islands, Valencian and Galician

121. The Committee of Experts refers to its evaluation under Part III of the Charter.

Asturian ("Bable")

122. Several measures taken by the authorities ensure a certain degree of presence of Bable/Asturian in the public sphere, particularly in areas which go beyond the basic scope of the present provision under Part II and which correspond to the scope of certain Part III provisions. Thus Article 4 para. 2 of Law 1/1998 of 23 March on the use and promotion of Bable/Asturian provides that the use of Bable/Asturian in citizens' oral and written communications with the administration of the Asturias shall be valid for all purposes and paragraph 3 of the same provision stipulates that the said administration shall promote the learning of Bable/Asturian by all civil servants working in the Asturias (see also Article 5 of Law 1/1998 of 23 March on the use and promotion of Bable/Asturian, on official publications – p. 92 of the initial periodical report, Article 15 of the same law, concerning place-names – p. 97 of the initial periodical report, and Article 4, concerning the value assigned to the knowledge of Bable/Asturian with regard to competitions related to posts within the administration of the Autonomous Community – p. 101 seq. of the initial periodical report).

123. According to the information gathered by the Committee of Experts during the "on-the-spot" visit, there is an office within the Autonomous Community which is competent in linguistic matters. Instructions have been issued to the administration to facilitate the use of Asturian and at least 1/3 of the information for the public should also be in Bable/Asturian. Petitions and communications submitted in Bable/Asturian are regularly processed and sometimes they are not even translated into Castilian. If a translation is necessary (for example to register an association), the costs are borne by the administration.

124. In the field of media and culture, Articles 13 and 14 of Law 1/1998 on the use and promotion of Bable/Asturian are of particular interest. According to Article 13:

- "1. The Administration of the Asturias shall favour the dissemination of Bable/Asturian in the media by:
- a) devising and financing economic and material support plans so that the media regularly use Bable/Asturian;
 - b) protecting cultural and artistic events, book publishing, audio, audiovisual and film production and any other cultural activity in Bable/Asturian.

2. In radio and television broadcasts and in other media with the present or future involvement of the autonomous administration, the latter shall ensure adequate use of Bable/Asturian.”

According to Article 14:

“1. Grants or aid for the media, audiovisual, film and audio productions or publishing may be specific for productions or publications in Bable/Asturian; for other publications and productions, grants or aid shall be promoted in a manner yet to be defined for specific Articles and spaces.
(...)”

125. The authorities are currently working on the possible establishment of a Bable/Asturian radio station and television channel. In fact, at present Bable/Asturian seems paradoxically to be more present in the private media. Some financial support is indeed granted to private media but as the authorities themselves conceded, anomalies are still possible: thus the licence granted to a private radio broadcasting in Bable/Asturian was later withdrawn, for reasons that are unknown to the Committee of Experts. A weekly newspaper exists (“Les Notices”), but otherwise the presence of the language in the press is essentially confined to cultural supplements.

126. In the cultural field the Spanish Government referred to a number of measures related to the publication of books, the production of songs, movies or videos, or the organisation of contests (see also p. 128 seq. of the initial periodical report).

127. Finally, paragraph 2 of Article 14 of the above-mentioned Law 1/1998 is also relevant with regard to the use of Bable/Asturian in the public sphere, and again in a way which corresponds, at least from a formal point of view, to some of the undertakings contained in Part III of the Charter, insofar as it provides that “(p)ivate or public enterprises and entrepreneurs using Bable/Asturian in their advertising, labelling, correspondence or documentation may also receive subsidies and aid specifically for this purpose”.

128. Notwithstanding the problems identified above, the Committee of Experts commends the Spanish authorities for taking such a wide range of measures in favour of Bable/Asturian, particularly those concerning its public use, which come close to typical Part III measures. The Spanish authorities are encouraged to pursue and further develop their efforts for the benefit of this language.

Asturian Galician (“Gallego Asturiano”)

129. Although the competent authorities are in principle committed to granting to Galician in the Asturias the same degree of protection as Bable/Asturian, the presence of Asturian Galician in public life is not comparable to that of Bable/Asturian, which benefits from typical Part III measures. According to the information gathered by the Committee of Experts during the “on-the-spot” visit, in spite of a number of measures in the cultural field to which the Spanish Government made reference in the additional information provided to the Committee of Experts (such as subsidies for the production of songs, films or videos, for the publication of books or for the organisation of contests), its presence in public life seems to be rather weak and the competent authorities should take active measures to promote the use of Asturian Galician in this sphere.

The Committee of Experts encourages the competent authorities to take measures aimed at increasing the presence and visibility in public life of Asturian Galician.

Aragonese (“Fabra”)

130. No specific information was provided in this respect. The Committee of Experts therefore encourages the Spanish authorities to comment on this point in their next periodical report.

Catalan in Aragon

131. No specific information was provided in this respect. The Committee of Experts therefore encourages the Spanish authorities to comment on this point in their next periodical report.

Aranese

132. The Aranese language has in practice a co-official status in the territory concerned (see para. 97 above). Furthermore, the additional information provided by the Spanish authorities refers to measures by the Administration of Catalonia with a view to promoting the use of Aranese in all cultural areas as well as in the fields of industry and tourism. Subsidies for radio broadcasting in Aranese are granted by the Administration of Catalonia. The Committee of Experts praises the efforts made by the competent authorities in favour of this language.

"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;"

The Basque language (Euskera)

133. The Committee of Experts observes that this provision is particularly relevant for the Basque language, given that it is split between two different regional entities, ie the Basque Country and Navarra. Links between the speakers in the two communities exist but there seems to be room for improving the co-operation between the two communities concerned, with a view to maintaining and developing the said links in the field covered by the Charter. Co-operation with regard to the re-transmission in Navarra of the programmes of the Basque-speaking television channel located in the Basque Country (EITB) appears to be problematical (see paras. 422-425 below). An additional problem that has been reported to the Committee of Experts concerns the lack of a common framework for sharing teaching materials in the Basque language in the educational systems of the two communities.

134. The Committee of Experts attaches great importance to the renewal of close co-operation between the two communities concerned in the various fields covered by the Charter.

The Committee of Experts encourages all the competent authorities to seek ways to foster closer co-operation between the Basque Country and Navarra in the fields covered by the Charter.

Catalan

135. The Spanish Government has provided very little information on the maintenance and development of links, in the fields covered by this Charter, between the speakers living in Catalonia, the Balearic Islands and in Aragon, the three autonomous communities concerned. The Spanish authorities are encouraged to submit further information on this point in their next periodical report. Information should in particular be provided concerning the maintenance and development of links between speakers of Catalan in Aragon and other Catalan-speakers. The Committee of Experts underlines the importance of this provision in this case, given the weak position of the Catalan language in Aragon (see paras. 113-114 above).

Valencian

136. No specific information was provided concerning the maintenance and development of links, in the fields covered by this Charter, between Valencian-speakers on the one side and Catalan-speakers living in Catalonia, the Balearic Islands and in Aragon on the other side. The Spanish Government is encouraged to provide information on this point in its next periodical report.

Asturian Galician ("Gallego Asturiano")

137. No information was provided to the Committee of Experts concerning the maintenance and development of links between speakers of Galician in Asturias and speakers of Galician in Galicia. The Spanish authorities are therefore encouraged to comment on this point in their next periodical report.

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

The Basque language (Euskera)

138. As far as the Basque Country is concerned, the Committee of Experts refers to the detailed evaluation under Part III.

139. As far as Navarra is concerned, the Committee of Experts notes in the first place that Article 19 of Law of Navarra 18/1986 of 1 December on the Basque language provides that "(a)ll citizens shall have the right to be taught in Basque and Castilian at all levels of education (...)" according to the various areas. Decree of Navarra 159/1988 of 19 May regulates the use of Basque in non-university education and sets out the four linguistic models for the Community's public and private schools:

- model A: teaching in Castilian with Basque as a subject;
- model B: teaching in Basque and of Castilian, specific subjects being also possibly taught in the latter language;
- model D: teaching in Basque with Castilian as a subject;
- model G: teaching in Castilian.

140. The modalities of application of these different models, in particular as regards the minimum number of pupils required, partly differ according to the three linguistic zones in which Navarra is divided. In general, in the "Basque-speaking zone" some degree of teaching of or in Basque must always be provided, whereas in the other two zones the inclusion of Basque in the curriculum is done on a voluntary basis and depends on the level of the demand.

141. More particularly, as regards the "Basque-speaking zone" of Navarra the Committee of Experts refers to its detailed evaluation under Part III.

142. With regard to the "mixed zone", according to the information received teaching of Basque is available, although not in a uniform manner. In any event, about 30% of the pupils follow education essentially in Basque in this area (see para. 69 above). This is a commendable result, which goes well beyond the basic obligation embodied in Article 7 para. 1.f and which points to the existence, in the "mixed zone", of a framework of education in Basque corresponding in fact to the strongest options under Part III (see also para. 72 above).

Catalan in Catalonia and in the Balearic Islands, Valencian and Galician

143. The Committee of Experts refers to its evaluation under Part III of the Charter.

Asturian ("Bable")

144. According to the information gathered by the Committee of Experts during the "on-the-spot" visit, in 1984 a first pilot-project for primary school was carried out and in 1987 a similar experiment started at secondary school level. The offer of the teaching of the Bable/Asturian language and literature is obligatory in all educational centres (public and private ones), including as far as the non-compulsory part of secondary school is concerned (Directives of 25 April 2002 and Decrees of 69/2002 of 23 May and 70/2002 of 23 May). However a minimum number of 8 pupils for primary school and of 10 pupils for secondary school is required to set up a class. The data provided by the Spanish Government indicate that 219 out of 263 primary schools provide teaching of Bable/Asturian language and literature for a total of about 14 400 pupils. That is also the case for 54 secondary schools out of 85 and about 2 100 pupils follow classes of Bable/Asturian language and literature at this level of education (see also p. 67 seq. of the initial periodical report).

145. The additional information provided by the Spanish Government also refers to projects presented by pupils with a view to improving the knowledge and use of the Asturian language and culture. In the school-year 2002/2003 119 centres took part in this activity, 188 projects out of 196 were selected and about 49 800 euros were allocated for their implementation.

146. Several measures have been taken in the field of teacher training:

- a list of teachers able to teach Bable/Asturian has been established;

- an official act – Resolution of 26 April 2001 -, to which the Spanish Government made reference in the additional information provided to the Committee of Experts, specifies the conditions to qualify as a teacher of Bable/Asturian language and literature for both primary and secondary school;
- a training plan for secondary school was carried out, which included drawing up specific teaching materials;
- a number of courses and seminars are regularly organised for teachers; in the additional information provided to the Committee of Experts the Spanish Government mentioned in particular 4 courses, 2 seminars and 2 colloquies concerning the Bable/Asturian language and literature organised in the school-year 2002/2003.

147. The teaching of Bable/Asturian remains optional, however, in spite of the higher social status it enjoys nowadays. Indeed, thanks to the pressure by parents and teachers for improving the situation, in May 2004 a radio campaign was launched to promote enrolments in the classes of Bable/Asturian.

148. Two major obstacles seem to hinder the teaching of Bable/Asturian. In the first place, not only is Bable/Asturian an optional subject but it must also compete with other optional subjects (meaning that Bable/Asturian is one of the alternative optional subjects that a pupil can choose), which for immediate practical reasons can be more attractive: a foreign language or information technology would be typical examples. In the second place, teacher training seems to be problematic, and the competent authorities stressed that the lack of a proper university degree in Bable/Asturian is a major impediment. The Committee of Experts was informed in particular, also by official sources, that the Central Council of Universities, which is an autonomous body, has so far refused to authorise the establishment of a proper university degree in Bable/Asturian, in spite of the wish of Oviedo University and the political support by the Asturian Parliament.

149. The Committee of Experts considers that the fact that the teaching of a regional or minority language is optional is not in itself contrary to the present provision, on condition that its teaching is not provided in such a way that the language in question is at a clear disadvantage. In this context the competent authorities recognised the problems arising from the fact that Bable/Asturian has to compete in the curriculum with other subjects.

150. With regard to the Central Council of Universities' refusal to authorise the establishment of a proper university degree in Bable/Asturian, the Committee of Experts encourages the Spanish authorities to clarify the situation, and in particular to explain the reasons for the Central Council's decision, taking account of the fact that the Academy of the Asturian language has completed its work of standardisation and Oviedo University has carried out considerable philological research.

Asturian Galician (“Gallego Asturiano”)

151. The Committee of Experts received contradictory information in this respect. According to the additional information provided by the Spanish Government, 9 pre-school centres or primary schools out of the 17 located in the relevant territory offered teaching of Asturian Galician in the school-year 2002/2003 to a total of 259 pupils. That was also the case for 6 secondary education centres and a total of 103 pupils were concerned at this level of education. On the other hand, according to information provided to the Committee of Experts during the “on-the-spot” visit, language courses for teachers exist but Asturian Galician is actually not taught in schools. The authorities themselves conceded that teacher training does not meet the standards which exist for Bable/Asturian, but an action plan has been launched with a view to developing a curriculum at secondary school level and to enriching the teacher training curriculum in order to add a qualification for the teaching of Asturian Galician (furthermore, 3 of the 11 training courses, seminars and colloquies for teachers organised in the school year 2002/2003, to which the Spanish Government referred in the additional information provided to the Committee of Experts, concerned Asturian Galician). It remains however unclear whether it is actually Asturian Galician which is taught, and not Bable/Asturian, as was also reported to the Committee of Experts during the “on-the-spot” visit.

152. It is also unclear which of the above-mentioned projects specifically concern Asturian Galician, as the information given by the Spanish Government on these projects referred to both Bable/Asturian and Asturian Galician at the same time.

153. The competent authorities are encouraged to clarify the above-mentioned issues and to inform the Committee of Experts, in the next periodical report, on the results of the application of the mentioned action plan and on the measures taken in the field of textbooks.

Aragonese (“Fabra”) and Catalan in Aragon

154. The additional information provided by the Spanish Government refers to the hiring of three teachers plus a secondary instruction professor to teach Aragonese to those pupils who so request. This teaching is entirely optional, is provided outside school hours and does not appear in the curriculum.

155. As the Committee of Experts has already observed (see para. 149 above), the fact that the teaching of a regional or minority language is optional is not in itself contrary to the present provision, on condition that the teaching is not provided in such a way that the language in question is at a clear disadvantage. This is clearly the case when pupils are obliged to follow the regional or minority language class outside regular school hours or when the teaching of the language has no recognition in the normal curriculum (cf. the second evaluation report on the application of the Charter by Hungary, ECRML (2004) 5, paras. 27 and 34).

156. With regard to Catalan in Aragon, the Committee of Experts stresses the need for a protection strategy for this language, which should include specific measures for the teaching of Catalan in Aragon within the framework of the normal curriculum.

The Committee of Experts encourages the competent authorities to take the necessary measures to include the teaching of Aragonese and Catalan in Aragon in the normal curriculum in the areas where the languages are traditionally used.

Aranese

157. The additional information provided by the Spanish Government refers to measures taken by the Administration of Catalonia to organise adult education (in co-operation with the Directorate General for Language Policy within the administration), teacher-training and drawing up textbooks (in co-operation with the Department for Education), and to strengthen Aranese as a vehicular and taught language. Aranese is thus the vehicular language in pre-school and in the first stage of primary school. It is also the language of instruction for social and natural science subjects and in any event it covers at least 60% of the intermediary curriculum and 50% of the higher curriculum.

158. The Committee of Experts praises the competent authorities for making provisions for the teaching of and in Aranese to a degree which goes well beyond the basic requirements embodied in the present provision of Part II of the Charter.

"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;"

The Basque language (Euskera) in the Basque Country

159. The basic approach of the Spanish Government in this area is that non-speakers can benefit from the same possibilities offered to the population in general, in particular as far as the educational models described above are concerned. Given the variety of models available in education, the offer can be considered as suiting the non-speaking pupils who wish to acquire some knowledge of Basque. The question is however less obvious, and probably more relevant, for the adult non-speaking population.

160. The Spanish authorities refer essentially to the measures taken to train teachers, administrative or medical staff, which however have a more direct relevance for the related Part III undertakings. Outside these specific cases, very little information has been provided concerning general possibilities existing in the Basque Country for the adult non-speaking population. This aspect should therefore be clarified in the next report.

The Basque language (Euskera) in Navarra

161. More information was provided concerning Navarra, although it seems to partly overlap with the information relevant for the undertaking under Article 8 para. 1.f.i, which concerns primarily the speakers (provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority language). In any event, it appears that teaching of Basque is provided by a number of private institutions (such as the AEK and IKA networks, trade unions and village associations), as well as by a number of public institutions (such as “Zubiarte Euskaltegia” and the “Escuelas oficiales de idiomas”). However, the Committee of Experts would welcome more information, in the next periodical report, on whether any support is provided by the public authorities to the private institutions mentioned above and on the approximate proportion of adult non-speakers who are taught Basque in either the private or the public institutions.

Catalan in Catalonia

162. The additional information provided by the Spanish Government refers to the principles laid down in Article 22 para. 3 of Law 1/1998 of 7 January on language policy (“Universities must offer courses and other adequate means so that pupils and professors can improve their knowledge and understanding of the Catalan language”). The implementation of these principles has led to courses and educational facilities being provided specifically for non-speakers, including temporary residents in Catalonia.

Catalan in the Balearic Islands

163. According to the additional information provided by the Spanish Government, university courses and teaching materials are also offered to Castilian-speakers wanting to learn Catalan. Specific teaching materials have in fact been created for this category of students.

Valencian

164. The Spanish Government refers to the following facilities, in its additional information to the Committee of Experts: courses provided by adult education centres, which have been co-ordinated by the Department of Culture, Education and Sport of the Administration of Valencia since 1985; university courses, which are advertised by annual promotion campaigns to attract students; and the departments for the promotion of Valencian which have been established within each one of the five Valencian universities to carry out promotion campaigns amongst university students, professors and staff.

Galician

165. The additional information provided by the Spanish Government refers to various university courses, the creation of an office for linguistic standardisation within each one of the three universities of Galicia, the creation of an Institute of the Galician Language and of the “Ramón Piñeiro” Centre for humanistic research.

166. However, it remains unclear how the said courses or the work of the mentioned bodies specifically target non-speakers. The Spanish authorities are encouraged to clarify this point in their next periodical report.

Aragonese (“Fabra”)

167. The Spanish Government informed the Committee of Experts, in its additional information, that grants are given to associations offering courses of Aragonese for adults and teacher-trainers.

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

The Basque language (Euskera), Catalan in Catalonia and in the Balearic Islands, Valencian and Galician

168. The Committee of Experts refers to its evaluation under Part III of the Charter.

Asturian (“Bable”)

169. The Committee of Experts was informed that research and studies on the Asturian language have been conducted at Oviedo University.

Asturian Galician (“Gallego Asturiano”)

170. During the “on-the-spot” visit the authorities, who demonstrated a great awareness of the linguistic issue of Galician in the Asturias, referred a study which was launched in 2000 aimed at drawing a linguistic map for the whole region. Reference was also made to an atlas which was being prepared by the Academy of the Asturian language, with the financial support of the Autonomous Community, but it is unclear to what extent this atlas will specifically cover Galician in the Asturias. In addition, the Committee of Experts was informed that other independent studies, including a doctoral thesis, have been carried out.

Aragonese (“Fabra”)

171. According to the additional information provided by the Spanish Government, the Faculty of Philology of Saragossa University is in charge of this area. However, the Committee of Experts would welcome further information, in the next periodical report, on the most significant studies and research conducted within the said university framework on the Aragonese language.

Aranese

172. The additional information provided by the Spanish Government refers to the imminent establishment of an Institute of Aranese Studies, which will take over the tasks that have so far been performed by the competent department within the Administration of Catalonia. However, the Committee of Experts would welcome further information, in the next periodical report, on the most significant results obtained in this area as far as the Aranese language is concerned.

“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.”

The Basque language (Euskera)

173. In the case of the Basque language, which is also traditionally present in the French department “Pyrénées-Atlantiques”, the Committee of Experts has not received any information regarding appropriate types of exchanges in this respect (for example school exchanges, exchange of audiovisual productions and cultural works, etc.) and encourages the authorities to provide information in its next periodical report.

Catalan and Valencian

174. Catalan is traditionally present in the French department “Pyrénées-Orientales”. However, no information, other than that specifically referring to Article 14 (see paras. 326-327, 736-737 and 867-868 below), was provided concerning the promotion of appropriate types of transnational exchanges in the fields covered by the Charter, between Catalan and Valencian-speakers and the Catalan-speakers living in France (for example school exchanges, exchange of audiovisual productions and cultural works, etc.). No information was provided concerning exchanges with the Catalan-speakers living in the Sardinian city of Algher (Italy) either. The Spanish authorities are encouraged to comment on this point in their next periodical report.

Galician

175. Galician has significant similarities with the Portuguese language. However, no information, other than that specifically referring to Article 14 (see paras. 995-996 below), was provided concerning the promotion of appropriate types of transnational exchanges, in the fields covered by the Charter, between Galician-speakers and Portuguese-speakers (for example school exchanges, exchange of audiovisual productions and cultural works, etc.). The Spanish authorities are encouraged to comment on this point in their next periodical report.

Asturian (“Bable”)

176. During the “on-the-spot” visit the authorities informed the Committee of Experts that Bable/Asturian is also spoken in some areas in Portugal and co-operation in the linguistic field has started between municipalities in the Asturias and one municipality in Portugal.

Aranese

177. No information was provided concerning the promotion of appropriate types of transnational exchanges, in the fields covered by the Charter (for example school exchanges, exchange of audiovisual productions and cultural works, etc.), between Aranese-speakers and speakers of Occitan living in the French regions where this language is traditionally present. The Spanish authorities are encouraged to comment on this point in their next periodical 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.

178. The Spanish Government stated that there exists no norm whatsoever in the Spanish legal system that would imply or lead to any of the situations referred to in the present undertaking. Even if that was the case, such a norm would be superseded by the 1978 Constitution. The Spanish Government stated that on the contrary, Spanish legislation aims at positively promoting the use of regional or minority languages. Furthermore, most Statutes of Autonomy explicitly prohibit discrimination on grounds of language (Article 6 para. 3 of the Statute of Autonomy of the Basque Country, approved by State Law 3/1979 of 18 December, Article 3 para. 3 of the Statute of Autonomy of Catalonia, approved by State Law 4/1979 of 28 December, Article 3 para. 2 of the Statute of Autonomy of the Balearic Islands, approved by State Law 2/1983 of 25 February, Article 7, third paragraph of the Statute of Autonomy of the Community of Valencia, approved by State Law 5/1982 of 1 July, and Article 4 of the Statute of Autonomy of Galicia, approved by State Law 1/1981 of 6 April).

179. The Committee of Experts has not received any elements contradicting these statements, except as far as the granting of subsidies to the press in Navarra and in the Basque Country are concerned. This point will be dealt with under the relevant provisions of Part III (see paras. 434-436 and 572 below).

"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.

180. The Spanish Government stated in particular that in the social reality of Spain, the population has a wide awareness of the regional or minority languages spoken in the country. In the field of media, the Government quotes as an example the case of the well known Spanish daily *El País*, which in its Catalan edition also publishes some of its weekly cultural pages in the Catalan language. The Government also referred to the possibility of using co-official regional or minority languages in some of the highest political bodies in Spain. That is the case for:

- the presidency of the Senate;
- interventions before the General Commission of Autonomous Communities in the context of the debate on the state of the autonomies;
- petitions to the Senate by citizens or institutions.

181. Finally, the Government referred to a project on awareness-raising of the plurilingual character of the students' environment in Spain, aimed at implementing the Council of Europe's "European Language Portfolio".

182. The Committee of Experts recalls first of all that experience proves that the extent to which a minority language is protected or promoted is linked to how it is received or perceived by majority language speakers. Indeed, regional or minority language protection or promotion is, in many respects, a reflection of the majority's approach and perception. As a result, awareness-raising with the majorities is of the utmost importance. This aspect may also concern the majority at the local level. As indicated by Article 7 para. 3 of the Charter, two fields are especially relevant in this respect: education and the media (see for example the second evaluation

report of the Committee of Experts on the implementation of the Charter by Croatia, ECRML (2005) 3, para. 39). The Committee of Experts also underlines that the purpose of the present obligation is not just knowledge of the existence of regional or minority languages in one's country but also, and perhaps above all, understanding and tolerance, to use the exact terms of Article 7 para. 3, vis-à-vis regional or minority languages and their speakers.

183. The Committee of Experts believes that there is a high degree of awareness within the autonomous communities where the regional or minority language has a co-official status. There is also a high degree of awareness, and also of knowledge, by most of the central authorities in Madrid. Recent developments, to which the Spanish authorities made reference during the "on-the-spot" visit, and in particular the new Spanish Government's plan to allow, at its own expense, for the use of Catalan, Basque and Galician in the European Union context, would certainly contribute to giving a high visibility to these languages and would place Spain at a very advanced level in this field.

184. There are other aspects, however, which need to be considered and which call for further action.

185. In the first place, the awareness within the autonomous communities concerned does not seem to be spread coherently and uniformly. The attention of the Committee of Experts was specifically drawn to the issue of internal migrants who have moved to the Basque Country and to Navarra and who have at best a very limited knowledge of (and understanding for) the cause of the protection and promotion of the Basque language.

186. Secondly, the degree of awareness in other parts of Spain remains unclear and no specific information has been provided to the Committee of Experts concerning measures aimed at raising the awareness of the majority-speaking population living in parts of Spain where no regional or minority languages are spoken. It is thus not known to the Committee of Experts how the presence of regional or minority languages in Spain, its history and its traditional (or autochthonous) character are explained in the curriculum for the Spanish-speaking students living in other parts of Spain (and this question actually also concerns the curriculum of the entirely Castilian-speaking educational model in both the Basque Country and Navarra – ie model G). It is not known either how understanding and tolerance vis-à-vis regional or minority languages are encouraged in the context of Spanish national radio and television programmes.

187. Thirdly, and without affecting the above remarks, although Catalan, Basque and Galician are relatively well known cases, the Committee of Experts is not convinced that the same can be said for the several other regional or minority languages spoken in Spain, including Ceuta and Melilla, even within the autonomous communities concerned.

188. Finally, the Committee of Experts must express special concern with regard to the Basque language. During the "on-the-spot" visit, it received complaints that the promoters of the language can suffer from stigmatisation, being accused of supporting terrorism by their commitment to the Basque language and culture. In the view of the Committee of Experts, efforts are needed in both the Basque Country and Navarra with a view to giving full legitimacy, both in the Spanish society and within the two autonomous communities concerned, to the protection and promotion of the Basque language when this is clearly independent from any form of political violence or terrorism, which remain of course unacceptable.

189. Finally, the Committee of Experts underlines that tolerance, understanding and linguistic harmonious co-existence must be effectively mutual, in the sense that they must be demonstrated both by the regional or minority language speakers and by the majority language speakers.

"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."

The Basque language (Euskera)

190. In the Basque Country, Law 3/1979 of 18 December defines the Academy of the Basque language, which is located in Bilbao/Bilbo, as the "official consultative organisation concerning Basque". Furthermore, Decree 132/2000 of 11 July has set up the "Consultative Council of Basque". Its main task is to co-ordinate the activities of the various public and private institutions involved in the promotion of the Basque language. It

comprises representatives of the Basque Country, the “Deputaciones forales”, the Association of Basque municipalities (EUEDEL) and the Academy of the Basque language, as well as 40 persons having a recognised competence in the field.

191. In Navarra, Law 18/1986 of 15 December also defines the Academy of the Basque language as the official consultative body for the purpose of the introduction of linguistic provisions. The Foral Decree 135/1996 of 11 March has set up the Navarra Council of Basque. Its main task is to assist and make proposals to the Government of Navarra and is composed of representatives of the Navarra administration, the two universities present in this community, the Academy of the Basque language, the Society for Basque Studies, the Federation of Navarra of Provinces and Municipalities, of the Navarra Federation of Ikastolas, the Association of the Navarra press and the Association “Oinarriak”.

192. These institutions comply in a rather exemplary manner with the present obligation at the level of the autonomous communities. The Committee of Experts would however welcome, in the next periodical report, further information on how the needs and wishes of the Basque-speakers, both in Navarra and in the Basque Country, are conveyed to the central authorities, especially in the fields where the latter have retained direct competence (regarding for example the framework legislation on education, justice, or economic activities).

Catalan in Catalonia

193. Decree 148/2000 of 11 April provides that the Social Council of the Catalan language is a body of assistance, consultation and social participation with regard to the linguistic policy carried out by the Administration of Catalonia.

194. This institution complies in a rather exemplary manner with the present obligation at the level of the autonomous community. However, the Committee of Experts would welcome, in the next periodical report, further information on how the needs and wishes of the Catalan-speakers are conveyed to the central authorities, especially in the fields where the latter have retained direct competence (regarding for example the framework legislation on education, justice, or economic activities).

Catalan in the Balearic Islands

195. According to the information provided by the Spanish Government, Law 3/1986 of 29 April on language standardisation provides that the official consultative institution for all matters related to the Catalan language shall be the University of the Balearic Islands. An additional body, ensuring in particular a social representation, is the Consortium for the promotion of the use of the Catalan language, which was established by Decree 126/1997 of 3 October and which is specific to the Balearic Islands.

196. These institutions seem to comply with the present obligation at the level of the autonomous community. However, the Committee of Experts would welcome, in the next periodical report, further information on how the needs and wishes of the Catalan-speakers in the Balearic Islands are conveyed to the central authorities, especially in the fields where the latter have retained direct competence (regarding for example the framework legislation on education, justice, or economic activities).

Valencian

197. According to the additional information provided by the Spanish Government, the Valencian Council of Culture, established by Law 12/1995 of 30 October, later supplemented by Decree 202/1998 of 15 December, is a consultative and assisting body to the Valencian public institutions. It is composed of persons having a notable prestige or recognised intellectual merits in the field of Valencian culture, who are proposed by the parliamentary groups (presumably of the Parliament of the Community of Valencia).

198. However, it is unclear what is the role of the said body with regard to matters pertaining specifically to the Valencian language and whether its political composition guarantees an adequate representation of the Valencian-speakers (in the latter regard see also paras. 843-844 below). Furthermore, the Committee of Experts does not know how the needs and wishes of the speakers of Valencian are conveyed to the central authorities, especially in the fields where the latter have retained direct competence (regarding for example the framework legislation on education, justice, or economic activities). The Spanish authorities are encouraged to clarify these points in their next periodical report.

Galician

199. According to the additional information provided by the Spanish Government, the Council of Galician Culture has been established by Law 8/1983 of 8 July. It is charged, among other things, with advising the competent authorities of the Autonomous Community. It is composed of members of other bodies, such as the Royal Galician Academy, the Academy of Jurisprudence and Legislation of Galicia, the Galician universities, the Institute of Galician Studies "Padre Sarmiento", the Seminar of Galician Studies, the Academy of Sciences, the Institute of the Galician Language, the Institute of Studies of Saint-Jacques, the Galician museums, the "Rosalia de Castro" Society and important Galician foundations.

200. This institution complies in a rather exemplary manner with the present obligation at the level of the autonomous community. However, the Committee of Experts would welcome, in the next periodical report, further information on how the needs and wishes of the Galician-speakers are conveyed to the central authorities, especially in the fields where the latter have retained direct competence (regarding for example the framework legislation on education, justice, or economic activities).

Asturian ("Bable")

201. The Academy of the Asturian Language is the competent body to advise the administration of the Autonomous Community and to draw up reports on its own initiative or on demand by the authorities. The University of Oviedo and the Royal Institute of Asturian Studies also act as consultative bodies.

Asturian Galician ("Gallego Asturiano"), Aragonese ("Fabra"), Catalan in Aragon and Aranese

202. No information was provided with regard to these languages. The Spanish authorities are encouraged to comment on this point in their next periodical report.

"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.

203. According to the additional information provided by the Spanish Government, a project, supported by the European Commission, is being carried out in the Province of Malaga ("Romany in Europe"). Two idioms seem to be targeted: Romany and Caló. The project aims at promoting the language among young people aged between 18 and 30.

204. The Committee of Experts considers however that this information is insufficient to properly assess the situation, also in the light of the uncertainties referred to above (see para. 58). In particular, it remains unclear:

- whether, in addition to Caló, the Romany language is also concerned by the above-mentioned project;
- what are the approximate proportion and related numbers of the Roma population traditionally linked to the Romany language;
- what are the approximate share and related numbers of the Roma population traditionally linked to Caló;
- whether Caló is a language in its own right.

The Spanish authorities are encouraged to clarify these points in their next periodical report and to provide additional information on projects in this field at regional or national level.

2.2 The evaluation in respect of Part III of the Charter

2.2.1 Evaluation of the application of Part III to the Catalan language in Catalonia²

Article 8 – Education³

Pre-school

"Paragraph 1

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

a i to make available pre-school education in the relevant regional or minority languages; or

Primary school

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

Secondary school

c i to make available secondary education in the relevant regional or minority languages; or"

205. At pre-school level the educational system in Catalonia seems to favour the use of the child's first language. It remains however to be seen how this principle is implemented, given that separate classes are not admitted.

206. For the subsequent stages of education, according to the relevant provisions, in particular Article 20 of Law of Catalonia 1/1998 of 7 January on language policy and the implementing legislation, the default educational model in Catalonia provides for the teaching of Catalan and Castilian on an equal basis (3.2 weekly hours on average at primary school level and 3 weekly hours on average at secondary school level), the rest of the curriculum being normally taught in Catalan. This seems to mean that inserting education in Castilian, following a bilingual approach, pre-supposes specific arrangements. The basic objective embodied in the legislation is nevertheless that at the end of the compulsory schooling pupils have an equal command of Castilian and Catalan.

207. According to the information provided to the Committee of Experts by non-governmental sources, in practice this has led, for example, to 88.9% of primary school classes in Catalonia being taught in Catalan during the school-year 1999/2000, whereas 7.3% followed a bilingual education model. At secondary school level, 51.2% of the classes were in Catalan and the rest received most of the teaching in Catalan plus a number of subjects in Castilian.

208. Although not all the aspects of the educational system in use in Catalonia are entirely clear, especially as far as pre-school education is concerned (see para. 205 above), the Committee of Experts observes that this system points to an impressive reversal of the trend: a regional/minority language that was still oppressed just 30 years ago has become the default language in the educational system in its traditional territory and the first language of instruction for the larger part of the last generation of young people who have been educated in Catalonia. Such a development is extremely rare in Europe's history and confirms the special interest of Spain in this domain.

² The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

³ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

209. The Committee of Experts considers that these undertakings are fulfilled. It would nonetheless welcome further information on whether the educational model using essentially Catalan as the language of instruction is uniformly available throughout the territory of the Autonomous Community and at all levels of education.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

210. Technical and vocational education is routinely provided in Catalan. The only concern to which the Spanish Government referred in this area relates to the need that pupils achieve an adequate knowledge of Castilian with regard to the specialisation they have chosen. The Committee of Experts considers that this undertaking is fulfilled.

Higher education

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

211. Royal Decree 3937/1982 of 29 December has introduced the Catalan language in the entrance examination for Faculties, Higher Technical Schools and University Colleges, alongside the Castilian language. Article 22 of Law of Catalonia 1/1998 of 7 January on language policy provides that professors and students have the right to use the language of their choice and that the Autonomous Community and University institutions shall encourage the use of Catalan in all instruction and research fields.

212. The Committee of Experts considers that the present undertaking is fulfilled but encourages the Spanish authorities to provide further information, in the next periodical report, concerning teaching in Catalan available at this educational level.

Adult and continuing education

"f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"

213. Article 23 of Law of Catalonia 1/1998 of 7 January on language policy, which deals with the permanent training of adults, provides for the obligatory teaching of both Catalan and Castilian. Furthermore, the educational centres depending on the Autonomous Community must offer courses of Catalan to the students not having a sufficient knowledge of this language. Reference was also made to the Resolution of 20 February 2001 adopted by the Administration of Catalonia, which regulates the subsidies granted for the organisation of courses of Catalan for adults belonging to several professional categories, such as trade unions, entrepreneurs' associations and professional orders.

214. However, it is unclear whether teaching *in* Catalan is also available in the context of adult and continuing education courses. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

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;"

215. This domain is under the Autonomous Community's responsibility. According to the additional information provided by the Spanish Government, at the end of the compulsory schooling pupils must know the historical, cultural, geographical and social features of the Catalan society. A considerable number of actions are taken in this regard in all educational centres. The Committee of Experts considers that this undertaking is fulfilled.

Basic and further training of teachers

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

216. The basic principle, resulting from Article 24 of Law of Catalonia 1/1998 of 7 January on language policy, is that teachers in Catalonia are required to master both Catalan and Castilian, in accordance with the specific needs of the subject taught. Decree of 30 January 1986 had already regulated the need for a knowledge of Catalan on the part of teachers at pre-school level and for the general educational system.

217. The Department of Education of the Autonomous Community and the Institutes of Educational Sciences of Catalan Universities organise yearly courses of re-training for secondary school teachers in post. Complementary courses, on written and oral skills in various technical areas of education, are also regularly offered.

218. No special problems were brought to the attention of the Committee of Experts in this area. The Committee of Experts therefore considers that the present undertaking is fulfilled.

Supervisory body

"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."

219. According to Law of Catalonia 1/1998 of 7 January on language policy, the Social Council of the Catalan Language, established in 2000, is in charge of evaluating the objectives and the results of the linguistic policy of the Autonomous Community and of drawing up a yearly report. The Committee of Experts considers that this undertaking is fulfilled.

Education in other territories

"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. "

220. The Spanish Government stated that the Official Schools for Languages offer the teaching of Castilian and of the co-official languages in the territories where they are spoken as well as outside these territories. However, according to one non-governmental source, as far as the rest of the Spanish territory is concerned, there is only one school located in Madrid which offers the possibility to study Catalan.

221. The Committee of Experts considers that the information at its disposal is insufficient to properly assess compliance with this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

Article 9 – Judicial authorities

"Paragraph 1

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

- a in criminal proceedings:**
 - i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or**
 - ii to guarantee the accused the right to use his/her regional or minority language; and/or**
 - iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or**
 - iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,**
if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;
- b in civil proceedings:**
 - i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or**
 - ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or**
 - iii to allow documents and evidence to be produced in the regional or minority languages,**
if necessary by the use of interpreters and translations;
- c in proceedings before courts concerning administrative matters:**
 - i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or**
 - ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or**
 - iii to allow documents and evidence to be produced in the regional or minority languages,**
if necessary by the use of interpreters and translations;”

222. Article 3 of the Spanish Constitution provides as follows :

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

223. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

224. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

225. Furthermore, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category. Article 13 of Law of Catalonia 1/1998 of 7 January on language policy already provided as follows:

- “1. All judicial procedures, whether oral or in writing, conducted in either of the two official languages shall be valid, without the need for translation.
2. Everyone shall have the right to communicate orally and in writing with and to be served by the Judicial Administration in the official language of their choice and shall not be required to provide a translation.
3. Everyone who requests it, shall receive in the requested official language certificates of final judgments concerning them, with no delay on grounds of language (...)”.

226. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore, the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom have a command of Castilian as well.

227. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an Autonomous Community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the Autonomous Community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the Autonomous Communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91). The subsequent regulation, currently in force, ie Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Catalan is rewarded in the said conditions but is never required to perform any functions in the administration of justice in Catalonia. As a matter of fact few judges and members of staff seem to be able to use Catalan as a working language in courts and this constitutes, according to several official and non-governmental sources, a major obstacle which often leads Catalan-speakers to give up the use of their

language in this field. A proposal made by the Catalan Parliament on 13 March 2003, soon after the rejection of a similar proposal by the Parliament of the Balearic Islands (see para. 643 below), to modify the relevant legislation to the effect that the knowledge of Catalan would be required in the case of a voluntary application for posting in Catalonia was still awaiting consideration when the Committee of Experts closed its fact-finding process (see para. 4-7 above).

228. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report). It also refers to Article 11 of Law of Catalonia 1/1998 of 7 January on language policy, which provides that linguistic proficiency shall be applied to appointments to posts in the judicial administration supervised by the Autonomous Community, and to Decree 49/2001 of 6 February concerning the linguistic accreditation of staff of the judicial administration overseen by the Administration of Catalonia.

229. The initial periodical report also mentions a number of measures aimed at facilitating the learning of the co-official languages in a number of Autonomous Communities. As far as Catalonia is concerned, reference is made to a co-operation agreement concluded on 25 March 1999 between the Administration of Catalonia and the General Council of the Judiciary with a view to making knowledge of Catalan an advantage for competitions for posts as judges and magistrates in Catalonia. Furthermore, according to the information contained in the initial periodical report (see p. 79) in 2000 the Administration of Catalonia developed a pilot-project for the use of Catalan in the offices of 40 clerks of courts, which resulted in the drafting of a total of 11 717 judgments in Catalan and 2 416 in Castilian. However, according to the information provided to the Committee of Experts by the Council of Lawyers of Catalonia and by the Council of Lawyers of the Balearic Islands, this pilot-project only concerned 14% of the judicial offices in the area of Barcelona, 18% of those located in the non-metropolitan areas of the Province of Barcelona and 25% of those in the area of Tarragona (the proportion was higher in Girona – 55% - and in Lleida – 56%).

230. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

231. The current provisions do not seem to guarantee that the proceedings in Catalonia will invariably be conducted in Catalan whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Catalan in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

232. As far as the practice is concerned, measures have undoubtedly been taken by the competent Spanish authorities to encourage the use of Catalan in the field of justice and some results have been obtained (see para. 229 above). While praising the authorities for the efforts made so far, the Committee of Experts nevertheless considers that the limited percentage of judicial staff able to speak Catalan in Catalonia, in particular among judges and prosecutors, still constitutes an additional obstacle to the chosen undertakings being properly implemented. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

233. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned (criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Catalan, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Catalan-speakers to avail themselves of these possibilities.

234. The Committee of Experts considers that in spite of the absence of a formal guarantee for the proceedings to be conducted in Catalan at a party's request and of the lack of a formal guarantee of the right of the accused to use Catalan, the practical results achieved so far, thanks in particular to the measures

taken by the autonomous Government and to the high percentage of Catalan-speakers living in Catalonia, lead in practice to a partial fulfilment of the undertakings entered into Article 9 para. 1.a.i, 1.a.ii and 1.a.iii, 1.b.i and 1.b.ii, and 1.c.i and 1.c.ii in the case of Catalonia. However, in order to fully implement the requirement for the courts located in Catalonia to conduct the proceedings in Catalan at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. The Committee of Experts considers that in the case of Catalonia the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii and 1.a.iii, 1.b.i, 1.b.ii and 1.b.iii, and 1.c.i, 1.c.ii and 1.c.iii are only partly fulfilled.

235. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in Catalonia will conduct the proceedings in Catalan at the request of one party ;***
- ***to formally guarantee the accused the right to use Catalan even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in Catalonia to conduct the proceedings in Catalan if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in Catalonia, at all levels and particularly among judges and prosecutors, able to use Catalan as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

"d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned."

236. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"***

237. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure.

238. Although the mentioned provisions admit the validity of legal documents in Catalan only within Catalonia (or the Balearic Islands), as in the rest of Spain a translation is required, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

239. According to the information provided to the Committee of Experts, no translation exists for the texts referred to in the present provision dating from before 1998 (except for the General Accounting Plan and the articles of the Commercial Code and the Articles of the State Law on Public Limited Companies that refer to accounting; see p. 104 of the initial periodical report). As to the relevant statutory texts published after 1998, an agreement concluded on 21 April 1998 between the State and the Administration of Catalonia provides for regular supplements to the Official Gazette published in the Catalan language. However, this official translation comes out several months later than the Castilian version.

240. The Committee of Experts observes that a systematic translation of the relevant legal texts into Catalan is a crucial part of the context for the fulfilment of the undertakings that Spain entered into under Article 9 of the Charter (cf. the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, ECRML (2004) 6, para. 85), which are the highest ones (that proceedings be conducted in Catalan if one of the parties so request). In the view of the Committee of Experts, the absence of a Catalan version of pre-1998 legislation and the mentioned delay in the publication of the Catalan version of the Official Gazette represent serious obstacles to an effective use of the Catalan language in the field of justice in Catalonia.

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that the most important national statutory texts and those relating particularly to users of Catalan are regularly and in due time made available in Catalan too. The publication of an official translation at the same time as the publication of the official Castilian version would be the most appropriate measure.

Article 10 – Administrative authorities and public services

State authorities

"Paragraph 1

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

a i to ensure that the administrative authorities use the regional or minority languages; or"

242. Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Article 5 of Law 4/2001 of 12 November on the right to submit applications also provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their application to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice". Furthermore, Article 12 of Law of Catalonia 1/1998 of 7 January on language policy provides that oral and written administrative provisions of the bodies and entities of the State administrations produced in Catalonia shall be valid in either

official language and everybody shall have the right to address the State administration in Catalonia in any official language.

243. The knowledge of a co-official language can however not be a pre-requisite for the hiring or the appointment of a civil servant in a State administration office, although it is considered to be an advantage. According to the information provided to the Committee of Experts the Catalan-speaking staff in this area are still insufficient, although Catalan can in some cases be used before the State administration at the party's request.

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

The Committee of Experts encourages the Spanish authorities to substantially increase the proportion of Catalan-speaking staff in the competent State administration offices and to develop adequate training schemes.

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

245. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the autonomous communities where there is a co-official language must be bilingual. However, the Spanish authorities stated that as a whole 60% of widely used administrative texts and forms are bilingual. Information provided by non-governmental sources also indicates that bilingual forms are lacking in a number of domains (for example as far as Social Security offices are concerned). Furthermore, it seems that official forms and texts cannot be downloaded in the Catalan language. The Committee of Experts considers that this undertaking is only partly fulfilled.

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all the competent State administration offices.

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

246. Article 36 para. 1 of Law 4/1999 provides that even where there is more than one person involved in the procedure and there is disagreement as to the language to be used, documents or certificates required by the person concerned shall nevertheless be drafted in the (co-official) language chosen. This provision is similar to that contained in Article 14 of the previous Law of Catalonia 1/1998 of 7 January on language policy, which concerns public documents (see p. 89 of the initial periodical report).

247. The information provided by non-governmental sources (the Lawyers' Councils of Catalonia and of the Balearic Islands) to the Committee of Experts indicates that problems exist in the area of civil registers, which are handled by the local authorities. Castilian appears to be required for the entries to these registers pursuant to Article 298 of the current Regulation of the Civil Register. An entry in any other language would be null and void. This seems to apply also to the act of civil marriage, pursuant to the combined application of Articles 255 and 298 of the above-mentioned regulation (the former provides that the act of marriage will constitute the inscription in the register, with the result that Castilian will be used pursuant to the latter provision). A request on-line for a birth, marriage or death certificate, for example, must also be made in Castilian. There is therefore an apparent conflict between this situation, owing to the tenor of the national rules, and the provisions embodied in Article 17 of Law of Catalonia 1/1998 of 7 January on language policy, which aim at ensuring that Catalan is used in public registers throughout Catalonia (see p. 87 seq. of the initial periodical report).

248. The Lawyers' Councils of Catalonia and of the Balearic Islands have indicated that many local authorities are in fact disobeying the law and using Catalan as well. This would seem to correspond to the information provided by the Spanish Government in the initial periodical report (see p. 80), according to which the use of Catalan in this field may vary considerably from place to place (for example 74.1% in Berga but only 4% in Vilanova and Geltrú).

249. The Committee of Experts' attention was also drawn to the practice of the offices of notaries, which seems to tend to even discourage the use of Catalan by inserting clauses waiving the use of this language, in spite of paragraph 5 of the mentioned Article 14, which provides that "(t)he offices of Notaries Public must be able to serve citizens in either of the two official languages and they shall have available staff with adequate and sufficient knowledge of them to perform their duties".

250. On the other hand, during the "on-the-spot visit" reference was made to the now existing possibility of issuing bilingual identity cards.

251. The Committee of Experts considers that the present undertaking is only partly fulfilled.

The Committee of Experts encourages the Spanish authorities to remove the existing legal obstacles to the use of Catalan in the context of the civil registers and to take the necessary measures to foster the use of Catalan in the context of notary acts.

Local and regional authorities

Paragraph 2

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

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

252. According to Article 10 of Law of Catalonia 1/1998 of 7 January on language policy, "(i)n the administrative procedures processed by the Autonomous Community, on behalf of local administrations and other Catalan Corporations, Catalan must be used, without jeopardising the rights of the citizens to present documents, make declarations, and if they so request, to receive notifications in Castilian" (paragraph 1). Paragraph 2 adds that "(t)he Administration shall produce to the interested parties who so request, in the official language requested, a translated certificate of matters concerning them (...)". If no specific language is requested Catalan is therefore automatically used. The Autonomous Administration offices must have the staff with the necessary linguistic skills to receive the public in either of the two official languages. No special problem was brought to the attention of the Committee of Experts as far as the Autonomous Community is concerned.

253. The Committee of Experts has however received no information as far as the provincial level and the municipalities are concerned.

254. The Committee of Experts therefore considers that the present undertaking is fulfilled as far as the Autonomous Community is concerned. It is however not in a position to conclude concerning the provincial administrations and the municipalities and encourages the Spanish authorities to provide information in this regard in their next periodical report.

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

255. Not only may Catalan-speakers submit oral or written applications in Catalan to the Autonomous Community or to any other regional or local authority in Catalonia, but Catalan must also be used in any

communication or notification to any natural or legal person residing in Catalonia, without prejudice to the right of citizens to receive them in Castilian upon request (Articles 9 and 12 para. 2 of Law of Catalonia 1/1998 of 7 January on language policy). No problem of practical implementation of these provisions was brought to the attention of the Committee of Experts.

256. The Committee of Experts considers that this undertaking is fulfilled and underlines that the relevant legal provisions and practice offer a strong protection of Catalan which goes well beyond the obligation chosen by the Spanish State.

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

257. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the autonomous communities concerned if the competent bodies within the latter so decide. According to the information received by the Committee of Experts, the publication referred to in the present provision is ensured by the Official Bulletin of the Administration of Catalonia and by the Official Bulletin of the Province. The Committee of Experts considers that this undertaking is fulfilled.

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

258. No specific information was provided in this respect. The Committee of Experts is therefore unable to reach a conclusion on this point and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

259. According to the additional information provided by the Spanish Government, 100% of the debates taking place in the Catalan Parliament are in Catalan. The Committee of Experts considers that this undertaking is fulfilled.

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

260. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used. However, no information on the practice was provided as far as Catalonia is concerned.

261. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

262. Article 18 of Law of Catalonia 1/1998 of 7 January on language policy provides inter alia that "(t)he sole official form of place-names in Catalonia shall be the Catalan form, in accordance with the linguistic regulation of the 'Institut d'Estudis Catalans', with the exception of the Aran Valley, where the official form shall be Aranese" (see also p. 95 of the initial periodical report). No special problem of implementation was brought to the attention of the Committee of Experts.

263. The Committee of Experts considers that the existing provisions and practice constitute the strongest way of respecting the original toponymy of Catalonia, for which both the Catalan and the central Spanish authorities must be praised. The Committee of Experts considers that this undertaking is fulfilled.

Public services

"Paragraph 3

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

- a to ensure that the regional or minority languages are used in the provision of the service; or"***

264. Royal Decree 334/1982 provides that in the autonomous communities concerned, road signs, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual. Furthermore, Article 31 of Law of Catalonia 1/1998 of 7 January on language policy requires the use of Catalan at least in the title and in the audio communications by all enterprises and public or private entities offering public services, such as transport, distribution, communication and other. However, non-governmental sources complained that this legislation is not properly implemented as far as railway stations, airports, telephone and telecommunication services are concerned. The Committee of Experts encourages the authorities to clarify this issue in the forthcoming periodical report.

265. As far as the public services depending on the Autonomous Community are concerned, Article 9 of Law of Catalonia 1/1998 of 7 January on language policy provides in particular that the enterprises supervised by the Autonomous Community institutions and the operators of public utilities shall use Catalan in their internal activities and in their relations with each other. Likewise, Article 33 of the same law stipulates that the enterprises operating on the basis of an agreement with the Autonomous Community or the local authorities or benefiting from their subsidies must use Catalan at least in the title and in the information and documentation addressed to the public.

266. The Committee of Experts considers that this undertaking is only partly fulfilled and would welcome further clarifications, in the next periodical report, on:

- the proportion of staff in the public services serving in Catalonia who have an adequate command of Catalan;
- the language used in written communications between the public services and the speakers (for example telephone and electricity bills, etc.).

"Paragraph 4

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

- a translation or interpretation as may be required;"***

267. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to provide specific information in their next periodical report.

- "b recruitment and, where necessary, training of the officials and other public service employees required;"***

268. The Committee of Experts observes that the degree of fulfilment of this undertaking is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10, in the sense that the degree of fulfilment of the former has direct repercussions on that of the latter.

269. The Spanish Government has stated that in general terms the majority of the civil servants, especially those recruited more recently, have at least a sufficient knowledge of the regional or minority language concerned.

270. With regard to the State administration offices and public services not depending on the Autonomous Community, in the light of its previous conclusions (see paras. 242-244 above), the Committee of Experts considers that the efforts made by the authorities are still insufficient, in spite of a collaboration agreement

concluded on 4 July 1989 between the Ministry of Public Administrations through the National Institute of Public Administration and the Autonomous Community of Catalonia on staff selection, basic and advanced training and the conducting of studies and research on the public administration. Further examples of the problems still persisting in this area were provided to the Committee of Experts by non-governmental sources. Reference was thus made to the competition for vacant positions in the peripheral services of the Director General of Prisons and the Autonomous Body Work and Prison Requests (internal order 2941/2002 of 8 November), which did not take account of linguistic skills. The problem is aggravated by the fact that a system based on a normal rotation of civil servants leads either to their not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a civil servant with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

271. As far as the regional and local administrations are concerned, knowledge of Catalan is actually required to obtain a post in the Autonomous Community administration, in local administrations and in university services (Article 11 of Law of Catalonia 1/1998 of 7 January on language policy). Additional provisions deal with the training or re-training of staff. According to the information provided by the Spanish Government, in 2001 54.07% of the staff of the Autonomous Community had an adequate knowledge of Catalan, representing a rise of 2.79% compared to the previous year, and in the selection procedures run by the Autonomous Community 67.37% of the candidates demonstrated a knowledge of Catalan.

272. The Committee of Experts therefore considers that the present undertaking is fulfilled as far as the Autonomous Community and local authorities are concerned but that it is only partly fulfilled as far as the State administration offices are concerned.

The Committee of Experts encourages the Spanish authorities to review the career and training structure in the State public administration with a view to ensuring that an adequate share of the staff posted in the State administration offices located in Catalonia has the necessary command of the Catalan language to use it as a working language.

"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."

273. No specific information was submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to comment on it in their next periodical report with regard to all four fields concerned (branches of the State administration in Catalonia, administration of the Autonomous Community, local authorities and public services).

"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."

274. The possibility to have one's family name written in Catalan formally exists (see in particular pp. 102-103 of the initial periodical report). In particular, Article 19 para. 1 of Law of Catalonia 1/1998 of 7 January on language policy provides that the "citizens of Catalonia shall have the right to use the linguistically correct form of their forenames and family names and to include the conjunction 'l' between family names". This provision is also applicable to Aranese forenames and family names (paragraph 3). Decree 208/1998 of 30 July makes it possible to correct names that were incorrectly transcribed at the time of their entry into the civil register. No special problem of implementation was brought to the attention of the Committee of Experts. The Committee therefore considers that this undertaking is fulfilled.

Article 11 – Media

"Paragraph 1

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

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

i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"

275. Article 149 of the Spanish Constitution stipulates that the Autonomous Communities can create and regulate their own television and radio stations. The public radio station ("Catalunya Radio") and the two public television channels ("TV3" and "CANAL33") managed by the Autonomous Community broadcast in Catalan. The Committee of Experts considers that this undertaking is fulfilled.

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

276. The Committee of Experts observes in the first place that the present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station broadcasting essentially in Catalan (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 121).

277. According to the information provided to the Committee of Experts there is at least one private radio station broadcasting in Catalan for the whole region ("Ona Catalana") and there are also 206 private local radios broadcasting essentially in Catalan. Although it is not clear to the Committee of Experts how the authorities concretely support private radios, the existing situation leads it to consider that the present undertaking is fulfilled.

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

278. The Committee of Experts observes that the present undertaking is concerned with the encouragement and/or facilitation of the creation of at least one private television station broadcasting essentially in Catalan (see, mutatis mutandis, the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 125).

279. Article 26 of Law of Catalonia 8/1996 of 5 July provides that holders of television broadcasting licences, including private ones, must ensure that at least 50% of the broadcasting is in the Catalan language. However, it remains unclear how the authorities encourage and/or facilitate the creation of at least one private television channel broadcasting essentially in Catalan. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

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

280. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms.

281. Article 25 of Law of Catalonia 1/1998 of 7 January stipulates that the media must promote the expressions of Catalan culture, particularly when they are conveyed through the Catalan language. Furthermore, according to the above-mentioned Article 26 of the same law, at least 25% of the songs in the Catalan language must also have been produced by Catalan artists. Article 28 of the law in question adds that the Autonomous Community must stimulate and encourage cinema production in Catalan, as well as the

production and distribution of audio recordings and audiovisual material in Catalan (Order of 25 February 1998, amended by Order of 13 December 2000, approved the principles governing the granting of aid for video productions in Catalan). The Committee of Experts considers that this undertaking is fulfilled but would welcome concrete examples, in the next periodical report, of the implementation of the said provisions.

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

282. Article 27 of Law of Catalonia 1/1998 of 7 January on language policy provides that the Autonomous Community must promote and can subsidise written media in Catalan. Several daily newspapers in Catalan exist, namely "El Periódico de Catalunya", "Avui", "Regió 7", "Diari de Girona", "Segre" and "El Punt", amounting to 23.6% of the press sold in Catalonia. There is a well-working scheme of subsidies to facilitate the maintenance of newspapers and magazines in Catalan. The Committee of Experts considers that this undertaking is fulfilled in a rather exemplary manner.

**"f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;"**

283. The Spanish Government has not clarified how the existing schemes are concretely used in Catalonia for the purpose mentioned in the present undertakings. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

284. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. The Committee of Experts observes, however, that particular measures are needed to support the specific linguistic and technical training that journalists and other staff for media using regional or minority languages require. Having said that, the Committee of Experts has not received any concrete information on the compliance with this undertaking as far as Catalonia is concerned. Reference is only made to the Resolution of 20 February 2001 adopted by the Administration of Catalonia, which regulates the subsidies granted for the organisation of courses of Catalan for adults belonging among others to professional categories (see also para. 213 above). The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in the next periodical 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."

285. Article 25 of Law of Catalonia 1/1998 of 7 January provides that the Autonomous Community must facilitate the proper reception in Catalonia of television channels broadcasting in Catalan from other territories, including presumably the areas of the French department ("Pyrénées-Orientales") where the Catalan language is also traditionally spoken, as well as Andorra. The Committee of Experts was not informed of any problem in this field and considers this undertaking fulfilled.

"Paragraph 3

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

286. The Committee of Experts has not received sufficient information regarding such bodies, either in Catalonia or on a national level, and therefore is not in a position to conclude on this undertaking. The Committee encourages the authorities to submit further information in the next periodical report.

Article 12 – Cultural activities and facilities

"Paragraph 1

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

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

287. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes for works and authors using co-official languages, and it appears that Catalan authors have received such prizes (see p. 119 of the initial periodical report). Furthermore, Article 28 of Law of Catalonia 1/1998 of 7 January on language policy stipulates that the Administration of Catalonia shall foster, stimulate and promote literary and academic creation in Catalan. The prize for Catalan literature "Pere Cadars" was instituted by the Administration of Catalonia.

288. Additional measures include the establishment of a national committee to commemorate the centenary of the death of the Catalan writer Jacint Verdaguer, the granting of annual subsidies to support theatrical initiatives in Catalan, grants for the production of plays performed also in Catalan and grants for festivals presenting works in Catalan, such as the Sitges International Theatre Festival and the International Charlie Rivel de Comellà Clown Festival, both taking place in Barcelona (see also p. 122 of the initial periodical report). Furthermore, Article 28 of Law of Catalonia 1/1998 of 7 January on language policy provides that the Autonomous Community shall foster, stimulate and promote, among others, film production in Catalan, the production and presentation of the performing arts in Catalan and the creation, performance and dissemination of music sung in Catalan.

289. The Committee of Experts considers that this undertaking is 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;

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

290. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants.

291. The report also refers to specific provisions and measures adopted by the Administration of Catalonia. Thus Article 28 of Law of Catalonia 1/1998 of 7 January on language policy provides that the Autonomous Community shall foster, stimulate and promote, among others:

- the translation into other languages of literary and academic works in Catalan, as well as the translation into Catalan of works written in other languages (paragraph 1);
- the dubbing and sub-titling in Catalan of original non-Catalan films; a quota not exceeding 50% may be established for films dubbed or sub-titled in Catalan (paragraphs 1 and 3).

292. The initial periodical report (p. 113 seq.) mentions a number of concrete measures in this area:

- Decree 237/1998 of 8 September containing measures to promote the supply of films dubbed and sub-titled in Catalan;
- Order of 1 March 2002 approving regulations for subsidies to increase the commercial screening of films dubbed or sub-titled in Catalan; every year a Resolution announces a public competition for the granting of such subsidies, the amount of which reached 100 000 euros in 2002;
- Order of 20 December 1999 approving the basic principles regulating the granting of subsidies for initiatives to promote the commercial release of films dubbed and/or subtitled in Catalan; every year a Resolution announces a public competition for the granting of such subsidies, the amount of which reached 900 000 euros in 2002;
- Order of 11 May 2000 approving the principles governing the granting of subsidies for initiatives to promote the presence in video-clubs, bookshops and other commercial outlets of DVDs and videos dubbed and/or sub-titled in Catalan; every year a Resolution announces a public competition for the granting of such subsidies, the amount of which reached 75 000 euros in 2002 and can be increased depending on the applications received and the available funds.

293. The Committee of Experts considers that these undertakings are fulfilled in a rather exemplary manner.

"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;"

294. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

295. No specific information was provided concerning the Catalan-speaking staff at the disposal of the bodies in Catalonia responsible for organising or supporting cultural activities, although given the extent of the initiatives taken in this field by the Catalan authorities, it can be presumed that no real problem arises in this area. The Committee of Experts is nevertheless not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their next periodical report.

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

296. No specific information was provided in this respect, although given the extent of the initiatives taken in this field by the Catalan authorities, it can be presumed that no real problem arises in this area either. The Committee of Experts is nevertheless not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their 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;"

297. The initial periodical report (see p. 123) refers to the Archives of the Crown of Aragon in Barcelona. The Committee of Experts considers that this undertaking is fulfilled.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language."

298. The initial periodical report (see p. 79) refers in general terms to grants to study and research in the field of legal and administrative terminology.

299. However, the Institute of Catalan Studies, regulated by Royal Decree 3118/1976 of 26 November, Law 8/1991 of 3 May and Resolution of 17 May 2001 approving its statute, performs in particular the following functions:

- establishing and up-dating the linguistic regulation of Catalan;
- carrying out advanced scientific research on all elements of Catalan culture;
- ensuring that the process of standardisation is consistent throughout its linguistic field.

300. The Committee of Experts considers that this undertaking is 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."

301. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An autonomous community may also support the establishment of a cultural centre or service outside its territory.

302. The "Llibreria Blanquerna", a bookshop located in Madrid and supported by the Autonomous Community of Catalonia, offers works in Catalan and organises cultural activities involving the use of the Catalan language.

303. The Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

304. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language in general, in several countries courses of Catalan, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities. Works in various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Catalan authors, among others.

305. There is co-operation with the autonomous communities in this area and in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures (including a well-known Catalan artist). Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages as well.

306. The Committee of Experts considers that this undertaking is fulfilled.

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;"***

307. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations.

308. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore considers that this undertaking is fulfilled.

- "b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"***

309. Article 15 of Law of Catalonia 1/1998 of 7 January on language policy provides as follows:

"1. The language shall not be a formal requirement in private documents. Documents drafted in any language shall be valid, without prejudice to the translations that the civil, commercial or procedural law may require when the effects are to be produced in areas where the language is not official.

2. Private documents, whether contractual or otherwise, of whatever nature, drafted in one of the two official languages of Catalonia shall be valid and shall not require any translation for their judicial or extra-judicial performance within the territory of Catalonia.

3. The documents referred to in paragraph 2 shall be drafted in the official language chosen by the parties. Notwithstanding this, standard contracts, formal contracts, contracts without standard clauses or contracts which include general conditions shall be drafted in the language chosen by the consumers and shall immediately be made available to customers in separate copies in Catalan and Castilian.

4. Securities certificates of all types, and those representing shares in commercial companies, drafted in one of the two official languages shall be valid.

(...)"

310. However, the Committee of Experts has not been informed of the existence of legal provisions expressly prohibiting the insertion of the clauses referred to in the present undertaking, also with regard to territories other than Catalonia. The Spanish authorities are therefore encouraged to provide further information in their next periodical report.

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

311. No specific information was submitted in this respect as far as Catalonia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

312. Article 16 of Law of Catalonia 1/1998 on language policy provides in particular that collective agreements drafted in one of the two official languages shall be valid, although the practice mentioned in the initial periodical report actually refers to bilingual collective agreements (see p. 135 of the initial periodical report).

313. The initial periodical report (see p. 125) also refers to subsidies for private commercial and non-profit-making bodies with a view to introducing or maintaining Catalan language training (the maximum grant being 21 000 euros), maintaining services in Catalan (the maximum grant being 380 000 euros) and promoting the

use of Catalan in particular in social, professional and commercial activities, as well as in advertising, sport, games, the voluntary sector and in any other type of activity (the maximum grant being 120 000 euros). These subsidies may be increased depending on the applications received and available funds.

314. Furthermore, Article 18 of Decree 213/2001 of 24 July on the Protection of Consumers' and Users' Rights in the Provision of Services with respect to durable goods (such as gas, telephone and domestic appliances, computer equipment, toys, sports equipment, etc.) provides that all establishments must be able to provide users with all the appropriate information and documentation at least in Catalan, "information and documentation" meaning prices, claim forms, budget, receipts, invoices and advertising. Although the Spanish Government itself recognises that it is not widespread (see p. 134 of the initial periodical report), the policy of labelling in Catalan has nevertheless given rise to co-operation with the Association for the Defence of Labelling in Catalan.

315. Finally, in field of relations between the Autonomous Community and social actors a mechanism for evaluating and certifying the knowledge of Catalan has been established by Decree 152/2001 of 29 May (see p. 136 of the initial periodical report).

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

a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"

317. Article 15 para. 5 of Law of Catalonia 1/1998 of 7 January on language policy stipulates that "(c)heques, promissory notes, cheque books and other documents provided by financial institutions to their clients shall be drafted at least in Catalan". The Committee of Experts considers that this undertaking is fulfilled.

"b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"

318. No specific information was submitted in this respect as far as Catalonia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their next periodical report and also to clarify what are the economic and social sectors directly under the control of the central authorities and of the Catalan authorities respectively.

"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;"

319. No specific information was submitted in this respect as far as Catalan is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

"d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"

320. The Spanish Government's position is that safety is fully guaranteed since all regional or minority language speakers have a command of Castilian as well. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

- “1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.
2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.
3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages.”

321. The Committee of Experts considers in the first place that the argument according to which all Catalan-speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of Catalan in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

322. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

323. On the other hand, Article 26.a of Law of Catalonia 3/93 of 5 March on Consumer Protection Regulations provides that consumers shall have the right to receive in Catalan the relevant information for the consumption and use of goods, products and services, including in particular the compulsory information concerning the protection of their health and safety. However, the Committee of Experts is unaware of the extent to which this provision is implemented in practice.

324. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit further information in their next periodical report.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

325. Law of Catalonia 3/93 of 5 March on Consumer Protection Regulations and Decree 213/2001 of 24 July on the Protection of Consumers' and Users' Rights in the Provision of Services with respect to durable goods regulate this field. Being acts adopted by the Catalan institutions, they are also available in the Catalan language. The Committee of Experts considers that this undertaking is 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;"

326. In its initial report, the Spanish Government refers to the Treaty between the Kingdom of Spain and the French Republic on Transfrontier Co-operation between Territorial Entities, concluded in Bayonne on 10 March 1995. Its Article 6 stipulates in particular that "(...) the Statutes and decisions of the Body shall be drafted in the languages whose use is compulsory under the domestic law of each of the signatories for acts and decisions made by the territorial entities". This is, according to the Spanish Government itself, the only reference to the linguistic aspect present in this treaty.

327. The Committee of Experts would therefore welcome information, in the next periodical report, on whether the Spanish authorities are at present seeking the conclusion of a bilateral treaty between France and Spain aimed at fostering the contacts between Catalan-speakers across the Spanish-French border in the fields of culture, education, information, vocational training and permanent education. The Committee of Experts would also welcome information on whether the conclusion of a bilateral treaty of this sort is also

being sought with Italy with regard to the Catalan language spoken in the Sardinian city of Alguer. Finally, the Committee of Experts would welcome information on the relations with Andorra.

"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."

328. No information was provided concerning the transfrontier co-operation involving the administration of Catalonia and Catalan local authorities on the one side and the competent French regional and local authorities on the other side. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to specifically comment on this point in their next periodical report.

2.2.2 The Basque language (*Euskera*) in the "Basque-speaking zone" of Navarra⁴

Article 8 – Education⁵

Introductory remarks

329. In the "Basque-speaking zone", the teaching of Basque is obligatory, whereas teaching in Basque is voluntary. The following three educational models are essentially used in this zone:

- model A: teaching in Castilian with Basque as a subject;
- model B: teaching in Basque and of Castilian, specific subjects being also possibly taught in the latter language;
- model D: teaching in Basque with Castilian as a subject.

330. Model G (teaching exclusively in Castilian) has been practically abandoned in this zone, except for secondary school.

331. In the area in question, for pre-school, primary school and the obligatory part of secondary school a class can be set up if there is a number of pupils comparable to that of any normal school. Therefore, in these cases no fixed minimum numbers are required. A minimum number of 25 pupils is however required for this zone as far as upper secondary schooling is concerned.

332. Decree 159/1986 provides that if the chosen model cannot be offered in the place of residence, then education in this model will be provided in the closest possible school and aid for transport, accommodation or food will be provided where necessary. As far as transport is concerned, according to the information received a form of aid exists for those pupils who live at least 5km away from the school-place. A special body has been created to deal with requests for such aid and the number of accepted applications has been steadily increasing.

Pre-school

"Paragraph 1

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

- a i to make available pre-school education in the relevant regional or minority languages; or***

Primary school

- b i to make available primary education in the relevant regional or minority languages; or"***

333. The main model chosen in these two levels is model D. Model A has decreased from 38.7% in the school-year 1990/1991 to 14.4% in the school-year 2002/2003.

334. No special problems have been reported to the Committee of Experts in this area, although, as was already observed above, the Committee of Experts lacks a clear picture of the situation concerning those cases where the chosen model cannot be provided in the place of residence.

335. The Committee of Experts considers that these undertakings are at present fulfilled. However, it would welcome further information, in the forthcoming report, on whether the demand for a given model is satisfied in all cases.

⁴ The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

⁵ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

Secondary school

"c i to make available secondary education in the relevant regional or minority languages; or"

336. Very little information has been provided in this respect. As to the obligatory part of this level of education, the information made available to the Committee of Experts refers indiscriminately to the whole of Navarra and therefore do not provide specific information concerning the situation in the "Basque-speaking zone". This information indicates in general terms that model G is the predominant one, although model D has been gaining some importance. However, it is not possible to determine, on the basis of the information provided, whether the demand for model D in the "Basque-speaking zone" is satisfied in all cases. Furthermore, no information has been made available with regard to upper secondary schooling. The Committee of Experts is therefore not in a position to conclude on this undertaking.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

337. The elements gathered by the Committee of Experts during the "on-the-spot" visit indicate that in the field of technical and vocational education, model D, which is the one corresponding to the undertaking entered into in this area by Spain, is not available in the "Basque-speaking zone". There appears to be only one centre for technical and vocational education, located in Pamplona/Iruña, which does not offer this type of education in Basque. As a consequence, Basque-speaking students who opt for this type of education must switch to Castilian when they reach this stage.

338. The Committee of Experts notes that there are indications pointing to the existence of certain courses but it does not know to what extent they fulfil the requirements of this undertaking. It is therefore not in a position to conclude on this point and it encourages the competent authorities to submit further information in the next periodical report.

Higher education

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

339. The Public University of Navarra, which is located in Pamplona/Iruña has been set up by the Law of Navarra 8/1987, which does not deal with the status of Basque at university. The Foral Decree 68/1995 does however contain some references to the linguistic aspects. Article 102.1 thus provides that all members of the university community must guarantee the right to use Castilian or Basque in the terms defined by the Decree, without any discrimination. It would appear that a Basque-speaking university class could be formed if the following minimum numbers are met:

- for the main subjects, 18 students in the first cycle and 12 in the second cycle;
- for the optional subjects, 10 students;
- for free-choice subjects, 15 students.

340. It was reported to the Committee of Experts that only 2 of the 22 existing university fields are available also entirely in the Basque language. The Committee of Experts has been informed that many Basque-speaking pupils from Navarra go to study in the Basque Country.

341. In 1999, the Navarra University set up a commission, whose task has been to make proposals on the basis of an analysis of the linguistic demand at university. According to this analysis, about 4/5^{ths} of the students, including about 1/5th of those who have a good knowledge of Basque, wish to carry out their university studies entirely in Castilian. In the school-year 2000/2001, 172 subjects (ie 18% of the total) were offered in Basque but 16 of them were eventually cancelled because the minimum number required was not

achieved. At present 156 subjects are offered in Basque for 73 classes, comprising 403 students in all. The majority of the subjects concerned relate to the teacher-training curriculum.

342. The Committee of Experts observes that the present undertaking concerns precisely those cases where the State does not have a direct control over university institutions. The undertaking is therefore concerned with measures of encouragement, by the public authorities, aimed at the university institutions. Although a number of arrangements have clearly been made by the University of Navarra itself, the Committee of Experts has not received any information as to what sort of measures the competent State authorities have taken in this field.

343. The Committee of Experts considers that this undertaking is fulfilled but would welcome further information, in the next periodical report, on the measures taken by the competent public authorities, other than the University of Navarra itself.

Adult and continuing education

"f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"

344. Several public centres, as well as a number of private ones, provide adult and continuing education courses in Navarra, such as Zubiarte Euskaltegia (26 teachers) and Escuelas oficiales de idiomas (15 teachers). The Committee of Experts considers 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;"

345. The Committee of Experts recalls that the present undertaking concerns not only education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions of the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for Castilian-speaking pupils within the territories concerned (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Croatia, ECRML (2005) 3, para. 100).

346. The only information made available to the Committee of Experts in this regard is that the teaching of history focuses on the history of Navarra, but it is not known how the role of Basque in Navarran history and culture is taught to both Basque-speaking and Castilian-speaking pupils attending schools in Navarra.

347. The Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in the next periodical report.

Basic and further training of teachers

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

348. The public University of Navarra offers teacher training entirely in the Basque language for the pre-school and primary school levels. Following the basic provision embodied in Article 21 of the Act 18/1986 of 15 December concerning the duty of the Government of Navarre to provide a framework for teacher training in Basque, the learning of Basque by current teachers was introduced by the Foral Decree 162/1988 of 19 May, subject to the availability of the necessary budget and depending on the actual needs. The Foral Decree 279/2001 later regulated the training to improve the teachers' linguistic skills in Basque.

349. As far as basic training is concerned, this seems to consist of either language courses offered by public institutions or subsidies to private institutions in those areas where training through a public body cannot be offered. Further training is also offered to those teachers who teach subjects in Basque. In both cases (basic and further training) the various options may also be accessible to temporary staff but only within the duration of their contract.

350. The Spanish authorities produced a number of figures. However, these figures do not make it clear whether the needs have been covered with regard to all levels of education. Furthermore, these figures do

not go beyond the school-year 2000/2001. In this respect, during the "on-the-spot" the Committee of Experts received contradictory information. According to some sources, the upgrading or re-training of teachers has in the meantime been abandoned and no teacher training is offered for some subjects, especially scientific ones. On the other hand, another source declared that there are no difficulties for hiring teachers, except in particular cases (such as a Basque-speaking teacher who would have a command of English as well).

351. The Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify the situation in their next periodical report.

Supervisory body

"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."

352. The "Consejo escolar de Navarra" is the highest consultative body. It must be consulted concerning any draft regulatory text in the field of education. Once a year it draws up and publishes a report on the Navarra educational system, including the situation with regard to the Basque language. The Committee of Experts considers that this undertaking is fulfilled.

Education in other territories

"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."

353. The nature of the presence of the Basque-speakers in the "non-Basque-speaking zone" of Navarra is not yet clear to the Committee of Experts (see para. 74 above). Since the Committee of Experts is at the present stage not in a position to conclude that the Basque language is traditionally present in this zone too, it will deal with the issues of education in Basque in this zone under the present undertaking, which is, for the time being, the relevant undertaking in this case.

354. In the "non-Basque-speaking zone" the only applicable model in public schools is model A. Article 6 of the Foral Decree 159/1988 provides, as for the "mixed zone", that the minimum number required for setting up a class is 20 pupils for urban areas and 15 pupils for rural areas for pre-school, primary school and the compulsory part of secondary school. For the optional part of secondary school the minimum number is the same as the one which also applies to the two other zones, ie 25 pupils.

355. According to the statistics provided by the Government of Navarra, between the school-year 1990/1991 and the school-year 2002/2003, the proportion in which the various models have been used in the "non-Basque-speaking zone" at pre-school and primary school levels is as follows:

- model G has decreased from 95% to 59.2%;
- model A has increased from 3.2% to 38.2%;
- model D (used in the legalised Ikastolas – private schools) increased from 1.8% to 2.6%.

356. The Committee of Experts considers that the increase of the number of pupils who receive at least teaching of Basque is a very encouraging sign. Insofar as this zone is considered by the current legislation of Navarra to be a territory in which Basque is not traditionally used, this development testifies to an impressive commitment on the part of the competent authorities.

357. However, the number of hours of teaching of Basque in public schools, following model A, in the "non-Basque-speaking zone" is not known to the Committee of Experts. It must be observed, in this regard, that this number must be appropriate to be compatible with the objective of the Charter, which is to protect and promote regional or minority languages and not just to provide some basic notions of them. The extent to which the conditions laid down by the relevant legislation make it possible to cater for the demand in the areas concerned in the zone at issue is also unknown to the Committee of Experts. It observes, in this regard, that the minimum numbers required, which go up to 25 for the non-compulsory part of secondary school, may appear at first sight very high for the areas of Southern Navarra where the Basque-speaking population is most dispersed. Indeed,

the representatives of the speakers complained that the minimum numbers required sometimes hinder the possibilities to benefit from the teaching of Basque.

358. The development of the Ikastolas, which are private schools using a "full-immersion" model roughly corresponding to model D (with the difference that teaching of Castilian is introduced later than in the latter), seems to suggest that there is a demand for a more intensive teaching of Basque which public schools do not cater for. The Committee of Experts cannot ignore the existence of the said demand in a context where the amount of teaching of Basque provided by public schools following model A is unclear. The Ikastolas receive some public financial support from the Parliament of Navarra and the Government of Navarra itself has underlined this fact. This indicates that the latter considers supporting the Ikastolas as an additional way of complying with the Charter obligations. However, the Committee of Experts observes that there seems to exist serious problems with regard to the conditions in which the Ikastolas operate. In the first place, not all the Ikastolas are legally recognised, which according to what has been reported to the Committee of Experts raises a very serious problem for the regular recognition of the education of the pupils concerned. In the second place, the infrastructures used by the Ikastolas suffer from serious maintenance problems owing to the insufficient funding allocated by the Parliament of Navarra. In the third place, the limited funding does not suffice to support families whose income is very modest, especially in the rural areas of the "non-Basque-speaking zone".

359. Finally, the Spanish Government also referred to the fact that the Official Schools for Languages offer the teaching of Castilian and of the other co-official languages in the territories where they are spoken as well as outside these territories. In this respect, the Committee of Experts would welcome further information, in the next periodical report, on where these schools are actually located in Spain and where exactly the teaching of Basque is offered outside the territory in which the Basque language is traditionally used.

360. The Committee of Experts considers it fulfilled but would like to have more information regarding the situation of the Ikastolas and their status.

Article 9 – Judicial authorities

"Paragraph 1

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

a in criminal proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***
- iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,***

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

b in civil proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or***

- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*
- c in proceedings before courts concerning administrative matters:**
 - i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or*
 - ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or*
 - iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;”*

361. Article 3 of the Spanish Constitution provides as follows:

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

362. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

363. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

364. Finally, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the autonomous communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category.

365. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore, the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom have a command of Castilian as well.

366. According to the Constitutional Court’s case-law, the scope of co-officiality in the administration of justice is particular (STC 82/86. FJ6 and STC 84/86. FJ3). In the latter judgment the Constitutional Court also stated that the assumptions that are grounds for the obligation to know Castilian do not apply to the co-

official languages, in particular with regard to the possibility to ask that trials be conducted in a co-official language (Basque in the specific case).

367. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an autonomous community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the autonomous community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the autonomous communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91). The subsequent regulation, currently in force, ie Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Basque is rewarded in the said conditions but is never required to perform any functions in the administration of justice in Navarra.

368. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report).

369. The initial periodical report also mentions a number of measures aimed at facilitating the learning of the co-official languages in a number of autonomous communities. However, no information in this respect was provided with regard to Navarra.

370. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

371. The current provisions do not seem to guarantee that the proceedings in Navarra will invariably be conducted in Basque whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Basque in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

372. As far as practice is concerned, according to the information gathered during the "on-the-spot visit", there are at present only 3 judges and 3 or 4 members of the administrative staff who can speak Basque. There are no prosecutors who are prepared to conduct a trial in Basque. On the other hand, requests for interpretation or translation are generally met. However, it was conceded that there are very few requests to use the Basque language and it was noted that few lawyers have a sufficient command of the language. The Committee of Experts considers that the scarce judicial staff able to speak Basque in Navarra, in particular among judges and prosecutors, constitutes an additional obstacle to the chosen undertakings being actually implemented. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

373. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned

(criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Basque, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Basque-speakers to avail themselves of these possibilities. The very reduced number of lawyers able to speak Basque in Navarra adds to this unfavourable context.

374. In conclusion, in order to properly implement the requirement for the courts located in Navarra to conduct the proceedings in Basque at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. The Committee of Experts considers that in the case of Navarra the undertakings entered into Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i are not fulfilled and that the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii, and 1.c.ii and 1.c.iii are only partly fulfilled.

375. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in Navarra will conduct the proceedings in Basque at the request of one party ;***
- ***to formally guarantee the accused the right to use Basque even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in Navarra to conduct the proceedings in Basque if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in Navarra, at all levels and particularly among judges and prosecutors, able to use Basque as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

"d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned."

376. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"***

377. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They

shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure.

378. Although the mentioned provisions admit the validity of legal documents in Basque only within Navarra (or the Basque Country), as in the rest of Spain a translation is required, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

379. According to the information made available to the Committee of Experts, no statutory text in Basque is published in the official gazette. The only national statutory texts also available in Basque are the Penal Code, the Common Administrative Procedures and Public Administration Act, and the Traffic and Road Safety Legislation. All these translations were made thanks to the support of the administration of the Basque Country. A private university (University of Deusto) followed the preparation of the Basque version of the Penal Code.

380. The Committee of Experts observes that a systematic translation of the relevant legal texts into Basque is a crucial part of the context for the fulfilment of the undertakings that Spain entered into under Article 9 of the Charter (cf. the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, ECRML (2004) 6, para. 85), which are the highest ones (that proceedings be conducted in Basque if one of the parties so request).

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that the most important national statutory texts and those relating particularly to users of Basque are regularly and timely made available in Basque too. The publication of an official translation at the same time as the publication of the official Castilian version would be the most appropriate measure.

Article 10 – Administrative authorities and public services

State authorities

"Paragraph 1

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

a i to ensure that the administrative authorities use the regional or minority languages; or"

382. Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Furthermore, Article 5 of Law 4/2001 of 12 November on the right to submit applications provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their applications to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice".

383. However, the knowledge of a co-official language cannot be a pre-requisite for the hiring or the appointment of a civil servant, although it is considered as an advantage. The initial periodical report (see p. 105) also makes reference to a Collaboration Agreement, concluded on 28 December 1995 between the Ministry of Public Administrations, through the National Institute of Public Administration, and the Navarra administration, with a view to organising language courses for State general administration staff working in the territory of Navarra. Nevertheless, the Spanish authorities themselves admitted that the number of Basque-speaking civil servants is not high. In fact, during the "on-the-spot" visit the Committee of Experts received complaints that there is de facto a situation of monolingualism in the State administration offices located in Pamplona.

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

The Committee of Experts encourages the Spanish authorities to substantially increase the Basque-speaking staff in the competent State administration offices and to develop adequate training schemes.

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

385. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the Autonomous Communities where there is a co-official language must be bilingual. However, the Spanish authorities stated that 60% of widely used administrative texts and forms are bilingual. During the "on-the-spot" visit the Committee of Experts received complaints that in some fields bilingual texts and forms are not available at all. The Committee of Experts considers that this undertaking is only partly fulfilled.

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all the competent State administration offices.

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

386. Article 36 para. 1 of Law 4/1999 provides that even where there is more than one person involved in the procedure and there is disagreement as to the language to be used, documents or certificates required by the person concerned shall nevertheless be drafted in the (co-official) language chosen. However, the Committee of Experts has not been made aware of any examples of certificates drafted in the Basque language by a State administration office located in Navarra. Nor has it been made aware of any other documents issued in both languages by a State administration office in Navarra. The Committee of Experts therefore considers that this undertaking is only formally fulfilled.

Local and regional authorities

Preliminary remark

387. Given the territorial limitation for the application of Part III as far as Navarra is concerned (see paras. 64-73 above), a preliminary question arises concerning local and regional authorities. Local authorities within the "Basque-speaking zone" are covered by the undertakings entered into by Spain under Article 10 para. 2 of the Charter. However, insofar as the authorities of the Autonomous Community, and particularly those located in Pamplona/Iruña, constitute the "regional" authorities concerned by the application of Article 10 para. 2, they are also covered by this provision. It must be considered, in this respect, that in the Spanish system the Autonomous Communities perform extensive functions (see pp. 5 and 11-13 of the initial periodical report).

"Paragraph 2

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

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

388. As far as the local authorities located in the "Basque-speaking zone" are concerned, according to the information made available to the Committee of Experts a strict bilingualism is implemented there and this is funded also by the Navarra administration. Furthermore, all documents issued by the Federation of Municipalities and Councils of Navarra (*Federacion Navarra de Municipios y Concejos*), as well as its newsletter, are drafted in Basque as well. The Committee of Experts therefore considers that this undertaking is fulfilled as far as the local authorities in the "Basque-speaking zone" are concerned.

389. As to the administration of the Autonomous Community, which is located in Pamplona/Iruña (ie in the "mixed zone"), the legal framework was established by Foral Law 18/1986 of 15 December. This law defines the three linguistic zones of Navarra and provides, inter alia, that as far as the use of the official languages in the Basque-speaking zone is concerned, all administrative acts are valid and have full legal force, irrespective of the language. Furthermore, it also provides that all acts in which the public administrations intervene, as well as all administrative notifications and communications, should be drafted in both languages, unless all the interested parties expressly choose the use of only one of them (Article 11).

390. However, the legal acts subsequently adopted by Navarra to implement national and Navarra legislation have given rise to a lively controversy. The current legislation is Foral Decree 29/2003 of 10 February. This provides inter alia that communications and notifications issued by Public Administrations of Navarra located in the "mixed zone" will be in Castilian, even when issued to physical or legal persons in the "Basque-speaking zone", unless the interested parties expressly request the use of Basque. In the latter case they *can* be issued in bilingual form (Article 15 para. 1; emphasis added), which could be construed as meaning that this is a matter of discretion for the authorities. In relation to information pamphlets, campaign material, publications or other similar text produced by the central services of the Navarra Administration and addressed to the entirety of the population (including therefore inhabitants of the "Basque-speaking zone"), a decision by the competent department is necessary before they can be drafted bilingually, either in a single publication or in separate publications in Castilian and Basque (Article 16 para. 3).

391. Article 15 para. 1 of Decree 29/2003 seems to comply, at least formally, with the undertaking embodied in Article 10 para. 2.b of the Charter (see paras. 395-398 below). It must be noted, however, that Spain also entered into the undertaking under Article 10 para. 2.a. According to Decree 29/2003, the Navarra Administration is required to use Castilian when it addresses a person or a legal body in the

"Basque-speaking zone" (Article 15 para. 1). The Committee of Experts was presented with concrete information from the speakers suggesting that this may also be the situation in practice.

392. Furthermore, by requiring in each case a decision by the competent department, Decree 29/2003 seems to imply that the use of Basque in disseminating information of public interest to the population in the "Basque-speaking zone" may depend on the discretion of the Navarra Administration (Article 16 para. 3). The information provided by the speakers, which refers to cases where information of public interest for the "Basque-speaking zone" was not disseminated also in Basque, suggests that this may well be how the quoted provision operates in practice.

393. The question therefore arises as to whether the provisions at issue, which have been the subject of litigation, are adequate to meet the requirements of Article 10 para. 2.a. Given that this is recent legislation, and that the outcome of litigation might have an effect both on how it is implemented in practice and on the question of whether that practice meets the requirement of article 10 para 2.a, the Committee of Experts is not in a position to properly assess the effects of the legislation presented above. It can therefore not conclude on this undertaking at this stage and encourages the competent authorities to comment on these points in the next periodical report.

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

394. Oral or written applications in Basque are generally accepted and processed as far as the local authorities located in the "Basque-speaking zone" are concerned.

395. According to the existing legislation (see paras. 390-391 above) and to the indications provided by the authorities during the "on-the-spot" visit, in principle oral or written applications in Basque are admitted also as far as the Navarra administration in Pamplona/Iruña is concerned. There is indeed a right to submit oral or written applications in Basque but the Navarra administration is under no obligation to reply in Basque.

396. However, it is unclear what proportion of staff in the Navarra administration are able to receive oral petitions in Basque and whether Basque-speaking staff are regularly available. Furthermore, although a translation department exists and any petition or document submitted in Basque would normally be translated, the Committee of Experts received complaints that requests in Basque are processed very slowly, which is discouraging speakers from applying in Basque to the Navarra administration located in Pamplona/Iruña.

397. The Committee of Experts encourages the Spanish authorities to specify, in their next periodical report:

- how many members of staff within the Navarra administration located in Pamplona/Iruña have an adequate command of the Basque language;
- whether a Basque-speaking member of staff within the said administration is regularly available to receive oral petitions in Basque;
- what is the average delay for dealing with written petitions or documents received in Basque compared to that concerning written petitions or documents submitted in Castilian.

398. The Committee of Experts considers that the present undertaking is fulfilled as far as the local authorities located in the "Basque-speaking zone" are concerned but that it is only formally fulfilled as far as the Navarra administration is concerned.

The Committee of Experts encourages the competent authorities to take the necessary steps to enable the applications in Basque to the Navarra administration to be treated in due time.

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

399. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the Autonomous

Communities concerned if the competent bodies within the latter so decide. The above-mentioned Foral Law 18/1986 provides that the official bulletins of the Government and of the Parliament of the Autonomous Community are published in Basque as well. However, account must be taken of the decrees referred to above (see paras. 391-392) and it now appears that the autonomous Government uses Castilian even when it approaches bodies located in the Basque-speaking-zone. The Committee of Experts has received concrete examples of this situation. The Committee considers that this undertaking is only partly fulfilled.

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

400. Official documents issued by the local authorities located in the "Basque-speaking zone" are regularly published also in Basque. The Committee of Experts considers that this undertaking is fulfilled.

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

401. Royal Decree 2568/1986 of 28 November provides that in the debates before the parliaments of the Autonomous Communities Castilian or the co-official language concerned may be used without distinction and all minutes and resolutions shall be bilingual.

402. The Committee of Experts has been informed that the technical facilities for using Basque in debates within the Parliament of the Autonomous Community are provided. However, according to the information provided, the Basque language is rarely used in the Parliament of Navarra. The Committee of Experts acknowledges the efforts being made by the authorities to facilitate the use of Basque. However, since little or no use of Basque has been reported, the Committee of Experts encourages the authorities to elaborate on this point in the forthcoming report especially with regard to measures taken, to encourage the use of Basque in the Navarra Parliament.

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

403. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used.

404. The information made available to the Committee of Experts points to a strong bilingualism within local authorities in the "Basque-speaking zone" and the Committee of Experts did not receive any element indicating that this might not be the case as far as the debates in local authorities' assemblies are concerned.

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

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

406. Foral Law 18/1986 of 15 December and Foral Decrees of 19 January 1989 and of 20 December 1990 stipulate that in the "Basque-speaking zone" the official place-name will be in Basque and a different denomination will also be used where it exists.

407. The information gathered by the Committee of Experts during the "on-the-spot" visit indicates that no problem of practical implementation seems to exist. The Committee of Experts therefore considers that this undertaking is fulfilled.

Public services

"Paragraph 3

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

- a to ensure that the regional or minority languages are used in the provision of the service; or"***

408. Royal Decree 334/1982 provides that in the Autonomous Communities concerned road signs, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual. Foral Decree of 12 September 1991 lays down implementing provisions for Navarra. Furthermore, Article 15 of Foral Law 18/1986 of 15 December provides that the public administration must encourage the use of Basque by staff of public companies serving in the "Basque-speaking zone".

409. The Committee of Experts lacks a certain amount of information to enable it to assess the compliance with the present undertakings, such as:

- the proportion of staff in the public services serving in the zone at issue who have an adequate command of Basque;
- what public services are available in this zone and which ones are on the contrary available only in Pamplona/Iruña;
- the language used in written communications between the public services and the speakers residing in the "Basque-speaking zone" (for example telephone and electricity bills and the like);
- what are the services that are provided by private companies under licence and in this case what linguistic clauses are included in the licence;
- language used in signs by the Department of public works and telecommunication of the Navarra administration.

410. The Spanish authorities are encouraged to provide this information in their next periodical report.

"Paragraph 4

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

a translation or interpretation as may be required;"

411. The Committee of Experts has been informed that a translation department exists within the Navarra administration in Pamplona/Iruña. However, it is not known how many translators are employed by this department. It would also be necessary to know what has been the flow of applications or documents that this department has been requested to translate over the last few years as well as the evolution of the average amount of time required for a translation, in order to assess whether the translation department staff is sufficient. Furthermore, it is not known how interpretation is organised and provided by both the State administration and the Navarra administration, insofar as they perform their functions with regard to the "Basque-speaking zone".

412. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to clarify the above points in their next periodical report.

"b recruitment and, where necessary, training of the officials and other public service employees required;"

413. The Spanish Government has stated that in general terms the majority of the civil servants, especially those recruited more recently, have at least a sufficient knowledge of the regional or minority language concerned.

414. As far as the State administration is concerned, however, the limited information at the Committee of Experts' disposal points to a negative trend: 40 officials received training in Basque in 1999/2000 (2.85% of the total number of State officials present in Navarra, ie 1405), and just 24 in 2000/2001 (1.71% of the total). In that period the Spanish Government decided that 50% of the training would take place within the officials' free time. The problem is aggravated by the fact that a system based on a normal rotation of civil servants leads either to their not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a civil servant with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

415. As far as the Navarra administration is concerned, knowledge of Basque is required only for a number of posts in education and in the field of translation. As far as administration is concerned, the knowledge of Basque only constitutes an advantage and the language bonus amounts to 5.50% for the "Basque-speaking

zone" and to 5.25% for the "mixed zone". In all cases where the knowledge of Basque is considered a qualified merit for a position in the "Basque-speaking" zone, the percentage by which the overall punctuation is increased as a result can never be more than 10% of that given to candidates who demonstrate knowledge of French, English or German (as working languages of the European Union; Article 21 para. 1 of Foral Decree 29/2003 of 10 February 2003). This limit is of 5% as far as the "mixed zone" is concerned (Article 23 para. 1 of the said decree).

416. No specific information has been provided as far as recruitment and training of officials and other public service employees at municipal level is concerned. However, as was already noted above (see paras. 388 and 394) a strict bilingualism seems to be implemented within the municipalities located in the "Basque-speaking zone".

417. The Committee of Experts observes that the degree of fulfilment of this undertaking is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10, in the sense that the degree of fulfilment of the former has direct repercussions on that of the latter. In the light of the position expressed on the relevant undertakings under paragraphs 1 to 3 of Article 10, the Committee of Experts considers:

- that the present provision is fulfilled as far as local authorities are concerned (cf. paras. 389 and 395 above);
- that it is not fulfilled as far as the State administration is concerned (cf. paras. 383-385 and 387 above);
- that it is not in a position to conclude as far as the Navarra administration (cf. paras. 390-394 and 396-399 above) and public services (cf. paras. 409-411 above) are concerned.

The Committee of Experts encourages the Spanish authorities to review the career and training structure in the State public administration with a view to ensuring that an adequate proportion of the staff posted in the State administration offices located in Navarra has the necessary command of the Basque language to be able to use it as a working language.

The Committee of Experts also encourages the Spanish authorities to take the necessary measures to increase the proportion of Basque-speaking staff in the Navarra administration.

"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."

418. No specific elements were provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish Government is encouraged to provide further information in its next periodical report.

"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."

419. The possibility to have one's family name written in Basque formally exists (see in particular pp. 102-103 of the initial periodical report). However, practical problems were brought to the attention of the Committee of Experts.

420. The information at the Committee of Experts' disposal is insufficient to conclude on this undertaking. The Committee of Experts therefore encourages the Spanish authorities to clarify the situation in their next periodical report.

Article 11 – Media

"Paragraph 1

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

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

i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"

421. Law 46/1983 of 26 December has set up a regional channel of the national Spanish television ("TVE") in the Basque Country, in Galicia and in Valencia (further Madrid and Andalusia). In any case, Article 149 of the Spanish Constitution stipulates that the Autonomous Communities can create and regulate their own television and radio stations as well any written media.

422. Navarra does not have its own television station and no public television station in Basque has been established in this Autonomous Community. However, the Committee of Experts observes that a public television station broadcasting entirely in Basque ("EITB") exists in the Basque Country. If the Navarra administration took the necessary measures to facilitate the reception of EITB programmes in at least the "Basque-speaking zone", this undertaking could be considered to be indirectly fulfilled. It is true that EITB can be received even in the "mixed zone", although with varying degrees of quality. However, according to various sources (in particular the speakers' organisations and EITB itself) this is thanks to private initiatives or to specific agreements between EITB and some municipalities in the "Basque-speaking zone". EITB has however no power to acquire frequencies in Navarra, to intervene technically or even to buy an antenna on a hill.

423. As a matter of fact, an agreement was concluded in 1996 between Navarra and the Basque Country concerning precisely the re-transmission of EITB programmes in Navarra. However, the Committee of Experts received contradictory information concerning the outcome of this agreement. According to the Navarra administration, the agreement is still in force and in any event the re-transmission of programmes is not hindered, unless it constitutes an interference in Navarra's internal affairs. On the other hand, according to EITB, the administration of the Basque Country and the speakers' organisations, the agreement has in the meantime been denounced by the Navarra administration.

424. As far as public radio is concerned, there is no public radio station broadcasting in Basque in Navarra. The Committee of Experts has however received no specific information concerning the situation of radio re-transmissions in Basque from the public radio station located in the Basque Country, in particular regarding the issue of the facilities provided by the Navarra authorities in this respect.

425. In the light of the above the Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report:

- what is the actual status of the agreement concluded in 1996 between Navarra and the Basque Country concerning the re-transmission of EITB programmes into Navarra;
- what facilities, if any, the Navarra authorities provide to ensure that EITB television programmes are properly received at least in the "Basque-speaking zone";
- in what cases EITB programmes have been or would be considered as interfering in Navarra's internal affairs;
- what facilities, if any, the Navarra authorities provide to ensure that public radio programmes from the Basque Country can be properly received at least in the "Basque-speaking zone".

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

426. The Committee of Experts observes in the first place that the present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station in Basque in Navarra (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 121).

427. "Euskalerrria Irratia" has broadcast in Basque since 1978 but its applications for a regular licence have been rejected more than once. The lack of a regular licence deprives this radio of the possibility of benefiting from regular subsidies from the Navarra authorities and of relying on advertising. The radio took its case to court again on the grounds that the latest process of allocation of licences was not in conformity with the legal requirements (the case was recently dismissed). In this respect the radio in question complained in particular that it had been granted a licence for an audience of 2 000 people whereas it actually has an audience of 8,000 people.

428. The Navarra authorities' position is that all the media in Navarra have a licence or are in the process of obtaining one. If "Euskalerrria Irratia" has not yet obtained a licence, it is because the first time it applied for it, it did not meet all the conditions. The authorities stressed that this radio is no more entitled to a licence than any other radio. Two licences were granted in 1998 to radios which had more to offer. Nowadays six broadcasters have a licence and although "Euskalerrria Irratia" has again been involved in a case pending in court, it nevertheless receives subsidies from the authorities.

429. The Committee of Experts observes that the granting of a licence and the subsequent granting of subsidies is the most obvious way to facilitate and/or encourage the creation of a radio station or to help maintain an existing one, although it is not explicitly mentioned by Article 11 para. 1.b.i. Since "Euskalerrria Irratia" is the only private radio station broadcasting entirely in Basque (all the others broadcast mainly in Castilian) and since it does not appear that the Navarra authorities have taken any steps to encourage and/or facilitate the creation of another radio station broadcasting essentially in Basque, the Committee of Experts considers that the present undertaking is not fulfilled.

The Committee of Experts encourages the competent authorities to encourage and/or facilitate the creation or the maintenance of a private radio station broadcasting in Basque in Navarra.

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

430. The Committee of Experts observes that the present undertaking is concerned with the encouragement and/or facilitation of the creation of at least one private television station broadcasting in Basque (see, mutatis mutandis, the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 125).

431. According to the information made available to the Committee of Experts, no such measures have been taken. The Committee of Experts therefore considers that the present undertaking is not fulfilled.

The Committee of Experts encourages the competent authorities to take the necessary measures to encourage and/or facilitate the creation of at least one private television channel broadcasting in Basque in Navarra.

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

432. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms.

433. However, the Committee of Experts did not receive any information on whether this legislation is followed by some degree of practical implementation in the case of the Basque language in Navarra. It is

therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

434. The Committee of Experts was informed that there exists a newspaper, "Nabarra Aldizkaria", published in Basque in Navarra. According to the information provided by the newspaper 7% of its budget consists of public subsidies, the source of which was not specified, but it does not benefit from any public advertising. The subsidies, however, seem to be granted in an irregular manner. The newspaper also complained that Castilian-language newspapers receive more substantial funding for publishing just minor pieces in Basque. Furthermore, the Committee of Experts is aware that the newspaper "Berria", edited in the Basque Country (see paras. 571-573 below), is distributed in Navarra too, but has not been informed whether the authorities of Navarra provide any support to it.

435. The Committee of Experts underlines that the present undertaking is concerned with the creation and/or maintenance of a newspaper essentially in the Basque language. Therefore, the publication of articles of a newspaper in the Basque language, such as the weekly page in the "Diario de Navarra" or its fortnightly supplement, to which the Navarra authorities made reference during the "on-the-spot" visit, is not sufficient for the purpose of the undertaking entered into by Spain and actually corresponds to the distinct undertaking under Article 11 para. 1.e of the Charter.

436. The Committee of Experts observes that the present undertaking is concerned with encouraging and/or facilitating the creation and/or maintenance of at least one newspaper in Basque (which means printed essentially in Basque) in Navarra. It is unclear to the Committee of Experts whether this publication is a newspaper or not, and if it is, whether the support given is sufficient to facilitate its maintenance, as envisaged by this undertaking, given that the existing support does not seem to be part of a regular scheme. The Committee of Experts therefore encourages the competent authorities to clarify the situation in their next periodical report.

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

437. The Spanish Government has not clarified how the existing schemes are concretely used in Navarra for the purpose mentioned in the present undertaking. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

438. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. However, it is unclear whether the Navarra authorities provide any specific support for the training of journalists. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical 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."

439. The Spanish Government has provided information on the reception of programmes in Basque broadcast from the Basque Country within the French department ("Pyrénées-Atlantiques") where this language is also spoken.

440. The Committee of Experts considers that this undertaking is fulfilled. It would nevertheless welcome information on whether any radio and/or television programmes in Basque broadcast by stations located in the said French department are received in Navarra.

"Paragraph 3

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

441. Navarra is the only Autonomous Community which has so far established a council specifically charged with guaranteeing the freedom and pluralism of the media. However it is not known to the Committee of Experts how the interests of Basque-speakers are represented or taken into account within this council. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

Article 12 – Cultural activities and facilities

Paragraph 1

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

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

442. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes for works and authors using co-official languages, and one writer in Basque has received this prize (see p. 119 of the initial periodical report). Furthermore, the Directorate General of Culture of the Navarra administration provides works in Basque to 38 general libraries throughout Navarra. The Committee of Experts considers that this undertaking is 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;

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

443. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants. The initial report also refers to grants for the acquisition of literary works written in or translated into Basque (see p. 121).

444. The information provided by the Government does not enable the Committee of Experts to determine to what extent the Basque language in Navarra has benefited from the said measures. Furthermore, no information has been provided concerning dubbing, post-synchronisation and subtitling activities.

445. The Committee of Experts is therefore not in a position to conclude on these undertakings and encourages the Spanish authorities to clarify the said aspects in their next periodical report.

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

446. The information provided by the Spanish Government refers in general to the provision of support for cultural activities in a regional or minority language (such as theatre tours or festivals), or to the specific support granted by the Navarra administration to local councils for unspecified projects.

447. This information is however insufficient to enable the Committee of Experts to reach a conclusion on this point and the Spanish authorities are encouraged to provide concrete examples, in their next periodical report, on how the knowledge or use of Basque is valued in the projects initiated by the Navarra competent authorities (for example in the context of a tender).

"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;"

448. No information has been provided concerning the Basque-speaking staff at the disposal of the bodies in Navarra responsible for organising or supporting cultural activities, although the Committee of Experts received a complaint, according to which the Foral Decree 372/2000 has abolished the obligation to know Basque for staff in the libraries located in the "Basque-speaking zone".

449. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific comments on this point in their next periodical report.

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

450. No information has been provided concerning how representatives of the Basque language in the "Basque-speaking zone" are encouraged to directly participate in providing facilities and planning cultural activities.

451. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific comments on this point in their 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;"

452. The information provided by the Spanish authorities refers in particular to the functions performed by the Directorate General for Universities and Language Policy within the Navarra administration, namely the acquisition of materials such as books or software in Basque, and their dissemination, as well as the provision of such materials to 38 libraries throughout Navarra.

453. The Committee of Experts would welcome further information, in the next periodical report, on whether a central body responsible for the systematic collection, storage and presentation of works in Basque exists. The Committee of Experts is therefore not in a position to conclude on this undertaking.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language."

454. The Royal Academy for the Basque Language, which is located in Bilbao/Bilbo but which is also financed by the Navarra administration (with which a bilateral agreement was concluded in 2002), is in charge of the standardisation of the Basque language. However, during the "on-the-spot" visit the Committee of Experts was informed that this institution is not especially involved in developing new terminology, which appears to be the universities' task. The Committee of Experts lacks precise information on the latter's role in this area and the initial periodical report only refers in general terms to grants in the field of legal terminology (see p. 79). The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 2

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

455. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An Autonomous Community may also support the establishment of a cultural centre or service outside its territory.

456. The Committee of Experts would welcome further information, in the next periodical report, on forms of encouragement or direct provision of cultural centres or services in Basque outside the territory of Navarra (and in this specific case of the Basque Country too). It is therefore not in a position to conclude on this undertaking.

"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."

457. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language in general, in several countries courses of Basque, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities. Works in various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Basque authors, among others.

458. There is co-operation with the autonomous communities in this area and in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures (including a Basque sculptor). Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages.

459. The Committee of Experts considers that this undertaking is fulfilled but would welcome more specific information, in the next periodical report, on the visibility of the Basque language in Navarra in the context of Spain's cultural policy abroad.

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;"***

460. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations.

461. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore concludes that this undertaking is fulfilled.

- "b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"***

462. No information was submitted in this respect as far as Navarra is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the prohibition referred to in the present provisions exists.

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

463. The Spanish authorities refer to an action plan for the application of the regulations on the use of the Basque language in the "Basque-speaking zone", as well as to a similar action plan concerning the "mixed zone". Both were adopted in 2001 but they were subsequently quashed by the High Court of Navarra.

464. The Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to comment further on it in the next periodical report.

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

465. No specific comments were submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their next periodical report.

"Paragraph 2

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

a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"

466. No information was submitted in this respect as far as Navarra is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether provisions exist within the meaning of the present undertaking.

"b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"

467. No information was submitted in this respect as far as Navarra is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report:

- what are the economic and social sectors directly under the central and Navarra authorities' control;
- what concrete activities are organised to promote the use of Basque in the "Basque-speaking zone" in each of these sectors.

"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;"

468. The Spanish authorities have not provided any specific information in this respect. However, the Committee of Experts has received complaints according to which there is no possibility to be received and treated in Basque in the social care facilities referred to in the present provision. Furthermore, public medical information, for example on prevention of some diseases or on raising awareness about children's health issues, are allegedly only in Castilian, even in the "Basque-speaking zone". Formal complaints or petitions seem to have been lodged with the authorities in this respect.

469. The information received is insufficient to enable the Committee of Experts to reach a conclusion on this important undertaking. The Spanish authorities are therefore encouraged, in the next periodical report, to:

- take a specific and documented position on the fulfilment of the present undertaking;
- comment on the complaints received by the Committee of Experts in the current first monitoring round;
- provide concrete examples, such as statements by heads of the social care facilities concerned or copies of brochures disseminated to the public in the field of health care.

"d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"

470. The Spanish Government position is that safety is fully guaranteed since all regional or minority language speakers have a command of Castilian as well. In any case, Navarra has adopted measures aiming at encouraging the labelling of products in Basque. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

- "1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.
2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.
3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages."

471. The Committee of Experts considers in the first place that the argument according to which all Basque-speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of the Basque language in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

472. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

473. In the third and last place, the Spanish authorities have not provided any details concerning the measures taken to promote labelling in Basque in Navarra and have not provided any information about the results of such measures, particularly as far as the mentioned safety instructions are concerned, whereas the Committee of Experts has received several complaints about the lack of fulfilment of this provision.

474. On the basis of the information at its disposal, the Committee of Experts considers that the present undertaking is not fulfilled.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

475. Navarra has not adopted legislation in the field of consumer protection. The information provided by the Spanish authorities only refers to unspecified measures aimed at encouraging the labelling of products in regional or minority languages.

476. The Committee of Experts observes that the present undertaking is concerned with making available information on consumers' rights in Basque, at least for the "Basque-speaking zone". According to the information at the disposal of the Committee of Experts, no such information exists. The Committee of Experts therefore considers that the present undertaking is therefore not fulfilled.

Article 14 – Transfrontier exchanges

"The Parties undertake:

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

477. In its initial report, the Spanish Government refers to the Treaty between the Kingdom of Spain and the French Republic on Transfrontier Co-operation between Territorial Entities, concluded in Bayonne on 10 March 1995. Its Article 6 stipulates in particular that "(...) the Statutes and decisions of the Body shall be drafted in the languages whose use is compulsory under the domestic law of each of the signatories for acts and decisions made by the territorial entities". This is, according to the Spanish Government itself, the only reference to the linguistic aspect present in this treaty.

478. The Committee of Experts would therefore welcome information, in the next periodical report, on whether the Spanish authorities are at present seeking the conclusion of a bilateral treaty between France and Spain aimed at fostering contacts between Basque-speakers across the Spanish-French border in the sector of Navarra in the fields of culture, education, information, vocational training and permanent education.

"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."

479. The additional information provided by the Spanish Government refers in general terms to agreements and transfrontier co-operation bodies set up in the eighties with a view to encouraging the knowledge and dissemination of the Basque language in the French department concerned ("Pyrénées-Atlantiques") through school exchanges, youth activities and contacts between universities across the border. Reference was also made to a language council, the functions and composition of which are however unknown to the Committee of Experts, and to cultural associations supported by the autonomous communities concerned.

480. The Committee of Experts has however received no specific information on the co-operation that the Navarra administration or municipalities in the "Basque-speaking zone" might have developed with their French counter-parts for the benefit of the Basque language in the fields concerned. The Committee of Experts also received complaints alleging that the existing co-operation is of a purely economic nature.

481. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify the specific situation concerning Navarra in their next periodical report.

2.2.3 Evaluation of the application of Part III to the Basque language in the Basque Country⁶

Article 8 – Education⁷

Pre-school

"Paragraph 1

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

a i to make available pre-school education in the relevant regional or minority languages; or

Primary school

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

Secondary school

c i to make available secondary education in the relevant regional or minority languages; or"

482. Law 10/1982 of 24 November, adopted by the Parliament of the Basque Country, on the standardisation of the use of the Basque language stipulates that every pupil is entitled to receive education in Basque and in Castilian at all levels. The Parliament and the Government of the Autonomous Community will adopt the necessary measures with a view to progressively and systematically introducing bilingualism in the educational system of the Basque Country. Law 1/1993 of 2 February on the public school in the Basque Country adds that the objective of the school programmes should be that pupils, at the end of the compulsory part of school, are able to use each one of the two languages as daily and working languages.

483. Three educational models are currently available:

- model A: the curriculum is essentially in Castilian; Basque may be used in the context of specific subjects;
- model B: the curriculum is partly in Castilian and partly in Basque (bilingual model);
- model D: the curriculum is entirely in Basque.

Model B is not available in the post-compulsory part of secondary school.

484. The basic structure of the educational framework is in principle an impressive one and the competent authorities must be praised in this regard. However, several interlocutors in this first monitoring round underlined the deficiencies of models A and B in conveying the necessary knowledge of Basque to achieve a true bilingualism. However, the Committee of Experts must observe that its task is to monitor whether the specific undertaking entered into by Spain is fulfilled. This undertaking is concerned with making available education in the language at the three above-mentioned levels, meaning that the curriculum is to be taught essentially in the regional or minority language concerned and that this type of education must be accessible to all pupils living in the territory concerned. Whether any other models also pursue the objective of achieving bilingualism in general in the territory concerned goes beyond the concrete undertaking entered into by Spain under the Charter and therefore the monitoring task entrusted to the Committee of Experts.

485. Model D is clearly the one corresponding to the above undertakings. In principle, any pupil is entitled to have access to it. According to the statistics made available to the Committee of Experts (which refer to the

⁶ The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

⁷ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

school-year 1999/2000), nearly 60% of the pupils followed model D at pre-school level, between 45 and 50% at primary school level, and between 35 and 40% at secondary school level.

486. According to the information received by the Committee of Experts, this decreasing curve is due to a decreasing availability of model D as the curriculum progresses. The problem is particularly serious at secondary school level. In any event, it was stressed to the Committee of Experts that in some places not all demands are catered for owing to a problem of space. However, the efforts clearly being made to make education in Basque available both in principle and in practice result in the fact that 40% of the pupils speak Basque.

487. The Committee of Experts commends the efforts being made by the authorities in this field. Nevertheless, it notes the limited availability of model D as far as primary and secondary schools are concerned.

488. The Committee of Experts therefore considers that the undertaking concerning pre-school is fulfilled but that the undertakings regarding primary school and secondary school are only partly fulfilled.

The Committee of Experts encourages the competent authorities to ensure that model D is available all over the territory of the Basque Country and at all three levels of education concerned.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

489. The information made available to the Committee of Experts from various sources, and which seems to be confirmed by the most recent statistics (such as those related to the school-year 2002/2003), points to an almost in-existent offer of technical and vocational training in Basque: most of it actually takes place in Castilian and the possibility of choosing model D is extremely limited. The competent authorities themselves acknowledged, during the "on-the-spot" visit, that there are not enough pupils to fill the classes and that the wide range of specialised options complicates the system with regard to the linguistic framework. However, not being able to pursue their technical or vocational studies in Basque represents a serious linguistic setback for those pupils who have had their education in Basque until that stage. As a result, according to the figures made available to the Committee of Experts, 81.6% of the pupils who have received education in Basque cannot pursue their education in this language because there is no offer in the field of technical and vocational training. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts encourages the competent authorities to make available technical and vocational education in Basque.

Higher education

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

490. The statutes of the universities concerned do provide the right to study in Basque. According to the information received by the Committee of Experts, 55% of the subjects are actually available in Basque in the

first and second university cycles and 7% in the third (doctoral) cycle. The Committee of Experts was informed that the Government of the Basque Country is making considerable investments for the development of a multilingual educational system, including higher education. The Committee of Experts considers that this undertaking is fulfilled.

Adult and continuing education

"f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"

491. The attention of the Committee of Experts was brought, by more than one source, to the fact that the existing possibilities for adult education are extremely limited. The Spanish authorities were specifically asked to provide information on this point, but did not provide any information. The Committee of Experts therefore encourages the authorities to elaborate on this point in their next periodical report.

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;"

492. The Committee of Experts recalls that the present undertaking concerns not only education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions of the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for Castilian-speaking pupils within the territories concerned (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Croatia, ECRML (2005) 3, para. 100).

493. The Spanish Government referred to a number of works that have been published over the last years, such as teaching materials on socio-cultural aspects, atlases and books on traditional Basque literature. The Committee of Experts nevertheless received complaints that there is very little in the curriculum (including for the Castilian-speaking part of the population) about the specific historical and cultural elements which are reflected in the Basque language. The Spanish Government itself acknowledged that very little attention has been devoted to this aspect until recently.

494. The Committee of Experts considers however that the information at its disposal does not enable it to reach a conclusion on this point and encourages the competent authorities to provide further information in the next periodical report and to clarify in particular what exactly is taught, and at what stages, about the history and the culture which are reflected in the Basque language with regard to all three educational models.

Basic and further training of teachers

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

495. The Spanish Government refers in the first place to the training provided by universities and to the large existing offer. The Government also states that the current staff are able to teach in both official languages: that is the case for about 75% of the staff teaching in public schools and for about 60% of the staff teaching in private schools. The Government stresses that 25 years ago the starting point was of only 5% of the teaching staff being able to teach Basque or in Basque.

496. However, during the "on-the-spot" visit the Committee of Experts received several complaints. Teacher training thus seems to constitute a serious problem. Not all those licenced to this effect are really able to teach and need to be further trained. Also, in private schools the number of teachers able to speak Basque seems to remain very low. On the other hand, there may also be cases where teachers without the necessary command of Basque are assigned to model D.

497. The Committee of Experts considers that the information at its disposal is insufficient to reach a conclusion on this important undertaking. It therefore encourages the competent authorities to elaborate further on this point and to comment on the said complaints in their next periodical report.

Supervisory body

"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."

498. The Spanish Government refers to three bodies in this respect:

- the deputy-counsellor for linguistic policy;
- the Consultative Council of Basque;
- the Basque Institute for Evaluation and Research.

499. It remains unclear, however, whether any of these bodies also draws up periodic reports of its findings and whether these are made public.

500. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide the missing information in their next periodical report.

Education in other territories

"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."

501. The Spanish Government stated that the Official Schools for Languages offer the teaching of Castilian and of the other co-official languages in the territories where they are spoken as well as outside these territories.

502. The Committee of Experts considers that the information at its disposal is insufficient to properly assess compliance with this undertaking. It encourages the Spanish authorities to provide further information, in their next periodical report, on where the mentioned schools are actually located in Spain, where exactly the teaching of Basque is offered outside the territory of the Basque Country (apart from Navarra) and what is the level of demand.

Article 9 – Judicial authorities

"Paragraph 1

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

a in criminal proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***
- iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,***

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

b in civil proceedings:

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

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

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

c in proceedings before courts concerning administrative matters:

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

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

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

503. Article 3 of the Spanish Constitution provides as follows:

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

504. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

505. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

506. Finally, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the autonomous communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category.

507. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore,

the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom have a command of Castilian as well.

508. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an autonomous community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the autonomous community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the autonomous communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91). The subsequent regulation, currently in force, ie Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Basque is rewarded in the said conditions but is never required to perform any functions in the administration of justice in the Basque Country.

509. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report).

510. The initial periodical report also mentions a number of measures aimed at facilitating the learning of the co-official languages in a number of autonomous communities. As far as the Basque Country is concerned, reference is made to Decree 117/2001 of 26 June on Language Standardisation Measures for the Administration of Justice and to Decree 309/2000 of 26 December on the Second Agreement on Modernising Judicial Services and the Repercussions on the Working Conditions of Staff working in the Judicial Administration. However, the former confines itself to providing that the competent departments will take measures to facilitate linguistic proficiency of the civil servants working for the judicial administration, clerks of court and public prosecutors (Articles 14 and 18) and does not seem to refer to judges. Furthermore, the latter confines itself to laying down the general objective of training in Basque the staff working in the judicial administration (Chapter VII).

511. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

512. The current provisions do not seem to guarantee that the proceedings in the Basque Country will invariably be conducted in Basque whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Basque in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

513. As far as practice is concerned, according to one official source, in the Basque Country at present 20 judges in the provincial court and in the higher court can speak Basque. Another official source stated that 50% of the judges study Basque and 6% can speak it. No data could be provided by the authorities concerning the number of prosecutors who have a command of Basque but it was indicated that only one was attending a language course. However, another source referred to 3 or 4 prosecutors able to speak Basque. In any case, in some districts no Basque-speaking judge seems to be present. A number of members of the administrative

staff has received or is receiving training in Basque. This process seems to concern about 1/4th of the administrative staff.

514. On the other hand, there seems to be no lack of Basque-speaking lawyers in the Basque Country, 500 being able to work in Basque. Some legal education in Basque exists at University level, although it is considered insufficient at least by some lawyers, and the Bar Association offers training and seminars.

515. Interpreters seem to be generally available. However, it was complained that most of them lack a legal specialisation. Furthermore, simultaneous interpretation is not available and according to the competent authorities themselves, this is due to the fact that the available interpreters, who are provided by the academic system (such as the Faculty of Vitoria/Gasteiz), are not qualified to perform this type of interpretation. The competent authorities underlined, in this respect, that the responsibility in the field of translation and interpretation services lies with the Autonomous Community.

516. Against this background, no example was provided of a trial conducted in Basque in the Basque Country and what is actually granted is the possibility to use the language with the assistance of translators and/or interpreters. A series of concrete cases were brought to the attention of the Committee of Experts in which even when requested, the use of the language was not consistently guaranteed (for example when a judgment was only notified in Castilian even though Basque had been used during the proceedings and at the hearing with the assistance of an interpreter).

517. The Committee of Experts considers that the difficulties referred to above constitute an additional obstacle to the chosen undertakings being actually implemented. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

518. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned (criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Basque, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Basque-speakers to avail themselves of these possibilities.

519. In conclusion, in order to properly implement the requirement for the courts located in the Basque Country to conduct the proceedings in Basque at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. The Committee of Experts considers that in the case of the Basque Country the undertakings entered into Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i are not fulfilled and that the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii, and 1.c.ii and 1.c.iii are only partly fulfilled.

520. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the Basque Country will conduct the proceedings in Basque at the request of one party ;***
- ***to formally guarantee the accused the right to use Basque in the Basque Country even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in the Basque Country to conduct the proceedings in Basque if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in the Basque Country, at all levels and particularly among judges and prosecutors, able to use Basque as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

"d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned."

521. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"***

522. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure.

523. Although the mentioned provisions admit the validity of legal documents in Basque only within the Basque Country, as in the rest of Spain a translation is required, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

524. According to the information made available to the Committee of Experts, no national statutory text in Basque is published in the official gazette. The only national statutory texts also available in Basque are the Penal Code, the Common Administrative Procedures and Public Administration Act, and the Traffic and Road Safety Legislation. All these translations were made thanks to the support of the administration of the Basque Country. A private university (University of Deusto) followed the preparation of the Basque version of the Penal Code.

525. The Committee of Experts observes that a systematic translation of the relevant legal texts into Basque and making them available is a crucial part of the context for the fulfilment of the undertakings that

Spain entered into under Article 9 of the Charter (cf. the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, ECRML (2004) 6, para. 85).

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that the most important national statutory texts and those relating particularly to users of Basque are regularly made available in Basque too. The publication of an official translation at the same time as the publication of the official Castilian version would be the most appropriate measure.

Article 10 – Administrative authorities and public services

State authorities

"Paragraph 1

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

- a i to ensure that the administrative authorities use the regional or minority languages; or***
- c to allow the administrative authorities to draft documents in a regional or minority language."***

527. The information provided by the Spanish Government with regard to the Basque Country also refers to the general legal provisions in the field. The Government has thus mentioned that Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Furthermore, Article 5 of Law 4/2001 of 12 November on the right to submit applications provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their applications to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice".

528. However, in the light of the high degree of autonomy granted to the Basque Country, the present provisions should also apply to the Autonomous Community insofar as it performs State administration functions. It is unclear to the Committee of Experts which State duties this autonomous community now performs. It is likewise unclear to the Committee of Experts what administrative State functions are still performed by local offices of the central State administration present in the Basque Country.

529. The Committee of Experts is therefore not in a position to conclude on these undertakings and the Spanish authorities are encouraged to clarify this point in their next periodical report.

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

530. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the Autonomous Communities where there is a co-official language must be bilingual. Furthermore, the Law of the Basque Country 10/1982 of 24 November on the standardisation of the use of Basque stipulates that official texts and forms to be used by State authorities in the Basque Country must be bilingual.

531. However, the Spanish authorities themselves conceded that 60% of widely used administrative texts and forms are bilingual. During the "on-the-spot" visit the Committee of Experts received complaints that in some fields, for example post offices, bilingual texts and forms are not available at all.

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all State administration offices in the Basque Country.

Local and regional authorities

"Paragraph 2

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

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

533. Decrees 250/1986 of 25 November and 224/1989 of 17 October concerning the standardisation of the use of Basque in the public administration in the Basque Country, including the police force of the Autonomous Community, lay down the basic rules concerning the relevant linguistic profiles. A commission within the administration of the Basque Country is responsible for co-ordinating the linguistic policies aimed at re-training the Autonomous Community's administration staff in Basque (this is facilitated by the granting of a special leave). The objective of the administration of the Basque Country is to train 50% of the staff, with priority to the officials who are in contact with the public, with a view to enabling administrative units to work in both languages (at present 17 bilingual units exist). Knowledge of Basque is also specifically taken into account in the recruitment procedures.

534. The situation at municipal level is much more diversified. Most municipalities have developed schemes for improving language skills and Law of the Basque Country 10/1982 of 24 November goes as far as to grant the possibility for a local authority to use exclusively Basque if the socio-linguistic situation allows and justifies it, on condition that this does not affect any citizens' rights. However, according to several sources in those municipalities which do not implement the policies designed to protect and promote the Basque language, no effort is made and the staff willing to learn Basque may even be denied this possibility. It was also observed that in these cases the use of Basque is actually regressing. It was pointed out to the Committee of Experts that in such circumstances it is very difficult to force a reluctant municipality to comply and that seeking implementation of linguistic obligations through legal procedures is very difficult. On the other hand, the Basque Country tries to encourage the standardisation of the use of Basque at municipal level by granting subsidies to local authorities and for example in 2002 about 600 000 euros were allocated to this objective (see p. 124 of the initial periodical report).

535. The Committee of Experts considers that as far as the administration of the Autonomous Community is concerned, the undertaking is at present fulfilled, although the Committee of Experts received some complaints that certain documents for the public were disseminated by the administration only in Castilian. The Committee of Experts nevertheless encourages the administration of the Basque Country to pursue and consolidate its policies aimed at systematically making available bilingual services and documents to the public.

536. As far as local authorities are concerned, the Committee of Experts commends the positive approach taken by the administration of the Basque Country, consisting of promoting the use of the language at municipal level through subsidies, and considers that this undertaking is fulfilled. However, owing to the behaviour of reluctant municipalities it considers that other means should also be envisaged in the case where local authorities are openly unwilling to promote the use of the Basque language. As far as this level is concerned, the present undertaking is therefore only partly fulfilled.

537. Finally, the Committee of Experts would welcome, in the next periodical report, information on the situation concerning the provincial administration.

The Committee of Experts encourages the Spanish authorities to seek ways to increase the use of the Basque language at municipal level throughout the territory of the Basque Country.

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

538. The Organic Law 4/2001 of 12 November on the right to petition guarantees the possibility of submitting petitions in a co-official language, including therefore Basque in the Basque Country. Furthermore, Law of the Basque Country 10/1982 of 24 November provides that documents in Basque may be registered as such in public offices of the administration of the Autonomous Community.

539. Indeed, no problem seems to exist in this regard as far as the administration of the Autonomous Community and the Provinces are concerned. The Committee of Experts therefore considers that this undertaking is fulfilled as far as the administration of the Autonomous Community and the Provinces are concerned.

540. As far as local authorities are concerned, the Committee of Experts received information indicating that in some municipalities this undertaking is not fulfilled. This information is also in conformity with information received from the authorities. The competent authorities are therefore encouraged to increase their efforts to ensure the fulfilment of this undertaking in all municipalities. The Committee of Experts considers that this undertaking is partly fulfilled concerning local authorities.

The Committee of Experts encourages the Spanish authorities to seek ways to guarantee that Basque-speakers may effectively make use of the possibility to submit oral or written applications in Basque at municipal level throughout the territory of the Basque Country.

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

541. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the Autonomous Communities concerned if the competent bodies within the latter so decide. Law of the Basque Country 10/1982 of 24 November does in fact provide that all regulations and official resolutions must be bilingual. Furthermore, according to the Rules of the Basque Parliament, adopted on 22 February 1983, all Parliament's official publications are likewise bilingual. The Committee of Experts considers that this undertaking is fulfilled.

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

542. This possibility is explicitly provided for by Law of the Basque Country 10/1982 of 24 November. However, the concrete implementation depends here too on the will of each municipality and it may well occur that in the above-mentioned reluctant municipalities (see paras. 106-108, 533, 535 and 539) no official documents are published also in Basque.

543. The Committee of Experts considers that this undertaking is fulfilled, although the Committee of Experts received information indicating that obstacles to the fulfilment of this undertaking may exist in some municipalities. The authorities are therefore encouraged to step up their efforts to remove these obstacles.

544. Finally, the Committee of Experts would welcome, in the next periodical report, information on the situation concerning the provinces.

The Committee of Experts encourages the Spanish authorities to seek ways to guarantee that official documents are published by local authorities also in Basque throughout the territory of the Basque Country.

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

545. Royal Decree 2568/1986 of 28 November provides that in the debates before the parliament of the Autonomous Communities Castilian or the co-official language concerned may be used without distinction and all minutes and resolutions shall be bilingual. According to the Rules of the Basque Parliament of 22 February 1983, Castilian and Basque may be used indistinctly in the parliament.

546. According to the information provided by the Government, the proportion of debates in which Basque is used in the parliament of the Autonomous Community is around 20%. It was indicated, however, that in some circumstances, such as the discussion of the Health Plan for 2002-2010, this proportion went down to 5%.

547. The Committee of Experts considers that this undertaking is fulfilled.

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

548. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used. However, no information on the practice in the Basque Country was provided.

549. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

550. Law of the Basque Country 10/1982 of 24 November contains provisions to this effect. The information gathered by the Committee of Experts during the "on-the-spot" visit indicates that no problem of practical implementation seems to exist in this regard. The Committee of Experts therefore considers that this undertaking is fulfilled.

Public services

"Paragraph 3

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

a to ensure that the regional or minority languages are used in the provision of the service; or"

551. Royal Decree 334/1982 provides that in the Autonomous Communities concerned road signs, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual. Law of the Basque Country 10/1982 of 24 November, on the standardisation of Basque in the public administration of the Autonomous Community, applies in principle also to the services provided by the public administration.

552. However, the Committee of Experts lacks a certain amount of information concerning specifically the provision of public services in the Basque Country and which are necessary to properly assess the compliance with the present undertaking, such as:

- what public services are concerned by this undertaking in the Basque Country;
- the share of staff in the public services serving in the Basque Country who have an adequate command of Basque;
- the language used in written communications between public services and the speakers (for example telephone and electricity bills, etc.);
- which services are provided by private companies under licence and in this case what linguistic clauses are included in the licence.

553. The competent authorities are encouraged to provide this information in their next periodical report.

"Paragraph 4

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

- a translation or interpretation as may be required;***
- b recruitment and, where necessary, training of the officials and other public service employees required;"***

554. The Committee of Experts observes that the degree of fulfilment of these undertakings is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10, in the sense that the degree of fulfilment of the former has direct repercussions on that of the latter. In the light of the position expressed on the relevant undertakings under paragraphs 1 to 3 of Article 10, the Committee of Experts considers:

- that these undertakings are not fulfilled as far as the branches of the State administration in the Basque Country are concerned;
- that these undertakings are fulfilled as far as the administration of the Basque Country is concerned;
- that these undertakings are only partly fulfilled as far as local authorities are concerned.

555. As far as the State administration in particular is concerned, the Committee of Experts observes that the problem is aggravated by the fact that a system based on a normal rotation of civil servants leads either to their not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a civil servant with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

556. Concerning public services, owing to the lack of information in this area pointed to above (see para. 552), the Committee of Experts is not in a position to conclude on these undertakings either and encourages the Spanish authorities to comment on their fulfilment in the field of public services in their next periodical report.

The Committee of Experts encourages the Spanish authorities to review the career and training structure in the State public administration with a view to ensuring that an adequate proportion of the staff posted in the State administration offices located in the Basque Country has the necessary command of the Basque language to be able to use it as a working language.

- "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."***

557. No specific information was submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to comment on it in their

next periodical report with regard to all four fields concerned (branches of the State administration in the Basque Country, administration of the Autonomous Community, local authorities and public services).

"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."

558. The possibility to have one's family name written in Basque formally exists (see in particular pp. 102-103 of the initial periodical report). However, practical problems were brought to the attention of the Committee of Experts. It was thus reported to it that in one case a child's name could not be registered in Basque since the register was only in Castilian. In another case a person's name eventually appeared on the driving licence in the Castilian form.

559. The information at the Committee of Experts' disposal is insufficient to conclude on this undertaking. The Committee of Experts therefore encourages the Spanish authorities to clarify the situation in their next periodical report.

Article 11 – Media

"Paragraph 1

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

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

i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"

560. Article 149 of the Spanish Constitution stipulates that the Autonomous Communities can create and regulate their own television and radio stations. This principle is reflected in Article 19 of the Statute of the Basque Country.

561. Law 5/1982 of 20 May, modified in 1996 and 1998, set up the Basque Radio-Television ("EITB"; cf. also paras. 133 and 423-426 above). The first channels of the EITB television and radio stations broadcast entirely in Basque. 70% of the financing is public, the rest is covered through advertising.

562. The Committee of Experts considers that this undertaking is fulfilled.

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

563. The Committee of Experts observes in the first place that the present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station in Basque in the Basque Country (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 121).

564. According to the information received by the Committee of Experts, Basque is completely absent from commercial radios in the Basque Country. The Committee of Experts has in any case not been made aware of any measure aimed at encouraging and/or facilitating the creation of at least one private radio station broadcasting in Basque in the Basque Country.

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

The Committee of Experts encourages the competent authorities to take the necessary measures to encourage and/or facilitate the creation of at least one private radio station broadcasting in Basque in the Basque Country.

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

566. The Committee of Experts observes that the present undertaking is concerned with the encouragement and/or facilitation of the creation of at least one private television station broadcasting in Basque in the Basque Country (see, mutatis mutandis, the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 125).

567. According to the information made available to the Committee of Experts, no measures have been taken in this respect. The present undertaking is therefore not fulfilled.

The Committee of Experts encourages the competent authorities to take the necessary measures to encourage and/or facilitate the creation of at least one private television station broadcasting in Basque in the Basque Country.

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

568. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms.

569. However, it does not seem that these provisions have any concrete repercussion in the target-area of the present undertaking. It thus appears that although EITB, for example, creates some audiovisual works which are marketed, the public authorities do not provide any specific assistance in this respect. According to another source, aids for audio and audiovisual products are possible but the authorities are mostly concerned with the production of educational materials.

570. The Committee of Experts considers that the present undertaking is only formally fulfilled.

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

571. "Berria" is at present the only newspaper published in the Basque language. It replaced "Euskaldun Egunkaria", which was closed by a National Criminal Court order in February 2003 following allegations of complicity with the terrorist organisation "ETA". "Berria" covers the Basque Country and seems also to be distributed in Navarra and it is a general information medium. It receives subsidies from the Government of the Basque Country. It informed the committee that it receives no revenues from public authority advertising from which the Castilian-speaking press seems to benefit. The only subsidies come from the administration of the Basque Country but according to the newspapers they are not enough as they only allow "Berria" to survive but not to develop projects. There can be a normal commercialisation but there is no real competition with the majority language media. During the "on-the-spot" visit complaints were raised with the Committee of Experts in relation to the journalists working for this newspaper being summarily labelled as ETA terrorists.

572. It is not for the Committee of Experts to take a position on the charges that have been brought against "Berria's" predecessor and against a number of journalists. The Committee of Experts confines itself to noting that the present undertaking is concerned with encouraging and/or facilitating the creation and/or maintenance of at least one newspaper in Basque (which means printed essentially in Basque) in the Basque Country.

573. The Committee of Experts considers that the undertaking is fulfilled at present. However, the Committee of Experts would like to receive additional information in this regard, especially concerning the alleged lack of revenues from advertisements from public authorities as compared to the Castilian-speaking press.

- "f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
- ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;"

574. The Spanish Government has not clarified how the existing schemes are concretely used in the Basque Country for the purpose mentioned in the present undertakings. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

575. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. However, no information was provided, with regard to the Basque language in the Basque Country, on the particular measures that are needed to support the specific linguistic and technical training that journalists and other staff for media using regional or minority languages require. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the competent Spanish authorities to provide further information in their next periodical 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."

576. The Spanish Government has provided information on the reception of programmes in Basque broadcast from the Basque Country within the French department ("Pyrénées-Atlantiques") where this language is also spoken.

577. The Committee of Experts considers that this undertaking is fulfilled. It would nevertheless welcome information on whether any radio and/or television programmes in Basque broadcast by stations located in the said French department are received in the Basque Country.

"Paragraph 3

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

578. The Committee of Experts has not received sufficient information regarding such bodies, either in the Basque Country or on a national level, and is therefore not in a position to conclude on this undertaking. The Committee encourages the authorities to submit further information in the next periodical report.

Article 12 – Cultural activities and facilities

"Paragraph 1

With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use

of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

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

579. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes for works and authors using co-official languages, and one writer in Basque has also received this prize (see p. 119 of the initial periodical report). In addition to this, by Order of 18 April 2000 the Department of Culture of the administration of the Basque Country decided to grant subsidies for publishing in Basque. The total sum of about 330,500 euros was allocated in 2001.

580. Furthermore, grants were allocated for the production of bilingual plays in the Basque Country and for festivals presenting works in Basque, such as the San Sebastian International Theatre Festival (in San Sebastian/Guipúzcoa), the Tolosa International Puppet Festival (in San Sebastian/Guipúzcoa) and the Vitoria/Gasteiz International Theatre Festival.

581. The Committee of Experts considers that this undertaking is 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;

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

582. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants. The initial report also refers to grants for the acquisition of literary works written or translated into Basque (see p. 121).

583. The information provided by the Government does not enable the Committee of Experts to determine to what extent the Basque language in the Basque Country has benefited from the said measures. Furthermore, no information has been provided concerning dubbing, post-synchronisation and subtitling activities.

584. The Committee of Experts is therefore not in a position to conclude on these undertakings and encourages the Spanish authorities to clarify the said aspects in their next periodical report.

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

585. According to the information received by the Committee of Experts, the Department of Culture of the administration of the Basque Country grants subsidies to cultural projects presented by individuals or by private associations or public bodies. The budget available in 2001 amounted to about 1 123 800 euros. The requirement was that the project implied the use of the two official languages of the Basque Country and included elements concerning the promotion of the Basque language. Subsidies are also provided in relation to activities contributing to the dissemination and standardisation of the use of the Basque language (about 805 000 euros were allocated in 2002 in this respect). The Committee of Experts considers that this undertaking is fulfilled.

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

586. No information has been provided concerning the Basque-speaking staff at the disposal of the bodies in the Basque Country responsible for organising or supporting cultural activities.

587. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their next periodical report.

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

588. No information has been provided concerning how representatives of the Basque language in the Basque Country are encouraged to directly participate in providing facilities for and planning cultural activities.

589. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific comments on this point in their 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;"

590. In this respect the Spanish Government mentioned the Provincial Archives of the Basque Country, which are under the supervision of the Ministry of Education, Culture and Sport. It is however unclear how this body performs the tasks referred to in the present provision and what is the role of the network of libraries to which the initial periodical report also makes reference.

591. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language."

592. The Royal Academy for the Basque Language, which is located in Bilbao/Bilbo and is co-financed by the Administration of the Basque Country, is in charge of the standardisation of the Basque language. However, during the "on-the-spot" visit the Committee of Experts was informed that this institution is not especially involved in developing new terminology, which appears to be the universities' task. The Committee of Experts lacks precise information on the latter's role in this area and the initial periodical report only refers in general terms to grants in the field of legal terminology (see p. 79). The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 2

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

593. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An Autonomous Community may also support the establishment of a cultural centre or service outside its territory. The initial periodical report also refers to subsidies for Basque Centres within and outside the territory of the Autonomous Community (see p. 125). It remains unclear, however, whether any cultural centres or services in Basque outside the territory of the Basque Country actually exist. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 3

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

594. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language in general, in several countries courses of Basque, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities.

Works in various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Basque authors, among others.

595. There is co-operation with the autonomous communities in this area and in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures (including a Basque sculptor). Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages.

596. The Committee of Experts considers that this undertaking is fulfilled.

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;"

597. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations. Furthermore, Article 26 of Law of the Basque Country 10/1982 of 24 November concerning the standardisation of the use of Basque provides that the authorities in the Basque Country must promote the use of Basque in all fields of social life, including commercial activities.

598. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore considers that this undertaking is fulfilled.

"b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"

599. No specific information was submitted in this respect as far as the Basque Country is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the prohibition referred to in the present provisions exists.

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

600. No specific information was submitted in this respect as far as the Basque Country is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

601. Reference is made to subsidies to develop the use of Basque in private sector bodies (see p. 124 of the initial periodical report). In 2002 about 661 000 euros were allocated to this objective, the beneficiaries of which were legally constituted private legal bodies or public-law corporations. The plan pursued in particular the adaptation of texts in Basque, training in Basque for staff involved in the implementation of the plan and the purchase or adaptation of computer software enabling the user to work in Basque. The Committee of Experts considers that this undertaking is 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:

- a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"***

602. No specific information was submitted in this respect as far as the Basque Country is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether provisions exist within the meaning of the present undertaking.

- "b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"***

603. The initial periodical report refers to the introduction of linguistic clauses in two collective labour agreements concerning the public sector concluded in 2001 (Collective Agreement concerning Staff Employed in the Department of Education, Universities and Research, and Collective Agreement concerning Staff Employed by the Auxiliary Services of the Department of the Interior Security Administration), with a view in particular to training the staff concerned in Basque (see p. 134 and seq. of the initial periodical report).

604. This information is however insufficient to enable the Committee of Experts to reach a conclusion on this undertaking. The Committee of Experts therefore encourages the Spanish authorities to clarify, in their next periodical report, what are the economic and social sectors directly under the control of the central authorities and of the authorities of the Basque Country, as well as to provide further examples.

- "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;"***

605. Several complaints, from various different sources, were brought to the attention of the Committee of Experts in this respect. According to the information made available to it, only 5.6% of the staff have some knowledge of Basque and the Autonomous Health Service of the Basque Country ("Osakidetza"), established in 1997, has not yet drawn up a plan for increasing the linguistic skills in Basque of the staff of the facilities concerned. In practice the speakers seem to encounter considerable difficulties to be received and treated in Basque.

606. The authorities have stated that after this competence was transferred to the Autonomous Community, their approach has been a realistic one, since it is difficult for a physician, for example, to find the necessary time to study Basque at the required high level. The authorities are nevertheless giving priority to paediatrics and a plan, endowed with a 7 million euro budget, has been launched in this respect, with a view to ensuring that the medical staff concerned are able to communicate effectively in the language.

607. The Committee of Experts is aware of the practical difficulties faced by the authorities to implement the present undertaking and commends the efforts that the authorities are making. The measures taken so far seem however to be insufficient and no information, for example, has been provided concerning incentives for the staff concerned to learn Basque and above all regarding the measures that can be taken to encourage the learning of Basque during the basic training of medical staff, ie at university level or in specialising schools. Furthermore, no measures seem to have been taken concerning retirement homes and hostels.

608. While acknowledging efforts being made by the authorities in this field, the Committee of Experts nevertheless considers that this undertaking is only partly fulfilled and looks forward to receiving further information on developments in the next periodical report.

"d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"

609. The Spanish Government position is that safety is fully guaranteed since all Basque-speakers have a command of Castilian as well. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

"1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.

2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.

3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages."

610. The Committee of Experts considers in the first place that the argument according to which all Basque-speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of the Basque language in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

611. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

612. In the third and last place, Law 10/1981 of 18 November of the Basque Country, concerning consumers' rights, deals with labels and prices but does not seem to cover safety instructions.

613. On the basis of the information at its disposal, the Committee of Experts considers that the present undertaking is not fulfilled.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

614. The above-mentioned Law 10/1981 of 18 November of the Basque Country, concerning consumers' rights, seems to be available also in the Basque language. The Committee of Experts considers that the present undertaking is 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;"***

615. In its initial report, the Spanish Government refers to the Treaty between the Kingdom of Spain and the French Republic on Transfrontier Co-operation between Territorial Entities, concluded in Bayonne on 10 March 1995. Its Article 6 stipulates in particular that "(...) the Statutes and decisions of the Body shall be drafted in the languages whose use is compulsory under the domestic law of each of the signatories for acts and decisions made by the territorial entities". This is, according to the Spanish Government itself, the only reference to the linguistic aspect present in this treaty.

616. The Committee of Experts would therefore welcome information, in the next periodical report, on whether the Spanish authorities are at present seeking the conclusion of a bilateral treaty between France and Spain aimed at fostering contacts between Basque-speakers across the Spanish-French border in the fields of culture, education, information, vocational training and permanent education.

"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."

617. The initial periodical report states that under the provisions of the Treaty of Bayonne, the transfrontier co-operation of Spanish sub-state entities with their French counterparts usually involves the use of Basque. For example, Article 31 of the Bidassoa-Txingudi Transfrontier Consortium, approved on 23 December 1998, which brings together the municipalities of Hendaye (France), Hondarribia (Spain, Basque Country) and Irun (Spain, Basque Country), provides that the statutes, agendas, minutes and official correspondence of the Consortium shall be drafted in Spanish, French and Basque. The additional information provided by the Spanish Government also refers to agreements and transfrontier co-operation bodies set up in the 1980s with a view to encouraging the knowledge and dissemination of the Basque language in the French department concerned ("Pyrénées-Atlantiques") through school exchanges, activities for the youth and contacts between universities across the border. Reference was also made to a language council, the functions and composition of which are however unknown to the Committee of Experts, and to cultural associations supported by the autonomous communities concerned.

618. During the "on-the-spot" visit the Committee of Experts received complaints that transfrontier co-operation with the French local and regional authorities concerned is essentially of an economic nature. Furthermore, the Spanish authorities have not provided any details on the above-mentioned local and regional authorities or bodies concretely involved in transfrontier co-operation (para. 479 above) and above all on how often the mentioned activities take place and on the current situation.

619. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide more detailed and concrete information in their next periodical report.

2.2.4 Evaluation of the application of Part III to the Catalan language in the Balearic Islands⁸**Article 8 – Education⁹****Pre-school****"Paragraph 1**

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

a i to make available pre-school education in the relevant regional or minority languages; or"

Primary school

"b i to make available primary education in the relevant regional or minority languages; or"

Secondary school

"c i to make available secondary education in the relevant regional or minority languages; or"

620. The legal framework concerning education in the Balearic Islands pursues two fundamental linguistic aims: 1) at the end of the schooling pupils have to master both Catalan and Castilian and for this purpose an identical amount of teaching of the two languages is prescribed; 2) in principle (since the practice seems to differ; see below) at least 50% of the subjects should be taught in Catalan (Royal Decree 1572/1985 of 17 July on the teaching of Catalan in sub-university educational centres, Law of the Balearic Islands 3/1986 of 19 April on linguistic standardisation, especially Articles 17, 19, 20, 22 and 26, and Decree 92/1997 of 4 July concerning the teaching of and in the Catalan language).

621. In practice, at pre-school level the educational areas in which each language should be used are not pre-determined and this choice is left to the educational centres, on condition that each linguistic project is allocated the same amount of hours. In any event, pupils must have an equal and sufficient command of both languages by the time they reach primary school.

622. At primary school level, the subject "knowledge of the natural, social and cultural environment" is taught in Catalan. The other subjects to be taught in Catalan are determined by each educational centre but the number of hours of teaching in Catalan should not exceed half of the total number of teaching hours.

623. As for the compulsory part of secondary school, social sciences, geography and history, and natural sciences are taught in Catalan. The other subjects to be taught in this language are again determined by each educational centre, ensuring that the teaching in Catalan does not exceed half of the overall number of teaching hours. For the non-compulsory part of secondary school, the structure of the teaching in the two languages has not yet been finalised. The current arrangements aim nevertheless at ensuring that both languages are used at the same level.

624. The Committee of Experts considers that the current educational model does not attain the level required by the specific undertakings entered into by Spain, which imply the offer of an instruction essentially in Catalan in the Balearic Islands and not limited to half of the curriculum. The form of education currently available in the Balearic Islands actually corresponds to the lower level of obligation laid down in Article 8 para. 1.a/b/c (therefore, to the obligations contained in Article 8 para. 1.a.ii, 1.b.ii and 1.c.ii), implying that a

⁸ The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

⁹ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

substantial part of the education is made available in the language and representing in practice a bilingual model.

625. In the light of the specific undertakings entered into by Spain, i.e. the highest under Article 8 of the Charter, the Committee of Experts considers that these are not fulfilled in the case of Catalan in the Balearic Islands.

The Committee of Experts encourages the competent authorities to develop educational models essentially in Catalan for pre-school, primary school and secondary school in the Balearic Islands, in conformity with the specific undertakings entered into in these areas.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

626. The Committee of Experts has received very little information in this respect. Even though the limited information at its disposal seems to indicate that no real problem arises in this area, the Committee of Experts is not in a position to conclude and encourages the Spanish authorities to provide further information in their next periodical report.

Higher education

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

627. The Committee of Experts has received very little information in this respect. Even though the limited information at its disposal seems to indicate that no real problem arises in this area, the Committee of Experts is not in a position to conclude and encourages the Spanish authorities to provide further information in their next periodical report, in particular concerning the measures taken by the competent authorities in this area and the proportion of university subjects that are taught in Catalan.

Adult and continuing education

"f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"

628. Article 24 of Law of the Balearic Islands 3/1986 of 19 April on language standardisation provides that the teaching of Catalan is compulsory in the context of the permanent education of adults and Article 36 of the same law adds that the Autonomous Community must promote this teaching.

629. The Committee of Experts, however, lacks information on the concrete measures and arrangements made by the competent authorities to implement these provisions. It is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in the next periodical report.

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;"

630. According to the additional information provided by the Spanish Government, a number of teaching materials published by the Directorate General of Linguistic Policy support the teaching of history and culture reflected by the Catalan language in the Balearic Islands (for example "Viure a les Illes Balears", which presents the customs and way of life of the Balearic Islands). An additional and interesting initiative comes from the promotion of television competitions such as "Bans de dades": pupils of secondary schools show their knowledge of the history, geography and current issues of the Balearic Islands. No special problem was brought to the attention of the Committee of Experts in this area and the latter therefore considers that this undertaking is fulfilled.

Basic and further training of teachers

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

631. Because of the educational framework described above (see para. 620), teachers must master both Catalan and Castilian. However, Article 23 of Law of the Balearic Islands 3/1986 of 19 April on language standardisation provides that plans must be made and an educational structure must be established, either at university or elsewhere, enabling teacher-trainees to acquire the necessary skills to teach in Catalan. Special courses organised outside school term times but within normal working hours have been available over the past 15 years to re-train teachers with insufficient skills in Catalan. Only those teachers who pass the various courses and tests, which vary according to each educational level, qualify to teach in Catalan.

632. The Committee of Experts considers that this information is insufficient to enable it to assess the compliance with this important undertaking. In particular, it has not received any specific information on how the basic training of teachers is concretely organised, or on further training either. Furthermore, it is unclear whether the arrangements concerning the basic training and the system of re-training are sufficient to meet the demand for teachers of and in Catalan, with regard to the various subjects concerned.

633. The Committee of Experts must also underline that the educational system corresponding to the undertakings actually entered into by Spain, and which is at present lacking (see paras. 624-625 above), could require important changes and reinforcements to the teacher-training and re-training system.

634. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to elaborate further in their next periodical report.

Supervisory body

"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."

635. The additional information provided by the Spanish Government refers to the Department for Educational Inspection, which is in charge of monitoring the implementation of the linguistic legal framework in the field of education. It remains unclear, however, whether this body also draws up periodic reports of its findings and whether these are made public. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide the missing information in their next periodical report.

Education in other territories

"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. "

636. The Spanish Government has stated that the Official Schools for Languages offer the teaching of Castilian and of the other co-official languages in the territories where they are spoken as well as outside these territories. However, according to one non-governmental source, only one school located in Madrid offers the possibility to study Catalan outside the territories where Catalan is traditionally used and apart from Catalonia.

637. The Committee of Experts considers that the information at its disposal is insufficient to properly assess compliance with this undertaking. It encourages the Spanish authorities to provide further information, in their next periodical report, on the level of demand elsewhere in Spain.

Article 9 – Judicial authorities

"Paragraph 1

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

a in criminal proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***
- iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,***
if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;

b in civil proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or***
- iii to allow documents and evidence to be produced in the regional or minority languages,***
if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or***
- iii to allow documents and evidence to be produced in the regional or minority languages,***
if necessary by the use of interpreters and translations;”

638. Article 3 of the Spanish Constitution provides as follows:

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

639. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

640. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

641. Finally, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category. Article 11 para. 1 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation already provided as follows: “(w)ithin the territory of the Autonomous Community of the Balearic Islands, all citizens shall have the right to address the Judicial Administration in the official language they consider appropriate. They shall not be required to provide any sort of translation. Furthermore, this shall not result in any delay in the treatment of their claims” and “(...) (i)n all cases, the interested parties shall have the right to be informed in the language of their choice”.

642. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore, the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom also have a command of Castilian as well.

643. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an Autonomous Community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the Autonomous Community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the Autonomous Communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91). The subsequent regulation, currently in force, i.e. Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply

exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Catalan is rewarded in the said conditions but is never required to perform any functions in the administration of justice in the Balearic Islands. As a matter of fact few judges and members of staff seem to be able to use Catalan as a working language in courts and this constitutes, according to several official and non-governmental sources, such as the a major obstacle which often leads Catalan-speakers in the Balearic Islands too to give up the use of their language in this field. The Parliament of the Balearic Islands presented a motion with a view to modifying Article 471 of the Basic Law on Judicial Power to the effect that, in the selection processes for public service employee appointments to postings within those autonomous communities with a co-official language, knowledge of the latter should be a requirement. This proposal was however rejected by the Spanish Parliament in March 2003 (a similar proposal was proposed shortly afterwards by the Parliament of Catalonia; see para. 227 above).

644. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report).

645. The initial periodical report also refers to a number of measures aimed at facilitating the learning of the co-official languages in a some of the autonomous communities concerned. However, no specific measures are mentioned in the case of the Balearic Islands, apart from the basic principles according to which "(t)he Government of the Autonomous Community shall promote, in agreement with the relevant bodies, the gradual standardisation of the use of Catalan in the Judicial Administration of the Balearic Islands" (Article 3 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation).

646. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

647. The current provisions do not seem to guarantee that the proceedings in the Balearic Islands will invariably be conducted in Catalan whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Catalan in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

648. The Committee of Experts considers that the limited judicial staff able to speak Catalan in the Balearic Islands, in particular among judges and prosecutors, constitutes an additional obstacle to the chosen undertakings being actually implemented. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

649. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned (criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Catalan, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Catalan-speakers in the Balearic Islands to avail themselves of these possibilities.

650. In conclusion, in order to properly implement the requirement for the courts located in the Balearic Islands to conduct the proceedings in Catalan at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. The Committee of Experts considers that in the case of the Balearic Islands the

undertakings entered into Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i are not fulfilled and that the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii, and 1.c.ii and 1.c.iii are only partly fulfilled.

651. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the Balearic Islands will conduct the proceedings in Catalan at the request of one party ;***
- ***to formally guarantee the accused the right to use Catalan even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in the Balearic Islands to conduct the proceedings in Catalan if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in the Balearic Islands, at all levels and particularly among judges and prosecutors, able to use Catalan as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

"d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned."

652. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"***

653. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure. Furthermore, Article 11 para. 2 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation provides that "(w)ith respect to language, all provisions, documents and papers produced or drafted in Catalan shall be fully valid and effective before the courts and judges of the Balearic Islands (...)".

654. Although the mentioned provisions admit the automatic validity of legal documents in Catalan only within the Balearic Islands (or Catalonia), as in the rest of Spain a translation is required and provided ex officio, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

655. According to the information provided to the Committee of Experts, no translation exists for the texts referred to in the present provision dating from before 1998 (except for the General Accounting Plan and the articles of the Commercial Code and the Articles of the State Law on Public Limited Companies that refer to accounting; see p. 104 of the initial periodical report). As to the relevant statutory texts published after 1998, an agreement concluded on 21 April 1998 between the State and the Government of Catalonia provides for the regular publication of supplements to the Official Gazette in the Catalan language. As a result of an agreement of 4 December 2001, this supplement is freely distributed in the Balearic Islands. However, this official translation comes out several months later than the Castilian version (see also para. 239 above).

656. The Committee of Experts observes that a systematic translation of all the relevant legal texts into Catalan is a crucial part of the context for the fulfilment of the undertakings that Spain entered into under Article 9 of the Charter (cf. the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, ECRML (2004) 6, para. 85). In view of the Committee of Experts, the absence of a Catalan version of pre-1998 legislation and the mentioned delay in the publication of the Catalan version of the Official Gazette represent serious obstacles to an effective use of the Catalan language in the field of justice in the Balearic Islands too (see paras. 240-241 above).

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that the most important national statutory texts and those relating particularly to users of Catalan are regularly and timely made available in Catalan too, including in the Balearic Islands. The publication of an official translation at the same time as the publication of the official Castilian version would be the most appropriate measure.

Article 10 – Administrative authorities and public services

State authorities

"Paragraph 1

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

a i to ensure that the administrative authorities use the regional or minority languages; or"

658. Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the autonomous communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Article 5 of Law 4/2001 of 12 November on the right to submit applications also provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their applications to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice".

659. The knowledge of a co-official language however cannot be a pre-requisite for the hiring or the appointment of a civil servant in a State administration office, although it is considered as an advantage. According to the information provided to the Committee of Experts, the Catalan-speaking staff in the State administration offices in the Balearic Islands is still insufficient.

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

The Committee of Experts encourages the Spanish authorities to substantially increase the Catalan-speaking staff in the competent State administration offices in the Balearic Islands and to develop adequate training schemes.

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

661. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the autonomous communities where there is a co-official language must be bilingual. However, the Spanish authorities stated that 60% of widely used administrative texts and forms are bilingual. Information provided by non-governmental sources also indicates that bilingual forms are lacking in a number of domains, in spite of the provision contained in Article 10 para. 4 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation, according to which "(t)he authorities acting in the Autonomous Community shall ensure that all printed documents and official forms used in the public administration and placed at the disposal of citizens shall be written in Catalan and Castilian". Furthermore, it seems that official forms and texts cannot be downloaded in the Catalan language. The Committee of Experts considers that this undertaking is only partly fulfilled.

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all the competent State administration offices located in the Balearic Islands.

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

662. Article 36 para. 1 of Law 4/1999 provides that even where there is more than one person involved in the procedure and there is disagreement as to the language to be used, documents or certificates required by the person concerned shall nevertheless be drafted in the (co-official) language chosen.

663. The information provided by non-governmental sources (the Lawyers' Councils of Catalonia and of the Balearic Islands) to the Committee of Experts indicates that problems exist in the area of civil registers, which are handled by the local authorities. Castilian appears to be required for the entries in these registers pursuant to Article 298 of the current Regulation of the Civil Register. An entry in any other language would be null and void. This seems to apply also to the act of civil marriage, pursuant to the combined application of Articles 255 and 298 of the above-mentioned regulation (the former provides that the act of marriage will constitute the inscription in the register, with the result that Castilian will be used pursuant to the latter provision). A request on-line for a birth, marriage or death certificate, for example, must also be made in Castilian. There is therefore an apparent conflict between this situation, owing to the tenor of the national rules, and the provisions embodied in Article 12 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation, which aim at ensuring that entries shall be in the official language in which the document has been declared, drafted or written or in the language in which the declaration has been made, be it Catalan or Castilian (see p. 88 seq. of the initial periodical report).

664. The Committee of Experts considers that the present undertaking is only partly fulfilled.

The Committee of Experts encourages the Spanish authorities to remove the existing legal obstacles to the use of Catalan in the Balearic Islands in the field of the civil registers.

Local and regional authorities

"Paragraph 2

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

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

665. Article 8 para. 2 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation provides that "(c)opies and certificates issued by the public bodies of the Autonomous Community shall be drafted in Catalan, unless the interested party or the person or body applying requests them in Castilian". Furthermore, according to paragraph 3 of the same law ""(i)n the Balearic Islands administrative provisions shall be valid and shall produce their full effects whatever the official language used". Article 10 para. 3 of the law in question also stipulates that "(p)ublic documents drawn up in the Balearic Islands shall be written in the official language chosen by the person who has requested that the document be drawn up or, where there is more than one applicant, in the language they have chosen. In the event of disagreement, the documents shall be written in both languages (...)".

666. No practical problems were brought to the attention of the Committee of Experts. However, no information whatsoever was provided to the Committee of Experts as far as the Island Councils (which correspond to the provinces) and local authorities are concerned.

667. The Committee of Experts considers that as far as the Autonomous Community is concerned this undertaking is fulfilled but would welcome information on the practice in the next periodical report.

668. As far as the Island Councils and the local authorities are concerned, the Committee of Experts is not in a position to conclude and encourages the Spanish authorities to comment on this point in their next periodical report.

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

669. Speakers have the right to use Catalan, orally and in writing, in their relations with the public administration within the territory of the Autonomous Community (Article 8 para. 1 of Law 3/1986 of 29 April on language standardisation). No special problem of implementation was brought to the attention of the Committee of Experts as far as the Autonomous Community, the Island Councils and local authorities are concerned. On the basis of the information received, the Committee of Experts considers that the present undertaking is fulfilled.

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

670. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the autonomous communities concerned if the competent bodies within the latter so decide.

671. Official acts of the Autonomous Community are published in the Official Bulletin of the Balearic Islands in Catalan and Castilian. In case of uncertain interpretation, the Catalan version shall prevail (Article 7 para. 1 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation).

672. The Committee of Experts considers that this undertaking is fulfilled.

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

673. No specific information was provided in this respect. The Committee of Experts is therefore unable to reach a conclusion on this point and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

674. The Rules of procedure of the Parliament of the Balearic Islands, adopted on 4 June 1986, stipulate that the Catalan language and the Castilian language shall be the official languages of the Parliament of the Balearic Islands.

675. According to the additional information provided by the Spanish Government, 72% of the debates in question are held in Catalan and 28% in Castilian.

676. The Committee of Experts considers that this undertaking is fulfilled in a rather exemplary manner.

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

677. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used. However, no information on the concrete situation in the Balearic Islands was provided.

678. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

679. According to Article 14 of Law 3/1986 of 29 April on language standardisation, the sole official form of place-names of the Balearic Islands shall be the Catalan one (paragraph 1). This form shall be determined by the Autonomous Community with the assistance of the University of the Balearic Islands (paragraph 2). No special problem of implementation was brought to the attention of the Committee of Experts.

680. The Committee of Experts considers that the existing provisions and practice constitute a strong way of respecting the original toponymy of the Balearic Islands, for which both the Autonomous Community authorities and the central Spanish authorities must be praised. The Committee of Experts considers that this undertaking is fulfilled.

Public services

"Paragraph 3

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

a to ensure that the regional or minority languages are used in the provision of the service; or"

681. Royal Decree 334/1982 provides that in the autonomous communities concerned road signs along, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual.

682. The Committee of Experts lacks a certain amount of information which is necessary to properly assess the compliance with the present undertaking, such as:

- what public services are concerned by this undertaking in the Balearic Islands;
- the share of staff in the public services serving in the Balearic Islands who have an adequate command of Catalan;
- the language used in written communications between the public services and the speakers (for example telephone and electricity bills and the like);
- which services are provided by private companies under licence and in this case what linguistic clauses are included in the licence.

683. The competent authorities are encouraged to provide this information in their next periodical report.

"Paragraph 4

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

a translation or interpretation as may be required;"

684. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to provide specific information in their next periodical report.

"b recruitment and, where necessary, training of the officials and other public service employees required;"

685. The Committee of Experts observes that the degree of fulfilment of this undertaking is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10, in the sense that the degree of fulfilment of the former has direct repercussions on that of the latter.

686. In general terms, Article 16 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation stipulates that the authorities shall ensure that the staff of the public administration and of the public enterprises in the Balearic Islands gradually become proficient in the use of the Catalan language (paragraph 1). In selection examinations for posts in the administration within the territory of the Balearic Islands account shall also be taken of the knowledge of the two official languages.

687. The Spanish Government has stated that in general terms the majority of the civil servants, especially those recruited more recently, have at least a sufficient knowledge of the regional or minority language concerned. However, the knowledge of Catalan is not a pre-requisite for filling a post in a State administration office located in the Balearic Islands, although the Autonomous Community promotes the teaching of Catalan to this category of civil servants (Article 35 para. 2 of Law of the Balearic Islands 3/1986 on language standardisation). Furthermore, the Committee of Experts has already found that the proportion of staff in these offices with a working knowledge of Catalan is actually insufficient (see para. 659 above). The problem is aggravated by the fact that a system based on a normal rotation of civil servants leads either to their not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a civil servant with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

688. As to the administration of the Autonomous Community and of the other regional or local authorities, Article 34 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation provides that the Government of the Autonomous Community, the Island Councils and the local councils shall ensure that Catalan is used in all administrative functions and activities under their responsibility. Selection criteria for posts in the administration of the Autonomous Community and of the local councils shall actually make express mention of knowledge of the Catalan language, which therefore seems to constitute a requirement at this level of administration. Decree 222/1996 of 21 December has laid down the criteria for the determination of the required level of knowledge of Catalan for each post and Decree 132/1996 of 28 June has created five types of certificate corresponding to different levels of knowledge of the language. Furthermore, Article 35 para. 1 of of Law of the Balearic Islands 3/1986 of 29 April on language standardisation provides that the Autonomous Community, the Island Councils and local councils shall ensure that Catalan is taught to civil servants and other public servants working for their respective administrations. No special practical problem was brought to the attention of the Committee of Experts in this area.

689. The Committee of Experts considers in the first place that with regard to the State administration offices present in the Balearic Islands, this undertaking is only partly fulfilled.

690. The Committee of Experts considers in the second place that as far as the Autonomous Community and local authorities are concerned this undertaking is fulfilled.

691. Finally, no specific information was provided in this area as far as public services are concerned. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to provide the relevant information in the next periodical report.

The Committee of Experts encourages the Spanish authorities to review the career and training structure in the State public administration with a view to ensuring that an adequate proportion of the staff posted in the State administration offices located in the Balearic Islands has the necessary command of the Catalan language to be able to use it as a working language.

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

692. No specific information was submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to comment on it in their next periodical report with regard to all four fields concerned (branches of the State administration in the Balearic Islands, administration of the Autonomous Community, local authorities and public services).

"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."

693. The possibility to have one's family name written in Catalan formally exists (see in particular pp. 102-103 of the initial periodical report). No special problem of implementation was brought to the attention of the Committee of Experts as far as the Balearic Islands are concerned. The Committee of Experts therefore considers that the present undertaking is fulfilled.

Article 11 – Media

"Paragraph 1

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

- a to the extent that radio and television carry out a public service mission:***
 - i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"***

694. Article 149 of the Spanish Constitution stipulates that the autonomous communities can create and regulate their own television channels and radio stations. Although Article 28 para. 1 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation provides that Catalan shall be the usual language in particular of radio stations and television channels belonging to or managed by the Autonomous Community, it is unclear whether a public radio station and a public television channel broadcasting essentially in Catalan in the Balearic Islands actually exist. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to clarify this point in their next periodical report.

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

695. The Committee of Experts observes in the first place that the present undertakings are concerned with the encouragement and/or facilitation of the creation of respectively at least one private radio station and one television channel broadcasting essentially in Catalan in the Balearic Islands (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, paras. 121 and 125).

696. Although Article 28 para. 2 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation stipulates that the Government of the Autonomous Community shall promote the use of the Catalan language in the broadcasting in particular of private radio stations and television channels and although economic and material support must be provided to media regularly using Catalan in the Balearic Islands pursuant to Article 32 para. 1 of the same law, it is unclear what concrete measures have been taken by the competent authorities to encourage and/or facilitate the creation of at least one private radio station and one private television channel broadcasting essentially in Catalan in the Balearic Islands.

697. The Committee of Experts is therefore not in a position to conclude on these undertakings and encourages the Spanish authorities to clarify this point in their next periodical report.

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

698. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms. Furthermore, according to Article 31 para. 1 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation, the Government of the Autonomous Community shall promote the production and release of films made, dubbed or sub-titled in Catalan, as well as other audiovisual cultural media and phonographic productions in Catalan.

699. The Committee of Experts considers that this undertaking is fulfilled but would welcome concrete examples, in the next periodical report, of implementation of the said provisions.

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

700. According to the limited information received by the Committee of Experts, there is one newspaper published in Catalan in the Balearic Islands, i.e. the "Diario de Baleares". It is however unclear what measures the competent authorities are taking to encourage and/or facilitate its maintenance. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

- "f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;"***

701. The Spanish Government has not clarified how the existing schemes are concretely used in the Balearic Islands for the purpose mentioned in the present undertakings. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

702. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. The Committee of Experts observes, however, that particular measures are needed to support the specific linguistic and technical training of journalists and other staff for media using regional or minority languages. Having said that, the Committee of Experts has not received any concrete information on the compliance with this undertaking as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in the next periodical 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."

703. The information provided to the Committee of Experts via the initial periodical report refers to the provisions of Law of the Balearic Islands 3/1986 of 29 April on language standardisation which deal with the collaboration in the field of radio and television with the other autonomous communities whose vernacular language is Catalan and in particular with the reception of television programmes in Catalan broadcast in other autonomous communities (see p. 112 of the initial periodical report). Even though the present undertaking is also relevant with regard to broadcasting from the French department ("Pyrénées-Atlantiques") where the Catalan language is also traditionally spoken and from Andorra, the Committee of Experts was not informed of any problem in this field and therefore considers that this undertaking is fulfilled.

"Paragraph 3

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

704. The Committee of Experts has not received sufficient information regarding such bodies, either in the Balearic Islands or on a national level, and therefore is not in a position to conclude on this undertaking. The Committee encourages the authorities to submit further information in the next periodical report.

Article 12 – Cultural activities and facilities**"Paragraph 1**

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

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

705. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes for works and authors using co-official languages, and it appears that Catalan-speaking authors have received such prizes (see p. 119 of the initial periodical report). Additional measures seem to include the granting of annual subsidies to support theatrical initiatives in Catalan, grants for the production of plays performed in Catalan and grants for festivals presenting works in Catalan. Furthermore, Article 38 para. 1 of Law 3/1986 of 29 April on language standardisation provides that the Government of the Autonomous Community and the local councils shall have powers to grant tax exemptions or credits in respect of acts and events connected with the promotion and dissemination of the Catalan language and culture specific to the Balearic Islands. Article 31 of the same law provides, inter alia, that the Government of the Autonomous Community shall promote the production of films, theatre performances, shows and books in Catalan.

706. However, it is still unclear to what extent the measures referred to above benefit works and authors from the Balearic Islands, rather than from Catalonia, and how the mentioned Articles 31 and 38 of Law of the

Balearic Islands 3/1986 of 29 April on language standardisation are implemented in practice. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide information specific to the Balearic Islands in their next periodical report.

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

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

707. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants. The initial periodical report also mentions Article 31 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation, which provides in particular that the Government of the Autonomous Community shall promote the production and release of films made, dubbed or sub-titled in Catalan.

708. Once again, it is unclear to what extent the measures referred to above benefit works and authors from the Balearic Islands, rather than from Catalonia, and how the mentioned Article 31 of Law of the Balearic Islands 3/1986 of 29 April on language standardisation is implemented in practice in this area too. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide information specific to the Balearic Islands in their next periodical report.

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

709. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

710. No specific information was provided concerning the Catalan-speaking staff at the disposal of the bodies in the Balearic Islands responsible for organising or supporting cultural activities. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their next periodical report.

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

711. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

712. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their next periodical report.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language."

713. The initial periodical report (see p. 79) refers in general terms to grants to study and research in the field of legal and administrative terminology. No specific information was provided as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments on the Balearic Islands in their next periodical report.

"Paragraph 2

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

714. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An autonomous community may also support the establishment of a cultural centre or service outside its territory.

715. The "Llibreria Blanquerna", a bookshop located in Madrid and supported by the Autonomous Community of Catalonia, offers works in Catalan and organises cultural activities involving the use of the Catalan language. It is unclear, however, whether the Balearic Islands are involved in this project as well. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 3

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

716. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language, in several countries courses of Catalan, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities. Works in various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Catalan authors, among others.

717. There is co-operation with the autonomous communities in this area and in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures. Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages.

718. The Committee of Experts considers that this undertaking is fulfilled but would welcome more specific information, in the next periodical report, on how the mentioned activities specifically benefit the Balearic Islands.

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;"***

719. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations.

720. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore considers that this undertaking is fulfilled.

"b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"

721. No specific information was submitted in this respect as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the prohibition referred to in the present provisions exists.

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

722. No specific information was submitted in this respect as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

723. Article 37 of Law 3/1986 of 29 April on language standardisation provides as follows:

"1. The authorities of the Autonomous Community shall promote the use of the Catalan language in advertising.
2. Similarly, the use of Catalan in the environment shall be stimulated, particularly the conception in Catalan of all types of signs used by social, cultural, commercial and recreational bodies".

724. Furthermore, Article 8 para. 4 of Law 11/2001 of 15 June on the regulation of commercial activity stipulates that the competent administrations shall promote the gradual use of the Catalan language in commercial activities, as well as in signs, symbols and distinctive elements of commercial establishments in the Balearic Islands.

725. Finally, the Order of 13 January 2000 published the Pact on Employment, Social Cohesion and the Promotion of the Productive Economy, signed by the Government of the Balearic Islands, employers' organisations and trade unions. The Pact includes a specific provision through which the parties consider the promotion of the use of Catalan as an instrument of cohesion and participation.

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

a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"

727. No specific information was submitted in this respect as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the provisions referred to in the present undertaking exist.

"b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"

728. No specific information was submitted in this respect as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the

Spanish authorities to comment on it in their next periodical report and to clarify also what are the economic and social sectors directly under the control of the central authorities and of the authorities of the Balearic Islands respectively.

"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;"

729. No specific information was submitted in this respect as far as the Balearic Islands are concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

"d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"

730. The Spanish Government's position is that safety is fully guaranteed since all regional or minority language-speakers have a command of Castilian as well. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

"1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.

2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.

3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages."

731. The Committee of Experts considers in the first place that the argument according to which all regional or minority language-speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of regional or minority languages in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

732. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

733. On the basis of the information at the Committee of Experts' disposal, it does not appear that any provision specific to the Balearic Islands has been taken to comply with this undertaking (cf. para. 324 above concerning Catalan in Catalonia). The Committee of Experts therefore considers that the present undertaking is not fulfilled as far as the Balearic Islands are concerned.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

734. The initial periodical report refers to Article 8 of Law 11/2001 of 15 June on the regulation of commercial activity, which lays down specific linguistic rights for consumers, such as the right to be served in one of the official languages of the Balearic Islands in the establishments covered by the law and in retail establishments with more than three employees. Furthermore, permanent signs and general information notices, as well as documents offering consumer services, of establishments open to the public shall be at least in Catalan, except for brand names, trademarks or signs protected by legislation on industrial property. Commercial establishments shall also post announcements to inform consumers of their linguistic rights.

735. The Committee of Experts considers that these provisions are commendable and the competent authorities should be praised in this respect. It is unclear, however, whether, apart from the mentioned linguistic

rights of consumers, the information on general consumers' rights is available in the Catalan language. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

Article 14 – Transfrontier exchanges

"The Parties undertake:

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

736. In its initial report, the Spanish Government refers to the Treaty between the Kingdom of Spain and the French Republic on Transfrontier Co-operation between Territorial Entities, concluded in Bayonne on 10 March 1995. Its Article 6 stipulates in particular that "(...) the Statutes and decisions of the Body shall be drafted in the languages whose use is compulsory under the domestic law of each of the signatories for acts and decisions made by the territorial entities". This is, according to the Spanish Government itself, the only reference to the linguistic aspect present in this treaty.

737. The Committee of Experts would therefore welcome information, in the next periodical report, on whether the Spanish authorities are at present seeking the conclusion of a bilateral treaty between France and Spain aimed at fostering the contacts between Catalan-speakers living in the Balearic Islands and those living in France in the fields of culture, education, information, vocational training and permanent education. The Committee of Experts would also welcome information on whether the conclusion of a bilateral treaty of this sort is being sought with Italy with regard to the Catalan-speakers living in the Sardinian city of Alguer (see also para. 327 above as far as the Catalan language in Catalonia is concerned). Finally, the Committee of Experts would welcome information on the relations with Andorra.

- "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."***

738. The Committee of Experts has not received any information regarding this undertaking. The Spanish authorities are therefore encouraged to comment on this point in their next periodical report.

2.2.5 Evaluation of the application of Part III to the Valencian language in Valencia¹⁰

Preliminary remark

739. The Committee of Experts has already noted that the legislation of Valencia has identified predominantly Valencian-speaking areas and predominantly Castilian-speaking areas (see paras. 102-104 above). It observes that this division can have an important impact on the protection and promotion of Valencian, but its practical consequences in the various fields covered by the Charter are still unclear to the Committee of Experts (see also paras. 740 and 785 below). The Spanish authorities are therefore encouraged to fully elaborate on this point and to provide the necessary practical information in their next periodical report. They are also encouraged to provide a detailed map of the linguistic zones in Valencia and to explain on the basis of which criteria the said zones have been determined.

Article 8 – Education¹¹

Pre-school

"Paragraph 1

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

a i to make available pre-school education in the relevant regional or minority languages; or"

Primary school

b i to make available primary education in the relevant regional or minority languages; or"

Secondary school

c i to make available secondary education in the relevant regional or minority languages; or"

740. Article 7 of the Statute of Valencia, adopted by the Organic Law 5/1982 of 1st July, states that the law shall determine the territories on which the use of Castilian or Valencian prevails and the personal conditions required to be relieved from the education in one of the two languages. The Committee of Experts has not been provided with the map of the Castilian-speaking or Valencian-speaking areas into which the territory of this autonomous community has been divided. In any event, this information appears at the present stage to be of secondary importance, as nowhere in Valencia does the overall educational offer seem to attain the level required by the concrete undertakings entered into by Spain. These oblige the competent authorities to make available, in principle all over the territory of the autonomous community for the benefit of the speakers, an educational model using essentially the Valencian language.

741. The system resulting from the applicable legislation, in particular Law 4/1983 of 23 November on the use and teaching of Valencian and the Decree 79/1984 of 30 July implementing the former, leads to the teaching of Valencian being incorporated in all three educational levels in question, but to different degrees. Teaching of Valencian and in Valencian is in principle compulsory but apart from the fact that exemptions can be granted to pupils who reside only temporarily in Valencia or who reside in predominantly Castilian-speaking areas, three different programmes are implemented in practice:

- teaching in Valencian: Valencian is the vehicular language for a number of subjects but the teaching of Castilian is compulsory and Castilian is also the language of instruction for a number of other subjects;

¹⁰ The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

¹¹ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

- full-immersion: Valencian is the medium of instruction and Castilian is introduced progressively as of the third class of primary school (if a Castilian-speaking family wants to enrol its child in this programme, special permission from the director will be necessary);
- progressive incorporation: Castilian is the vehicular language for a number of subjects but the teaching of Valencian is compulsory and Valencian is also the language of instruction for certain other subjects.

742. Only the first and third programmes are available at secondary school level, which means that the “full-immersion” model is not available at all at this level. That being said, the information provided to the Committee of Experts does not enable it to determine the exact share of teaching of Valencian and in Valencian at secondary school level: one information source refers to three hours per week of Valencian plus other subjects being taught in Valencian according to the chosen model, whereas another source indicates that at this level of education between 20% and 100% is taught in Valencian, depending on the chosen model.

743. The Committee of Experts has not received information on the availability of these different programmes in the various areas of Valencia. According to one source, however, the “progressive incorporation” model is largely dominant. According to another source, 20 pupils are required to set up a class and it is sometimes difficult to reach this number outside bigger cities.

744. Whatever the case, the Committee of Experts considers that with the exception of the “full-immersion” model up to a certain stage of primary school, none of the other models attains the level which is required by the specific undertakings entered into by Spain and even where Valencian is more present, the models in question are actually closer to bilingual forms of education of the type implied in the lower level of obligation laid down in Article 8 para. 1.a/b/c (that is, the obligations contained in Article 8 para. 1.a.ii, 1.b.ii and 1.c.ii). In addition, it is unclear whether the “full-immersion” model is available throughout the territory of the Autonomous Community.

745. The Committee of Experts commends the efforts of the Valencian authorities in this crucial area but in the light of the specific undertakings entered into by Spain, ie the highest under Article 8, it must conclude that these are only partly fulfilled.

The Committee of Experts encourages the competent authorities to develop educational models essentially in Valencian for the whole primary school curriculum as well as for secondary school.

The competent authorities are also encouraged to make these models available throughout the territory of Valencia and to clarify whether this is already the case for the existing “full-immersion” model, including as far as pre-school education is concerned.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

746. On the basis of the information received, it appears that although Valencian has been progressing in technical and vocational education, there is no proper model of education in this field using essentially Valencian. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts encourages the competent authorities to develop an educational model essentially in Valencian for technical and vocational education and to make it available throughout the relevant territory.

Higher education

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

747. According to the information made available to the Committee of Experts, Royal Decree 661/1988 of 24 June introduced Valencian in the entrance examination to universities, university colleges and higher technical schools located in Valencia. It also appears that some universities offer a degree in Valencian.

748. However, it remains unclear as to what concrete measures have been taken by the Spanish authorities, who were specifically asked to provide information on this point, to encourage and/or allow the provision of university or other forms of higher education in Valencian or of facilities for the study of this language as university or higher education subjects. It is also unclear how the teachers are selected for this level of education. In this regard, it was reported to the Committee of Experts that knowledge of Valencian counts as a simple advantage.

749. The Committee of Experts considers that the information at its disposal does not enable it to conclude on this point and encourages the Spanish authorities to provide further information in their next periodical report.

Adult and continuing education

- "f i **to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"**

750. The teaching of Valencian is obligatory in the context of the studies leading to academic diplomas provided by the educational centres for adults. Since 1985, the Department of Culture, Education and Sport of the Administration of Valencia has co-ordinated the courses offered by the said centres through the Programme of promotion of the knowledge of Valencian among the adult population. On a voluntary basis, courses preparing for obtaining unspecified administrative certificates are also offered.

751. It is however unclear to the Committee of Experts what the practical meaning of the mentioned programmes is. It therefore considers that the information provided is insufficient to enable it to conclude on this undertaking and would welcome information, in the next periodical report, on the number of adults who study Valencian in the above-mentioned centres each year.

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;"**

752. The Committee of Experts recalls that the present undertaking concerns not only education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions of the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for Castilian-speaking pupils within the territories concerned (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Croatia, ECRML (2005) 3, para. 100).

753. The Spanish Government stated that various parts of the curriculum include aspects of the Valencian language, culture, history and geography. The curricula of the compulsory teaching include the study of the origins and evolution of Valencian as well as its literature, especially as from the third year of the compulsory part of secondary school (at the age of 14). In the non-compulsory part of secondary school, ie for 16 and 17-year-old pupils, these aspects are studied in greater depth.

754. The Committee of Experts considers that the information provided does not enable it to assess whether the elements of the Valencian culture and history which are reflected in the language are taught to all pupils in Valencia, including those who follow programmes where the Castilian language is more present and those who are exempted altogether from studying Valencian. Furthermore, the Committee of Experts received a complaint that Catalan-speaking authors have been excluded from all programmes in Valencia for political reasons and against the opinion of both the Academy of the Valencian Language and the Valencian Council of Culture.

755. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify the above-mentioned points and to comment on the said complaint in their next periodical report.

Basic and further training of teachers

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

756. Article 23 of Law 4/1983 of 23 November, on the use and teaching of Valencian, provides that since Castilian and Valencian are co-official in the Autonomous Community, teachers are required to know them both. Teachers who do not know Valencian should in principle be progressively trained on a voluntary basis. Furthermore, universities and other teacher-training centres should include Valencian as a subject so that all teachers, at the end of their basic training, know both languages at the same level. The Spanish Government also referred to a plan coordinated by the Department of Culture, Education and Sport of the Autonomous Community aimed at offering training in Valencian to all non-university teachers .

757. The Committee of Experts received however a number of complaints in this respect. According to one source, no specific linguistic requirements exist to qualify as a teacher of Valencian or in Valencian. Reference was also made, by another source, to the lack of qualified teachers and to problems in having a diploma obtained in Catalonia recognised in Valencia.

758. The Committee of Experts considers that the information received is insufficient to enable it to conclude on this important undertaking. The Spanish authorities are therefore encouraged to provide further and more detailed information on the various training cycles, on the number of teachers trained and the proportion between teachers trained to teach Valencian as a subject and to teach subjects in Valencian.

759. The Committee of Experts underlines in any event that the educational system corresponding to the undertakings actually entered into by Spain, and which is at present partly lacking (see paras. 740-745 above), could require important changes and reinforcements to the teacher-training and re-training system.

Supervisory body

"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."

760. The Spanish Government refers to four bodies in this respect:

- Directorate General for Language Policy within the administration of the Autonomous Community;
- Directorate General for the Organisation and Innovation in Education and for Language Policy within the administration of the Autonomous Community;
- Directorate General for Language Policy and for the Valencian Cultural Heritage within the administration of the Autonomous Community;
- Academy of the Valencian Language.

761. It remains unclear, however, whether any of these bodies also draws up periodic reports of its findings and whether these are made public.

762. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide the missing information in their next periodical report.

Education in other territories

"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. "

763. The Spanish Government stated that the Official Schools for Languages offer the teaching of Castilian and of the other co-official languages in the territories where they are spoken as well as outside these territories.

764. The Committee of Experts considers that the information at its disposal is insufficient to properly assess compliance with this undertaking. It encourages the Spanish authorities to provide further information, in their next periodical report, on where the mentioned schools are actually located in Spain, where exactly the teaching of Valencian is offered outside the territory of Valencia and what the level of demand is.

Article 9 – Judicial authorities

"Paragraph 1

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

a in criminal proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***
- iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,***
if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;

b in civil proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or***
- iii to allow documents and evidence to be produced in the regional or minority languages,***
if necessary by the use of interpreters and translations;

c in proceedings before courts concerning administrative matters:

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

- ii to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or*
- iii to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;”*

765. Article 3 of the Spanish Constitution provides as follows:

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

766. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

767. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

768. Finally, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the autonomous communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category.

769. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore, the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom have a command of Castilian as well.

770. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an autonomous community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the autonomous community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the autonomous communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91).

The subsequent regulation, currently in force, ie Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Valencian is rewarded in the said conditions but is never required to perform any functions in the administration of justice in Valencia.

771. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report).

772. In addition to the above-mentioned provisions, reference must be made also to the provisions contained in Law 4/1983 of 23 November on the use and teaching of Valencian. According to Article 12, all citizens have the right to address themselves to the judicial administration in the language of their choice without a translation being required and without this resulting in any delay (paragraph 1). Furthermore, Article 31 stipulates that the Valencian administration shall conclude with the judicial administration the agreements necessary to make the use of Valencian in courts effective. However, none of these agreements has been provided to the Committee of Experts.

773. The initial periodical report also mentions a number of measures aimed at facilitating the learning of the co-official languages in a number of autonomous communities. However, no measure specifically concerning Valencia is referred to.

774. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

775. The current provisions do not seem to guarantee that the proceedings in Valencia will invariably be conducted in Valencian whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Valencian in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

776. As far as the practice is concerned, no example of court proceedings conducted in Valencian was provided and what seems to be granted is at best the possibility to use the language with the assistance of translators and/or interpreters.

777. The Committee of Experts considers that the existing legal and practical framework appears to be insufficient to ensure that if a party so requests the proceedings will be conducted in Valencian. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

778. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned (criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Valencian, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Valencian-speakers to avail themselves of these possibilities.

779. In conclusion, in order to properly implement the requirement for the courts located in Valencia to conduct the proceedings in Valencian at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision

for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. Although the Committee of Experts has received very little information on the practical situation in Valencia, concerning in particular the number of judges, prosecutors and members of the administrative staff able to use Valencian as a working language in the judicial administration as well as the training schemes offered in this field, it considers that in the case of Valencia the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i are not fulfilled and that the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.c.ii are only partly fulfilled.

780. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in Valencia will conduct the proceedings in Valencian at the request of one party ;***
- ***to formally guarantee the accused the right to use Valencian even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in Valencia to conduct the proceedings in Valencian if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in Valencia, at all levels and particularly among judges and prosecutors, able to use Valencian as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

"d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned."

781. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"***

782. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure. Furthermore, Article 12 para. 2 of Law 4/1983 of 23 November on the use and teaching of Valencian stipulates that all provisions, documents and papers produced or drafted in Valencian in the courts and those that the latter establish in this language shall be fully valid and effective.

783. Although the mentioned provisions admit the validity of legal documents in Valencian only within the Valencia, as in the rest of Spain a translation is required, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

784. No specific information has been provided in this respect as far as Valencia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on this point in their next periodical report.

Article 10 – Administrative authorities and public services

Preliminary remark

785. Irrespective of the conclusions on the individual undertakings under Article 10, the Committee of Experts does not know whether the linguistic zoning in Valencia (see paras. 102-104 and 739 above) has any formal or practical repercussions on the fulfilment of the undertakings in question. The Spanish authorities are therefore encouraged to clarify this aspect in their next periodical report.

State authorities

"Paragraph 1

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

a i to ensure that the administrative authorities use the regional or minority languages; or"

786. Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Furthermore, Article 5 of Law 4/2001 of 12 November on the right to submit applications provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their applications to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice".

787. However, knowledge of a co-official language cannot be a pre-requisite for the hiring or the appointment of a civil servant, although it is considered as an advantage. Several sources, both official and non-governmental, observed that the use of Valencian in this area remains problematical, in spite of a Collaboration Agreement, to which the initial periodical report makes reference (see p. 105), concluded on 28 December 1995 between the Ministry of Public Administrations, through the National Institute of Public Administration, and Valencia with a view to organising language courses for State general administration staff working in the territory of Valencia.

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to substantially increase the State administrative staff in Valencia with an appropriate command of the co-official language.

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

789. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the Autonomous Communities where there is a co-official language must be bilingual.

790. However, the Spanish authorities themselves admitted that 60% of widely used administrative texts and forms are bilingual.

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all State administration offices in Valencia.

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

792. Article 36 para. 1 of Law 4/1999 provides that even where there is more than one person involved in the procedure and there is disagreement as to the language to be used, documents or certificates required by the person concerned shall nevertheless be drafted in the (co-official) language chosen. However, the Committee of Experts has not been made aware of any examples of certificates drafted in Valencian by a State administration office located in Valencia. Nor has it been made aware of any other documents issued in both languages by a State administration office in Valencia. The Committee of Experts therefore considers that this undertaking is only formally fulfilled.

Local and regional authorities

"Paragraph 2

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

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

793. Article 9 para. 1 of Law 4/1983 of 23 November on the use and teaching of Valencian stipulates that administrative provisions drafted in Valencian within the territory of the Autonomous Community shall be valid and shall produce full legal effects. Furthermore, according to paragraph 2 of this provision administrative documents drafted in Valencian with regard to administrative activity and printed materials and forms used by the public administrations in their work shall have full legal effect.

794. According to the information provided to the Committee of Experts during the "on-the-spot" visit, the great majority of civil servants (including property registrars) can provide services also to the Valencian-speaking community, although further training would be needed. However, no concrete information was provided on the extent to which Valencian is used in practice within the administration of the Autonomous Community, at provincial level and within local authorities, for example concerning the general information for the public or administrative directives.

795. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

796. Article 10 of Law 4/1983 of 23 November on the use and teaching of Valencian provides that all citizens have the right to address the administration of the Autonomous Community or the local authorities in Valencian.

797. The Committee of Experts considers that this undertaking is fulfilled but would welcome further information, in the next periodical report, on the extent to which Valencian-speakers avail themselves of this right in practice.

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

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

798. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the Autonomous Communities concerned if the competent bodies within the latter so decide.

799. The initial periodical report makes reference to a Collaboration Agreement concluded on 4 December 2000 between the Prime Minister's Office and the administration of Valencia with a view to unspecified "general provisions" being published in Valencian in the Official Journal of the State. However, the Committee of Experts has not received any information on what sort of official acts are covered by this agreement. Whether this agreement also covers the publication of the official documents of local authorities is also unclear.

800. The Committee of Experts is therefore not in a position to conclude on these undertakings and encourages the Spanish authorities to provide further information in their next periodical report.

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

801. The rules of procedure of the Valencian Parliament, adopted on 4 March 1983, state that its members may use either of the two languages. According to a study carried out by the Spanish Government, between 33% and 53% of the members use Valencian and between 47% and 67% use Castilian.

802. The Committee of Experts considers that the undertaking is fulfilled but would welcome a clarification, in the next periodical report, on whether simultaneous interpretation is provided in the Parliament of the Autonomous Community.

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

803. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used. However, no information on the practice was provided as far as Valencia is concerned

804. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

805. Article 15 of Law 4/1983 of 23 November on the use and teaching of Valencian provides that the administration of the Autonomous Community is competent to determine place-names. However, the Committee of Experts has received no information on the implementation of this provision as far as bilingual place-names are concerned.

806. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

Public services

"Paragraph 3

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

- a to ensure that the regional or minority languages are used in the provision of the service; or"***

807. Royal Decree 334/1982 provides that in the Autonomous Communities concerned road signs, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual. Article 16 of Law 4/1983 of 23 November on the use and teaching of Valencian provides that public enterprises, public services and any service depending on the administration must ensure that the staff in contact with the public has the necessary command of Valencian.

808. However, the Committee of Experts lacks a certain amount of information which is necessary to properly assess the compliance with the present undertaking, such as:

- what public services are concerned by this undertaking in Valencia;
- the proportion of staff in the public services serving in Valencia who have an adequate command of Valencian;
- the language used in written communications between the public services and the speakers (for example telephone and electricity bills and the like);
- which services are provided by private companies under licence and in this case what linguistic clauses are included in the licence.

809. The competent authorities are encouraged to provide this information in their next periodical report.

"Paragraph 4

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

- a translation or interpretation as may be required;"***

810. During the "on-the-spot" visit, the competent authorities themselves acknowledged that there are insufficient staff for interpretation or translation. The Committee of Experts considers that this undertaking is only partly fulfilled.

- "b recruitment and, where necessary, training of the officials and other public service employees required;"***

811. Article 29 of Law 4/1983 of 23 November on the use and teaching of Valencian provides that the administration of the Autonomous Community shall promote the teaching of Valencian to civil servants and other public servants of the local and central administrations under its supervision, in accordance with the principle that it should be a gradual and voluntary process. Furthermore, according to Article 30 para. 2 of the same law, when selecting candidates for public responsibilities, posts and duties, the administration of the Autonomous Community and the local administrations shall assess knowledge of Valencian so that public duties may be performed in accordance with the principles concerning the use of Valencian laid down by the law.

812. The Spanish Government has stated that in general terms the majority of the civil servants, especially those recruited more recently, have at least a sufficient knowledge of the regional or minority language concerned. According to the additional information provided by the Spanish Government, every year courses of Valencian are organised for the civil servants of the State, autonomous and local administrations. Most of these courses take place during the normal working hours. Furthermore, since 1995 an agreement between the Department of Culture, Education and Sport of the Administration of Valencia and the National Institute of Public Administration has been in force, with a view to encouraging knowledge of Valencian among the State administration staff present in Valencia.

813. It remains unclear, however, how knowledge of Valencian is valued in the recruitment procedures and whether it constitutes a pre-requisite for any particular posts. It is also unclear what is the actual proportion of the staff in the State administration offices present in Valencia, as well as in the autonomous and local administration offices, with an adequate command of Valencian, as well as the proportion of staff which receives training every year following the schemes referred to by the Spanish Government. In any event, during the "on-the-spot" visit the authorities themselves acknowledged that further training for administrative staff is necessary. The problem seems in any case to be aggravated by the fact that a system based on a normal rotation of civil servants leads either to their not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a civil servant with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant.

814. Furthermore, a specific complaint was raised with the Committee of Experts in this regard concerning the refusal of the Valencian authorities to recognise diplomas in Catalan for the purpose of filling a post in the administration and the obligation for such candidates to pass separate tests, in spite of the fact that differences between Catalan and Valencian are minor (cf. para. 36 above).

815. Finally, no information at all was provided as far as public services are concerned.

816. The Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information on the mentioned points and to comment on the said complaint in their next periodical report.

"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."

817. No specific information was submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to comment on it in their next periodical report with regard to all four fields concerned (branches of the State administration in Valencia, administration of the Autonomous Community, local authorities and public services).

"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."

818. The possibility to have one's family name written in Valencian formally exists (see in particular pp. 102-103 of the initial periodical report) and no practical problems were brought to the attention of the Committee of Experts. The Committee of Experts considers that this undertaking is fulfilled.

Article 11 – Media

"Paragraph 1

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

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

i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"

819. Article 149 of the Spanish Constitution stipulates that the Autonomous Communities can create and regulate their own television and radio stations. According to Article 25 of Law 4/1983 of 23 November on the use and teaching of Valencian, the administration of the Autonomous Community shall encourage the use of Valencian on television and radio stations.

820. Two television channels are operated by the Autonomous Community: "Canal 9" and "Punt 2". It is unclear, however, whether these channels broadcast essentially in Valencian (which is what the specific undertaking entered into by Spain requires). Furthermore, no information was provided to the Committee of Experts concerning a public radio station broadcasting essentially in Valencian.

821. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify these points in their next periodical report.

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

822. The Committee of Experts observes in the first place that the present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station broadcasting essentially in Valencian (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 121).

823. No information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report, what measures have been taken to encourage and/or facilitate the creation of at least one private radio station broadcasting essentially in Valencian.

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

824. The Committee of Experts observes that the present undertaking is concerned with the encouragement and/or facilitation of the creation of at least one private television station broadcasting essentially in Valencian (see, mutatis mutandis, the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 125).

825. No information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report, what measures have been taken to encourage and/or facilitate the creation of at least one private television channel broadcasting essentially in Valencian.

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

826. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms.

827. As far as Valencia in particular is concerned, the authorities mentioned an agreement concluded in 2002 between the Autonomous Community and the national Spanish television service, which led for example to a football match being broadcast in the two languages.

828. The Committee of Experts considers that this undertaking is fulfilled but would welcome further examples in the next periodical report.

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

829. A newspaper in Valencian does not seem to exist and it does not appear that the competent authorities have taken any measures to encourage and/or facilitate the creation of at least one newspaper in Valencian. It is true that a Decree of 28 July 1989 regulates subsidies for press enterprises publishing wholly or partly in Valencian (see p. 116 of the initial periodical report), but the Spanish Government itself states that the press written in Valencian is negligible and Valencian is actually only used in specific articles in daily newspapers (see p. 117 of the initial periodical report). The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts encourages the Spanish authorities to take the necessary measures to encourage and/or facilitate the creation of at least one newspaper in Valencian.

- "f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or*
- ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;"*

830. The Spanish Government has not clarified how the existing schemes are concretely used in Valencia for the purpose mentioned in the present undertakings. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

831. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. However, no information was provided, with regard to Valencia, on the particular measures that are needed to support the specific linguistic and technical training that journalists and other staff for media using regional or minority languages require. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the competent Spanish authorities to provide further information in their next periodical 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."

832. The Spanish Government has not commented on the reception within Valencia of radio programmes and television programmes in Catalan broadcast by stations located in the French department ("Pyrénées-Orientales") where Catalan is spoken and from Andorra, which is the profile for which the present undertaking is relevant in the case of Valencia.

833. Even though the Committee of Experts has received only limited information concerning this undertaking, it nevertheless considers that this undertaking is fulfilled.

Paragraph 3

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

834. The Committee of Experts has not received sufficient information regarding such bodies, either in Valencia or on a national level, and therefore is not in a position to conclude on this undertaking. The Committee encourages the authorities to submit further information in the next periodical report.

Article 12 – Cultural activities and facilities

"Paragraph 1

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

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

835. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes also for works and authors using co-official languages, but it does not appear that any writer from Valencia has received this prize (cf. p. 119 of the initial periodical report). The initial periodical report also refers in general terms to grants for the production of plays in Valencian, but does not mention any concrete example (see p. 122), and to grants for festivals presenting works in Valencian, such as the Alicante Festival of Modern Spanish Theatre. Subsidies granted by the Valencian authorities to promote the use of Valencian on various occasions are also mentioned in the initial periodical report, but their concrete results are not indicated (see p. 128 of the initial periodical report).

836. The Committee of Experts considers that this undertaking is fulfilled but would welcome further information and concrete examples in the next periodical report.

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

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

837. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants.

838. The information provided by the Government does not enable the Committee of Experts to determine to what extent Valencian has benefited from the said measures. Furthermore, no information has been provided concerning dubbing, post-synchronisation and subtitling activities.

839. The Committee of Experts is therefore not in a position to conclude on these undertakings and encourages the Spanish authorities to clarify the said aspects in their next periodical report.

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

840. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

841. No information has been provided concerning the Valencian-speaking staff at the disposal of the bodies in Valencia responsible for organising or supporting cultural activities.

842. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their next periodical report.

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

843. The information provided by the Spanish Government only refers to the Valencian Council of Culture, established in 1995. However, this is a consultative body charged with assisting the Valencian authorities and it does not appear to have direct responsibilities for providing facilities and planning cultural activities. Furthermore, it is composed of persons having a recognised merit in the field of Valencian culture who are proposed by the political groups in the Parliament of the Autonomous Community.

844. The Committee of Experts is thus not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their 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;"

845. No information has been provided concerning the sort of body referred to in the present provision. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific comments on this point in their next periodical report.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language."

846. A Valencian Academy of Language was established in 1998. Its statute stipulates that the academy will be the institution charged with determining and if necessary developing the linguistic rules of the Valencian language, protecting Valencian on the basis of its lexicographic and literary tradition and its linguistic reality, and of rules consolidated on the basis of the Castellón rules.

847. However, it is unclear to the Committee of Experts how the above-described functions cover the specific activities to which the present provision refers. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify these points in their next periodical report.

"Paragraph 2

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

848. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An autonomous community may also support the establishment of a cultural centre or service outside its territory.

849. It remains unclear, however, whether any cultural centres or services in Valencian outside the territory of Valencia actually exist. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 3

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

850. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language, in several countries courses of Catalan, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities. Works in

various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Valencian works, among others.

851. There is co-operation with the autonomous communities in this area and in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures. Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages.

852. The information provided by the Spanish authorities, however, refers essentially to authors, artists or works from Catalonia, the Balearic Islands, the Basque Country or Galicia. It is therefore unclear to the Committee of Experts to what extent authors, artists or works from Valencia and reflecting the Valencian culture benefited from the said measures. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

Article 13 – Economic and social life

"Paragraph 1

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

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

853. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations.

854. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore considers that this undertaking is fulfilled.

"b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"

855. No specific information was submitted in this respect as far as Valencia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the prohibition referred to in the present provisions exists.

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

856. No specific information was submitted in this respect as far as Valencia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

857. Article 17 of Law 4/1983 of 23 November on the use and teaching of Valencian provides that all citizens shall have the right to speak Valencian in all meetings and to conduct their professional, commercial, social, trade union, political, religious, recreational and artistic activities in Valencian. Furthermore, according to Article 30 of the same law the administration of Valencia and the local authorities shall have the power to exempt from tax or to award tax credits for acts and events connected with the promotion and dissemination of Valencian culture and shall give special consideration to those involving the use of Valencian.

858. The Committee of Experts considers that this undertaking is fulfilled but would welcome concrete examples, in the next periodical report, of how the above-mentioned provisions are implemented.

"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:

- a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"***

859. No specific information was submitted in this respect as far as Valencia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether provisions exist within the meaning of the present undertaking.

- "b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"***

860. No specific information was submitted in this respect as far as Valencia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on this undertaking in their next periodical report and also to clarify which economic and social sectors come directly under the control of the central authorities and of the Valencian authorities.

- "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;"***

861. No information was provided to the Committee of Experts concerning this undertaking. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to submit specific elements in their next periodical report.

- "d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"***

862. The Spanish Government position is that safety is fully guaranteed since all regional or minority language speakers have a command of Castilian as well. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

"1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.

2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.

3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages."

863. The Committee of Experts considers in the first place that the argument according to which all Valencian-speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of Valencian in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority

language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

864. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

865. On the basis of the information at its disposal, the Committee of Experts considers that the present undertaking is not fulfilled.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

866. No information was provided to the Committee of Experts concerning this undertaking. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to submit specific elements in their next periodical report.

Article 14 – Transfrontier exchanges

"The Parties undertake:

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

867. In its initial report, the Spanish Government refers to the Treaty between the Kingdom of Spain and the French Republic on Transfrontier Co-operation between Territorial Entities, concluded in Bayonne on 10 March 1995. Its Article 6 stipulates in particular that "(...) the Statutes and decisions of the Body shall be drafted in the languages whose use is compulsory under the domestic law of each of the signatories for acts and decisions made by the territorial entities". This is, according to the Spanish Government itself, the only reference to the linguistic aspect present in this treaty.

868. The Committee of Experts would therefore welcome information, in the next periodical report, on whether the Spanish authorities are at present seeking the conclusion of a bilateral treaty between France and Spain aimed at fostering contacts between Valencian-speakers and Catalan-speakers in France in the fields of culture, education, information, vocational training and permanent education. The Committee of Experts would also welcome information on whether the conclusion of a bilateral treaty of this sort is also being sought with Italy with regard to the Catalan language spoken in the Sardinian city of Alguer. Finally, the Committee of Experts would welcome information on the relations with Andorra.

"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."

869. The Committee of Experts has not received any information regarding this undertaking. The Spanish authorities are therefore encouraged to comment on this point in their next periodical report.

2.2.6 Evaluation of the application of Part III to the Galician language¹²**Article 8 – Education**¹³**"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

a i to make available pre-school education in the relevant regional or minority languages; or"

Primary school

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

Secondary school

c i to make available secondary education in the relevant regional or minority languages; or"

870. Law 3/1983 of 15 June on standardisation of Galician states that Galician is an official language at all levels. Pupils must receive their first instruction in their mother-tongue but separation into different classes must be avoided. At the end of the compulsory schooling, pupils must master Castilian and Galician at the same level, both in speech and in writing. Exemptions may however be granted to pupils coming from other autonomous communities or from abroad, but they cannot last for longer than three consecutive years (although it is not clear how these pupils can make up for the gap as of the end of the third year). In principle the same number of teaching hours are allocated to Castilian and Galician. However, during pre-school and early primary education the language used will be the one that predominates among pupils (see also p. 60 seq. of the initial periodical report).

871. It is not clear what using the language that predominates among pupils in pre-school and early primary education actually means in practice. In any event, the information provided by the Spanish Government indicates that as of the second and third cycles of primary school at least two subjects have to be taught in Galician and one of them must be the knowledge of the social, natural and cultural environment. The Government also indicates that 4 hours per week will be allocated to the teaching of Castilian and the same number of hours will be allocated to the teaching of Galician.

872. In the compulsory part of secondary school, social sciences (geography and history) and natural sciences will be taught in Galician. Environmental and health sciences, which is an optional subject, may also be taught in Galician. Furthermore, in the first year 4 hours per week will be devoted to the teaching of Galician and 3 to the teaching of Castilian, in the second year 3 hours for the teaching of Galician and 4 hours for the teaching of Castilian, and in the third and fourth years 3 hours for the teaching of each one of the two languages.

873. In the first year of the non-compulsory part of secondary school, philosophy and an unspecified subject proper to the chosen curriculum will be taught in Galician. In the second year, history, additional subjects specific to the chosen type of curriculum and one optional subject will be taught in Galician. Furthermore, 3 hours per week will be devoted to the teaching of Castilian and 3 to the teaching of Galician.

874. Irrespective of the uncertainty as to the practice followed in pre-school and early primary school, consisting of using the language which predominates among the pupils, the Committee of Experts considers

¹² The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Spain.

¹³ In the Spanish education system pre-school is optional. Obligatory schooling extends from the age of 6 to the age of 16 (primary school – six school years - from the age of 6 to the age of 12 and the obligatory part of secondary school – two cycles of two school years each – from the age of 12 to the age of 16). The non-obligatory part of secondary school includes two school years, from the age of 16 to the age of 18.

that the information at its disposal indicates that the current educational model does not attain the level required by the specific undertakings entered into by Spain, which imply the provision of an instruction essentially in Galician and not just a number of subjects, or a substantial part of the curriculum, being taught in Galician. The form of education currently available in Galicia actually corresponds to the lower level of obligation laid down in Article 8 para. 1.a/b/c (therefore, to the obligations contained in Article 8 para. 1.a.ii, 1.b.ii and 1.c.ii). In addition, the Committee of Experts received complaints, during the “on-the-spot” visit, according to which in reality Galician is rarely a language of instruction, many primary and secondary schools do not teach all the subjects that should normally be taught in Galician and in many educational centres textbooks in Galician are not available. Finally, Galician does not seem to be present outside classes.

875. In the light of the specific undertakings entered into by Spain, ie the highest under Article 8 of the Charter, the Committee of Experts considers that these are not fulfilled.

The Committee of Experts encourages the competent authorities to develop educational models essentially in Galician for pre-school, primary school and secondary school, in conformity with the specific undertakings entered into in these areas.

Technical and vocational education

"d i to make available technical and vocational education in the relevant regional or minority languages; or"

876. The additional information provided by the Spanish Government refers to Article 6 para. 4 of Law 3/1983 of 15 June on the standardisation, according to which pupils will receive a teaching in Galician for those subjects which will facilitate their social and professional integration, and to Decree 247/1995 of 14 September, due to implement the former. According to the Spanish Government Galician is very present in this area of education, especially in places such as villages and rural areas, where Galician is widely spoken amongst the population.

877. The Committee of Experts considers that this information is insufficient to properly assess the fulfilment of this undertaking, also taking account of the fact that it implies the provision of technical and vocational education essentially in the Galician language. It is therefore not in a position to conclude on this point and encourages the Spanish authorities to provide further information in their next periodical report and to specify, in particular, what share of the curriculum is actually taught in Galician with reference to the various educational centres concerned.

Higher education

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

878. According to Article 15 of Law 3/1983 of 15 June on the standardisation, university professors and students have the right to use the official language of their choice. Furthermore, the administration of Galicia and the universities concerned must take the necessary measures to make the use of Galician well-established (“normal”) within university teaching. However, the language must not hinder the learning process. Decree 247/1995 of 14 September, modified by Decree 66/1997 of 21 March, lays down additional rules.

879. The statutes of the three Galician universities (“Santiago de Compostela”, “A Coruña” and “Vigo”) provide for the officiality of both Castilian and Galician and include a department in charge of the linguistic standardisation. Close co-operation exists between the universities and the administration of Galicia with a view to promoting the use of Galician within universities. This leads to various actions being carried out, such as

promotion campaigns, traineeships, research, conferences, financial support for activities involving the use of Galician, prizes for literary works, publication of the programmes in Galician and the joint publishing, by the administration of Galicia and the three universities, of books and research magazines in Galician. According to an official survey, 90% of the students understand Galician and 75% of the professors consider themselves able to speak it.

880. On the other hand, a non-governmental source stressed that the knowledge of Galician by university professors is not a requisite and that Castilian is very much present in the curriculum, also owing to the arrival, over the last years, of many students from other European countries in the context of the "Erasmus" programme. Another source complained that research papers published in Galician are extremely rare.

881. The Committee of Experts considers that this undertaking is fulfilled but would welcome information, in the next periodical report, on the proportion and nature of the subjects actually taught in Galician.

Adult and continuing education

"f i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or"

882. According to Article 16 of Law 3/1983 of 15 June on the standardisation, the teaching of Galician is compulsory in special courses and in adult education whenever languages are taught.

883. However, the Committee of Experts has not received any information concerning the practical implementation of these general provisions. It is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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;"

884. The Committee of Experts recalls that the present undertaking concerns not only education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions of the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for Castilian-speaking pupils within the territories concerned (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Croatia, ECRML (2005) 3, para. 100).

885. The Spanish Government stated that the contents of this teaching are adapted to the Galician socio-cultural reality. The Committee of Experts considers this information insufficient to enable it to conclude on this undertaking and encourages the Spanish authorities to elaborate further on this point in their next periodical report.

Basic and further training of teachers

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

886. The entrance examination for teaching at all levels includes a Galician language test. Furthermore, Article 17 of Law 3/1983 of 15 June on the standardisation provides that the studying of Galician in university centres and other teachers' schools is compulsory. The additional information provided by the Spanish Government indicates that the curriculum for the training of teachers includes the teaching of the Galician language and literature. Furthermore, the Directorate General of Linguistic Policy of the administration of Galicia organises introductory and specialising courses. Reference is also made to the presence in each educational centre of a team for the standardisation of the use of the language. The centres for training and resources co-operate by organising courses and seminars.

887. However, the Committee of Experts still lacks important information, such as the level of knowledge of Galician required for the entrance examination or the number of points allocated to the linguistic test in Galician. It has not been informed either of the proportion or number of teachers who are trained every year to teach in Galician or of the frequency and range of the further training available. The Committee of Experts

underlines in any event that the educational system corresponding to the undertakings actually entered into by Spain, and which is at present lacking (see paras. 874-875 above), could require important changes and reinforcements to the teacher-training and re-training system.

888. The Committee of Experts is not in a position to conclude on this important undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

Supervisory body

"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."

889. The Spanish Government stated that the Inspectorate for Education is in charge of monitoring the application of the legislation concerning the use of the Galician language.

890. It remains unclear, however, whether this body also draws up periodic reports of its findings and whether these are made public. Furthermore, the Committee of Experts received a number of complaints in this area, according to which inspections do not actually take place.

891. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide the missing information and to comment on the said complaint in their next periodical report.

Education in other territories

"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. "

892. The Spanish Government stated that the Official Schools for Languages offer the teaching of Castilian and of the other co-official languages in the territories where they are spoken as well as outside these territories.

893. The Committee of Experts considers that the information at its disposal is insufficient to properly assess compliance with this undertaking. It encourages the Spanish authorities to provide further information, in their next periodical report, on where the mentioned schools are actually located in Spain, where exactly the teaching of Galician is offered outside the territory of Galicia and what is the level of demand.

Article 9 – Judicial authorities

"Paragraph 1

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

a in criminal proceedings:

- i to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***
- ii to guarantee the accused the right to use his/her regional or minority language; and/or***
- iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or***

iv to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,

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

b in civil proceedings:

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

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

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

c in proceedings before courts concerning administrative matters:

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

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

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

894. Article 3 of the Spanish Constitution provides as follows:

“(1) Castilian is the official Spanish language of the State. All Spaniards have the duty to learn it and the right to use it.

(2) The other languages of Spain shall also be official in the respective Autonomous Communities, in accordance with their Statutes.

(...)”

895. Spanish legislation provides for a number of rules applying in general to the use of official languages in the judiciary. Paragraph 1 of Article 231 of Law 6/1985 of 1 July provides in the first place that “(i)n all judicial proceedings, Judges, Magistrates, Public Prosecutors, Clerks and other servants of the Courts shall use Castilian, the official language of the State”. Paragraph 2 of Article 231 provides however that the said authorities may also use the other official language of the Autonomous Community, whenever it exists, if “none of the parties objects that he or she does not know that language and is therefore likely to be left without defence”. According to paragraph 3 of Article 231, “(p)arties, their representatives and those directing them, as well as witnesses and experts, may, in both oral and written statements, use the language which is also official in the Autonomous Community in whose territory the judicial proceedings are taking place”. Furthermore, paragraph 5 of Article 231 stipulates that “(d)uring oral proceedings, the Judge or the Court may at any time authorise any person who knows the language used to act as interpreter, after that person has sworn an oath or made a promise”.

896. Article 142 of Law 1/2000 of 7 January, concerning the civil procedure, reproduces the same formulation. Law 2/1992 of 30 April, concerning the criminal procedure does not contain a similar provision and the general one embodied in Article 231 of Law 6/1985 will therefore apply.

897. Finally, Article 35 d) of Law 4/1999 of 13 January, provides that in the territories of the autonomous communities concerned citizens have the right to use the co-official language in their dealings with the State administration and includes the administration of justice in this category.

898. However, it does not appear that parties to a proceeding are at any stage specifically informed of the possibility of using a co-official language, irrespective of whether the party knows Castilian or not. Furthermore, the right of the accused to use a co-official language even where he or she has a command of Castilian does not seem to be formally guaranteed. As a matter of fact, the only provision specific to the criminal procedure that the Government mentioned in its initial periodical report (see p. 75), ie Article 440 of Law 2/1992 of 30 April on Criminal Procedure, stipulates that only if a witness does not understand or speak the Spanish language will an interpreter be appointed. This provision is clearly not meant for regional or minority language speakers, the vast majority of whom have a command of Castilian as well.

899. Another set of provisions aims at taking account of the duly certified knowledge of a co-official regional or minority language in a number of cases of appointments and transfers. The knowledge of a co-official language of an autonomous community will thus be considered as an advantage for the appointment of the President of the High Court of Justice of the autonomous community concerned (Article 32 of Act 38/1988 of 28 December on Judicial Organisation). According to the initial periodical report (see p. 78 seq.), the said knowledge also counts as an extra six years of service for competitive examinations for posts located in the territories of the autonomous communities concerned (Article 51 of the Royal Decree 2003/1986 of 19 December approving the Organic Regulation of the Corps of Officers, Auxiliaries and Officials of the Judicial Administration, Article 3 of the Agreement of the Plenary of the General Council of the Judiciary of 23 October 1991 approving the regulations implementing Article 341.2 of Law 6/1985 of 1 July on the Judicial Authorities, and paragraph 5 of the Order of 1 July 1988 announcing the internal competitive examination for vacancies in the third category of the Corps of Clerks of the Courts). However, the Committee of Experts was informed that the mentioned 1991 Agreement was in fact overruled by the Supreme Court on 29 April 1995 (appeal 2525/91). The subsequent regulation, currently in force, ie Agreement of 25 February 1998, provides that the oral and written knowledge of a co-official language will count as a preferential merit in the transfer process adding one, two or three years depending on whether the post applied for is an individual place for a judge, a magistrate or a collegiate position. The six years of seniority referred to in the initial periodical report therefore seems to apply exclusively to the regulations governing the staff serving the administration of justice, including judicial secretaries. In any event, the knowledge rewarded by the mentioned 1998 agreement corresponds to a level B certificate, therefore below the level C certificate which relates to a working knowledge. Irrespective of this, the knowledge of Galician is rewarded in the said conditions but is never required to perform any functions in the administration of justice in Galicia.

900. The initial periodical report mentions four other acts considering the knowledge of a co-official language as an advantage but does not specify in what terms (see p. 79 of the initial periodical report). In any event, Article 11 para. 3 of Law 3/1983 of 15 June on the standardisation provides that in competitive examinations for vacancies for magistrates, judges, clerks of the court, public prosecutors and all civil service posts in the judicial administration, as well as notaries, knowledge of the Galician language shall be considered as an advantage.

901. In addition to the above-mentioned provisions, reference must also be made to other relevant provisions contained in Law 3/1983 of 15 June on the standardisation. Article 7 provides as follows:

“1. Within the territory of Galicia, citizens shall be able to use either of the two official languages in their relations with the judicial administration.

1. Judicial provisions in Galicia shall be valid and shall produce their effects whatever the official language employed. The party or person concerned shall in all cases have the right to be informed or notified in the official language of his or her choice.

3. The administration of Galicia shall promote, in agreement with the relevant bodies, the gradual standardisation of the use of Galician in the judicial administration.”

902. However, the Spanish Government has not produced examples of application of the above-quoted paragraph 3 of Article 7. The Spanish Government referred nevertheless, although in general terms, to subsidies being granted to activities in Galician that further the study, research and development of legal and administrative terminology in Galicia.

903. The Committee of Experts observes that the first among the undertakings that Spain entered into in all three areas concerned (criminal, civil and administrative procedure) requires the judicial authorities to conduct the proceedings in the regional or minority language concerned if a party so requests, even in the

case where the other party does not understand the language in question, for instance by the use of interpreters and translators.

904. The current provisions do not seem to guarantee that the proceedings in Galicia will invariably be conducted in Galician whenever a speaker so requests. Furthermore, as far as the criminal procedure is concerned, the right for the accused to use his/her regional or minority language (Galician in the instant case), irrespective of whether or not he or she also speaks Castilian, does not appear to be formally guaranteed, contrary to the undertaking entered into by Spain under Article 9 para. 1.a.ii.

905. As far as the practice is concerned, no example was provided of court proceedings conducted in Galician and what seems to be actually granted is at best the possibility to use the language with the assistance of translators and/or interpreters. According to the information provided to the Committee of Experts even the latter possibility appears to be rare in practice and it was reported to the Committee of Experts that since obtaining an interpreter involves a delay, Galician speakers prefer to use Castilian rather than having to wait.

906. The Committee of Experts considers that the existing legal and practical framework appears to be insufficient to ensure that if a party so requests the proceedings will be conducted in Galician. The problem is aggravated by the fact that a system based on a customary rotation of judges leads either to judges not being encouraged to learn a regional or minority language when they know it might no longer be useful after a transfer, or to losing the investment spent on language training when a judge with the necessary linguistic skills is transferred to an autonomous community where those skills are no longer relevant. As a result, a review of the current training and career structure seems to be indispensable.

907. Furthermore, the provisions contained in Article 231 para. 3 of Law 6/1985 of 1 July, in Article 35 d) of Law 4/1999 of 13 January and in Article 142 of Law 1/2000 of 7 January, which concerns the civil procedure, seem to formally comply with the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.b.iii and 1.c.ii and 1.c.iii. However, the fact that it does not appear that at any stage of the proceedings concerned (criminal, civil or administrative) the speakers are specifically informed of these facilities or of the possibility to request that the proceedings be conducted in Galician, in conformity with the undertakings that Spain entered into Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter, does not encourage the Galician-speakers to avail themselves of these possibilities.

908. In conclusion, in order to properly implement the requirement for the courts located in Galicia to conduct the proceedings in Galician at one party's request and the other undertakings at issue, the following measures seem to be necessary: (i) the introduction, in the legal framework, of formal guarantees corresponding to the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i; (ii) provision for the parties to be specifically informed, at the relevant stage of the proceedings concerned, of the possibilities inherent to the undertakings entered into by Spain under Article 9 and (iii) adequate practical and organisational measures. Although the Committee of Experts has received very little information on the practical situation in Galicia, concerning in particular the number of judges, prosecutors and members of the administrative staff able to use Galician as a working language in the judicial administration as well as the training schemes offered in this field, it considers that in the case of Galicia the undertakings entered into under Article 9 para. 1.a.i, 1.a.ii, 1.b.i and 1.c.i are not fulfilled and that the undertakings entered into under Article 9 para. 1.a.iii, 1.b.ii and 1.c.ii are only partly fulfilled.

909. Finally, with regard to the undertaking entered into by Spain under Article 9 para. 1.a.iv, the information received does not enable the Committee of Experts to assess its fulfilment. The Committee is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to further elaborate on this point in their next periodical report.

The Committee of Experts encourages the Spanish authorities :

- ***to amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in Galicia will conduct the proceedings in Galician at the request of one party ;***
- ***to formally guarantee the accused the right to use Galician even where he or she has a command of Castilian ;***
- ***to take the necessary measures to ensure, as appropriate, that the parties to a proceeding are specifically informed of the obligation of the judicial authorities in Galicia to conduct the proceedings in Galician if one of the parties so requests, in conformity with the undertakings entered into by Spain under Article 9 para. 1.a.i, 1.b.i and 1.c.i of the Charter ;***
- ***to take the necessary measures to increase the proportion of judicial staff in Galicia, at all levels and particularly among judges and prosecutors, able to use Galician as a working language in courts ;***
- ***to develop adequate training schemes for the judicial staff as well as for lawyers.***

d to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.

910. According to the information provided to the Committee of Experts, costs for interpretation and translation are borne by the State. The Committee of Experts considers 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"

911. Paragraph 4 of the above-mentioned Article 231 of the Law 6/1985 of 1 July stipulates that "(j)udicial provisions and documents submitted in the official language of an Autonomous Community shall, without needing to be translated into Castilian, be fully valid and effective. They shall be translated ex officio if they are to produce effects outside the jurisdiction of the judicial bodies situated in the Autonomous Community, unless those effects will be produced in an Autonomous Community with the same official language. They shall also be translated where the law requires it or at the request of a party claiming to be without defence". The same provision also appears in paragraph 4 of Law 1/2000 of 7 January, concerning the civil procedure.

912. Although the mentioned provisions admit the validity of legal documents in Galician only within the Galicia, as in the rest of Spain a translation is required, the Committee of Experts considers that this undertaking is fulfilled.

"Paragraph 3

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

913. No specific information was provided in this respect as far as Galicia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on this point in their next periodical report.

Article 10 – Administrative authorities and public services

State authorities

"Paragraph 1

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

a i to ensure that the administrative authorities use the regional or minority languages; or"

914. Law 4/1999 of 13 January stipulates that as a general rule the working language in the State administration is Castilian. However, in the territories of the Autonomous Communities concerned citizens have the right to use the co-official language in their dealings with the administration (Articles 35 d) and 36). Article 5 of Law 4/2001 of 12 November on the right to submit applications also provides that "(w)ithin the territories of the Autonomous Communities whose Statutes establish linguistic co-officiality, applicants shall have the right to draft their applications to the General State Administration and public bodies linked with or supervised by them in one of the official languages and to obtain a reply in the language of their choice". Furthermore, Article 36 of Law 30/1992 of 26 November stipulates that the State administration present in Galicia must use both official languages. According to Article 9 para. 1 of Law 3/1983 of 15 June on standardisation, in public registers that are not supervised by the Autonomous Community, the administration of Galicia shall promote, with the agreement of the competent bodies, the normal use of Galician.

915. The Committee of Experts has received contradictory information as to whether the knowledge of a co-official language is a pre-requisite for the hiring or the appointment of a civil servant of a State administration office. If this was actually the case Galicia would seem to be in a different situation from this point of view compared to other autonomous communities (see paras. 243, 383, 658 and 786 above). In any case, one non-governmental source indicated to the Committee of Experts that the staff in State administration offices are essentially Castilian-speaking.

916. The Committee of Experts considers that the information at its disposal is insufficient to enable it to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

917. According to the Royal Decree 1465/1999 of 17 September, the internal directions and the forms in the State administration offices located in the autonomous communities where there is a co-official language must be bilingual.

918. However, the Spanish authorities themselves conceded that 60% of widely used administrative texts and forms are bilingual.

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

The Committee of Experts encourages the Spanish authorities to take the necessary measures to ensure that bilingual versions of widely used administrative texts and forms are made available in all State administration offices in Galicia.

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

920. Article 36 para. 1 of Law 4/1999 provides that even where there is more than one person involved in the procedure and there is disagreement as to the language to be used, documents or certificates required by the person concerned shall nevertheless be drafted in the (co-official) language chosen.

921. However, the Committee of Experts has not been made aware of any examples of certificates drafted in Galician by a State administration office located in Galicia. Nor has it been made aware of any other documents issued in both languages by a State administration office in Galicia.

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

Local and regional authorities

"Paragraph 2

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

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

923. Article 6 para. 2 of Law 3/1983 of 15 June on standardisation provides that administrative provisions in Galicia shall be valid and shall produce their effects whatever the official language used. Furthermore, paragraph 4 of this same provision stipulates that the administration of the Autonomous Community shall lay down the necessary provisions for the gradual standardisation of the use of Galician. Local corporations shall do this in accordance with the provisions of the law in question. Finally, Article 8 of the same law provides that public documents drawn up in Galicia may be drafted in Galician or Castilian. If the parties cannot agree, both languages shall be used.

924. Additional relevant provisions are contained in the Decree 173/1982 of 17 November on the standardisation of the Galician language, in a law of 21 June 1988 concerning the use of Galician as an official language by local authorities, and in the Decree 221/1990 of 22 March, concerning the establishment of the co-ordinating commission for linguistic standardisation.

925. The Committee of Experts has however received no information concerning the practice. It is therefore unable to conclude on this undertaking and encourages the Spanish authorities to provide the missing information in their next periodical report, also as far as the provincial level is concerned.

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

926. Article 6 para. 1 of Law 3/1983 of 15 June on standardisation provides that citizens shall have the right to use Galician, orally and in writing, in their relations with the public administration within the territory of the Autonomous Community. According to paragraph 3 of the same provision the authorities of Galicia shall promote the normal use of Galician, orally and in writing, in their relations with the citizens.

927. Furthermore, Article 9 of the same law provides as follows:

- “1. In public registers supervised by the autonomous administration, entries shall be in the official language in which the document is written or in which the declaration has been made. If the document is bilingual, it shall be entered in the language indicated by the person who submits it. (...)
2. Certified exact copies shall be made in the language in which the entry reproduced is written. Uncertified copies shall be made in the official language requested by the applicant.
3. With respect to documents entered in two languages, it shall be possible to applicants to obtain, on request, certificates in either of those languages.”

928. The Committee of Experts received a number of complaints in this area coming from one non-governmental source. It was thus alleged that documents in Galician were refused and that people were denied the use of Galician to register property for example.

929. The Committee of Experts considers that the undertaking is formally fulfilled and encourages the Spanish authorities to provide further information on the practice and to comment on the said complaints in their next periodical report.

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

930. Royal Decree 489/1997 of 14 April provides that laws, royal legislative decrees and legislative decrees are published in Castilian and may also be published in the co-official languages of the Autonomous Communities concerned if the competent bodies within the latter so decide. Article 5 of Law 3/1983 of 15 June on standardisation provides that laws of Galicia, legislative decrees, regulations and official resolutions of the Galician public administration shall be published in Galician and Castilian in the Official Journal of Galicia. The initial periodical report also refers to a "Collaboration Agreement" concluded on 18 June 1998 between the Prime Minister's Office and the administration of Galicia with a view to unspecified general provisions being published in Galician in the Official Journal of the State.

931. Although the scope of the latter "Collaboration Agreement" is unclear, the Committee of Experts considers, on the basis of the other information received, that the present undertaking is fulfilled.

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

932. No specific information was provided in this respect. The Committee of Experts is therefore unable to reach a conclusion on this point and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

933. The rules of procedure of the Galician Parliament, adopted on 1 June 1982, state that its members may use any of the two languages. According to a study carried out by the Spanish Government, all members of the Parliament use Galician. The Committee of Experts considers that the undertaking is fulfilled.

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

934. Article 86 para. 2 of Royal Decree 2568/1986 of 28 November, approving the regulations for the organisation, functioning and legal status of local bodies, provides that in debates either Castilian or the other co-official language of the autonomous community may be used. However, no information on the practice was provided as far as Galicia is concerned.

935. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide further information in their next periodical report.

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

936. Article 10 of Law 3/1983 of 15 June on standardisation provides as follows:

1. The sole official form of the place-names of Galicia shall be the Galician form.
2. The administration of Galicia shall be competent to determine the official names of the municipalities, territories, centres of population, inter-city highways and place-names of Galicia. The names of urban roads shall be determined by the relevant local authority.
3. These names shall be the legal names for all purposes and signposting shall respect them. The administration of Galicia shall regulate the standardisation of public signposting, in all cases respecting the international standards subscribed to by the State".

937. Two other pieces of legislation regulate the procedure for establishing or reinstating Galician place-names (Decree of 6 September 1984) and signposting highways and public services (Decree of 24 November 1986).

938. In spite of this rather impressive legislative framework the Committee of Experts received complaints alleging that many place-names actually appear only in their Castilian form. "La Coruña", which should read "A Coruña" in Galician, was stressed as being very symbolic in this respect.

939. The Committee of Experts is not in a position to conclude on this undertaking and encourages the Spanish authorities to provide information on the actual situation on the ground and to comment on the said complaints in their next periodical report.

Public services

"Paragraph 3

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

a to ensure that the regional or minority languages are used in the provision of the service; or"

940. Royal Decree 334/1982 provides that in the Autonomous Communities concerned road signs, signs in airports, railway stations, bus stations, harbours and general signs for public services of general interest must be bilingual. Article 11 para. 1 of Law 3/1983 of 15 June on the standardisation provides that the autonomous authorities shall promote the gradual proficiency in Galician of the staff working in the public administration and public enterprises in Galicia.

941. However, the Committee of Experts lacks a certain amount of information which is necessary to properly assess the compliance with the present undertaking, such as:

- what public services are concerned by this undertaking in Galicia;
- the share of staff in the public services serving in Galicia who have an adequate command of Galician;
- the language used in written communications between the public services and the speakers (for example telephone and electricity bills and the like);
- which services are provided by private companies under licence and in this case what linguistic clauses are included in the licence.

942. The competent authorities are encouraged to provide this information in their next periodical report.

"Paragraph 4

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

a translation or interpretation as may be required;"

943. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this point and encourages the Spanish authorities to provide specific information in their next periodical report.

"b recruitment and, where necessary, training of the officials and other public service employees required;"

944. Article 11 paras. 2-3 of Law 3/1983 of 15 June on standardisation provides as follows:

"2. In selection examinations for posts in the autonomous and local administrations, the level of knowledge of the official languages shall be taken into account, as aspects of merit, and shall be weighed for each professional level.

3. In competitive examinations for vacancies for (...) officials in land, commercial and company registries, knowledge of the Galician language shall be considered an advantage".

945. Furthermore, according to Article 24 of the same law:

"1. The Galician School of Public Administration shall be responsible for training civil servants to use Galician under the terms laid down by the present Act.

2. Proficiency in the Galician and Castilian languages shall be required for obtaining the diploma of the Galician School of Public Administration".

946. The Committee of Experts observes that the degree of fulfilment of these undertakings is closely linked to that of the undertakings to which this provision refers, i.e. those embodied in paragraphs 1 to 3 of Article 10, in the sense that the degree of fulfilment of the former has direct repercussions on that of the latter. Precisely in the light of the insufficient information provided with regard to the relevant undertakings referred to above, the Committee of Experts considers that the information at its disposal with regard to the present undertaking is likewise insufficient to enable it to reach a conclusion. In particular, it is unclear what bonus is allocated for the knowledge of Galician, in what way the linguistic skills are assessed and what is the minimum level of knowledge required to apply the bonus. Neither has it been specified to the Committee of Experts what is the share of civil servants in the administration of the Autonomous Community, in the local administrations and in the public services with an adequate command of Galician. This information should also be provided as far as the State administration offices present in Galicia are concerned and the issue of whether knowledge of Galician is required to fulfill a post in the public administration, and if so in what categories of posts and in what administrations, should also be clarified. The Spanish authorities are therefore encouraged to provide the necessary information in the next periodical report.

"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."

947. No specific information was submitted in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and the Spanish authorities are encouraged to comment on it in their next periodical report with regard to all four fields concerned (branches of the State administration in Galicia, administration of the Autonomous Community, local authorities and public services).

"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."

948. The possibility to have one's family name written in Galician formally exists (see in particular pp. 102-103 of the initial periodical report) and no practical problems were brought to the attention of the Committee of Experts. The Committee of Experts considers that this undertaking is fulfilled.

Article 11 – Media

"Paragraph 1

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

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

i to ensure the creation of at least one radio station and one television channel in the regional or minority languages; or"

949. Article 149 of the Spanish Constitution stipulates that the Autonomous Communities can create and regulate their own television and radio stations. Article 18 of Law 3/1983 of 15 June on the standardisation provides that Galician shall be the normal language in radio stations and television channels as well as in the other means of social communication under the management or the responsibility of the Autonomous Community. The Company of Radio-Television of Galicia was established in 1984. The radio station and the television channel broadcast in Galician. The Committee of Experts considers that this undertaking is fulfilled.

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

950. The Committee of Experts observes in the first place that the present undertaking is concerned with the encouragement or facilitation of the creation of at least one private radio station broadcasting essentially in Galician (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 121).

951. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report, what measures have been taken to encourage and/or facilitate the creation of at least one private radio station broadcasting essentially in Galician.

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

952. The Committee of Experts observes that the present undertaking is concerned with the encouragement and/or facilitation of the creation of at least one private television station broadcasting essentially in Galician (see, *mutatis mutandis*, the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, quoted above, para. 125).

953. No information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify, in their next periodical report, what measures have been taken to encourage and/or facilitate the creation of at least one private television channel broadcasting essentially in Galician.

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

954. Royal Decree 526/2002 of 14 June provides favourable conditions for the financing of films produced in a co-official language and Law 15/2001 of 9 July lays down favourable conditions for the fulfilment of the quota for showing original films in a co-official language or films dubbed in a co-official language in projection rooms. Furthermore, Article 20 para. 1 of Law 3/1983 of 15 June on the standardisation includes, among the duties of the administration of Galicia, the promotion of the production of films and other audiovisual media in Galician.

955. The Committee of Experts considers that this information is not sufficient to enable it to conclude on this undertaking. It therefore encourages the Spanish authorities to provide information, in the next periodical report, on how the mentioned provisions are concretely implemented in the case of Galicia.

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

956. There is a daily newspaper in Galician ("O Correo Galego"). A Castilian edition is also published. The two editions count about 27 400 copies, representing 9.39% of the press distributed in Galicia. However, the Committee of Experts does not know how many of the total number of copies for the two editions are produced in Galician. A weekly magazine in Galician also exists ("A nosa Terra") and seems to have a larger distribution than the daily newspaper.

957. Article 19 of Law 3/1983 of 15 June on the standardisation provides that the administration of Galicia shall provide economic and material support to the media, other than the electronic ones, that usually and increasingly use Galician. Subsidies are concretely granted to the press by virtue of Decree 71/1999 of 18 March.

958. The Committee of Experts considers that this undertaking is fulfilled but would welcome further information, in the next periodical report, on the type and amount of support concretely granted to "O Correo Galego" and to "A nosa Terra".

***"f i to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media; or
ii to apply existing measures for financial assistance also to audiovisual productions in the regional or minority languages;"***

959. The Spanish Government has not clarified how the existing schemes are concretely used in Galicia for the purpose mentioned in the present undertakings. The Committee of Experts is therefore not in a position to conclude and encourages the Spanish authorities to clarify this point in the next periodical report.

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

960. The Spanish Government states that the educational system is the best means to ensure that media professionals in general will have the necessary linguistic skills. However, no information was provided, with regard to Galicia, on the particular measures that are needed to support the specific linguistic and technical training that journalists and other staff for media using regional or minority languages require. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the competent Spanish authorities to provide further information in their next periodical 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."

961. The Spanish Government has not commented on the reception within Galicia of radio and television programmes in Portuguese. Even though the Committee of Experts has received only limited information concerning this undertaking, it nevertheless considers that this undertaking is fulfilled.

"Paragraph 3

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

962. The Committee of Experts has not received sufficient information regarding such bodies, either in Galicia or on a national level, and therefore is not in a position to conclude on this undertaking. The Committee encourages the authorities to submit further information in the next periodical report.

Article 12 – Cultural activities and facilities

"Paragraph 1

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

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

963. According to the information provided by the Spanish Government, the Ministry of Education, Culture and Sport assigns national prizes also for works and authors using co-official languages, and it appears that Galician authors did receive such prizes (cf. p. 119 of the initial periodical report). Article 20 paras. 2-3 of Law 3/1983 of 15 June on the standardisation stipulates that the administration of Galicia must stimulate cultural events, theatre productions and shows in the Galician language and must also promote publishing in Galician, with the assistance of measures to strengthen production and distribution. The initial periodical report also refers to the establishment of a Galician Literature Day and to subsidies being granted for the publication of books in Galician, for Galician music, for the distribution of books in Galician during reading campaigns, for the promotion of readings by Galician authors and for the funding of the Galician Book Fair (see p. 120 of the initial periodical report). Additionally, the initial periodical report mentions grants for the production of plays performed also in Galician (see p. 122). The Committee of Experts considers that the present undertaking is 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;

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

964. According to the information contained in the initial periodical report, grants are allocated to promote the translation into, and publication in, the official Spanish languages of works by Spanish authors originally written and published in any other official Spanish language. The aim is in particular to promote intercommunication between the different Spanish cultures. In 2002, 15 companies and 23 projects received such grants. The initial periodical report specifically refers to subsidies for the translation into other languages of books originally published in Galician as well as for the translation into Galician of books produced in other languages (see p. 120 of the initial periodical report).

965. Although Article 20 of Law 3/1983 of 15 June on the standardisation stipulates in particular that the administration of Galicia must promote the dubbing, sub-titling and screening of films and other audiovisual media in Galician, the Committee of Experts has however not received information on how this provision is concretely implemented and has furthermore received no information concerning dubbing, post-synchronisation and subtitling activities concerning works originally produced in Galician.

966. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to provide the missing information in their next periodical report.

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

967. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

968. No specific information was provided concerning the Galician-speaking staff at the disposal of the bodies in Galicia responsible for organising or supporting cultural activities.

969. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to include specific information in this respect in their next periodical report.

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

970. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their 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;"

971. No specific information was provided in this respect. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their next periodical report.

"h if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative,

commercial, economic, social, technical or legal terminology in each regional or minority language."

972. The Spanish Government mentioned several bodies: the Institute for the Galician Language, the Centre "Ramón Piñeiro" for humanistic research and the Royal Academy for the Galician Language. According to an addendum to Law 3/1983 of 15 June on the standardisation, the Academy's views are authoritative on matters pertaining to the regulation, the up-dating and the correct character of the use of the Galician language.

973. However, it is unclear to the Committee of Experts how the above-mentioned bodies carry out the specific activities to which the present provision refers, particularly as far as the development of the terminology in the fields in question is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 2

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

974. According to the information provided by the Spanish authorities, cultural centres or services located outside the territory where the language is traditionally spoken can theoretically be financed by the State, since no specific linguistic condition is required. An autonomous community may also support the establishment of a cultural centre or service outside its territory. The initial periodical report also refers to the granting of subsidies to "Casas" (houses) of Galicia and Galician Centres, which may well be located in territories other than those where Galician is traditionally spoken. However, the example provided by the Spanish Government is that of "Casas de Galicia" and Galician Centres in America and elsewhere in the world (see p. 126 of the initial periodical report).

975. It therefore remains unclear whether any cultural centres or services in Galician outside the territory of Galicia actually exist. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

"Paragraph 3

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

976. The Committee of Experts was informed that although the Cervantes Institutes were set up to promote the Spanish culture and language, in several countries courses of Galician, among others, are offered. The Ministry for Foreign Affairs also provides financing for lectures in foreign universities. Works in various regional or minority languages are available in libraries abroad and support is also provided every year for the translation of Galician authors, among others. The Cervantes Institutes' libraries also contain books by Galician authors. Furthermore, the Spanish Government mentioned a specific agreement being drawn up between the Cervantes Institutes and the administration of Galicia.

977. Thanks to the co-operation with the autonomous communities, in cultural international events the presence of the co-official languages is ensured. Support is also provided to exhibitions specifically representing a regional or minority culture: of the 5 held abroad at the time of the "on-the-spot" visit, 3 concerned regional cultures. Furthermore, in international book fairs Spain presents the new titles published in all its co-official languages.

978. The Committee of Experts considers that this undertaking is fulfilled.

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;"***

979. The initial report states that Spanish legislation does not contain any principles making it a duty to use a particular language or preventing the use of co-official languages in the development of social and economic relations.

980. No provision of the kind referred to in the present undertaking was brought to the attention of the Committee of Experts. On the basis of the information at its disposal the Committee of Experts therefore considers that this undertaking is fulfilled.

- "b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;"***

981. No specific information was submitted in this respect as far as Galicia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report and to clarify whether the prohibition referred to in the present provisions exists.

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

982. No specific information was submitted in this respect as far as Galicia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to submit specific comments in their next periodical report.

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

983. Article 25 of Law 3/1983 of 15 June on the standardisation stipulates that the administration of Galicia and the local authorities within their territories shall promote the use of Galician in commercial, advertising, cultural, voluntary, sports and other activities. For this purpose tax reductions or exemptions can be granted. Furthermore, the initial periodical report refers to the granting of subsidies to private enterprises, professional associations, entrepreneurs' associations, chambers of commerce and non-profit bodies and associations with a view to promoting the use of the Galician language (see pp. 126-128 of the initial periodical report).

984. The Committee of Experts considers that this undertaking is fulfilled but would welcome concrete examples in the next periodical report.

"Paragraph 2

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

- a to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;"***

985. No specific information was submitted in this respect as far as Galicia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to

submit specific comments in their next periodical report and to clarify whether the provisions referred to in the present undertaking exist.

"b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;"

986. No specific information was submitted in this respect as far as Galicia is concerned. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to comment on it in their next periodical report and also to clarify which economic and social sectors come directly under the control of the central authorities and of the Galician authorities.

"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;"

987. The Spanish Government did not provide any specific information in this respect. On the other hand, the Committee of Experts received complaints that the staff concerned speak essentially Castilian, there are no regulations on the use of Galician in hospitals and no initiatives are taken with a view to training the staff of the facilities in question.

988. The Committee of Experts considers that the information received is insufficient to conclude on this undertaking. The Spanish authorities are therefore encouraged to submit specific information on its fulfilment and to comment on the said complaints in their next periodical report.

"d to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;"

989. The Spanish Government's position is that safety is fully guaranteed since all regional or minority language speakers have a command of Castilian as well. Furthermore, the Spanish Government stresses that the regulations adopted by the Autonomous Communities must be read in conjunction with the European Union norms and in particular with Directive 2000/13/EC of 20 March 2000, on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, whose Article 16 provides as follows:

- “1. Member States shall ensure that the sale is prohibited within their own territories of foodstuffs for which the particulars provided for in Article 3 and Article 4(2) do not appear in a language easily understood by the consumer, unless the consumer is in fact informed by means of other measures determined in accordance with the procedure laid down in Article 20(2) as regards one or more labelling particulars.
2. Within its own territory, the Member State in which the product is marketed may, in accordance with the rules of the Treaty, stipulate that those labelling particulars shall be given in one or more languages which it shall determine from among the official languages of the Community.
3. Paragraphs 1 and 2 shall not preclude the labelling particulars from being indicated in several languages.”

990. The Committee of Experts considers in the first place that the argument according to which all Galician speakers also have a command of Castilian is not relevant, given that the present undertaking is concerned precisely with promoting the use of Galician in the field of safety instructions. The Committee of Experts underlines, in this regard, that it is by making regional or minority languages a means of communication in modern daily life, to which the present undertaking, among others, is conducive, that they can be preserved as living and mature languages. The argument according to which regional or minority language speakers know the majority language anyway could after all be invoked in any of the fields covered by the Charter, which would make the latter pointless.

991. In the second place, the Committee of Experts points out that safety instructions cover a broader field, for instance safety notices in construction sites and in lifts, fire instructions, etc.

992. On the basis of the information at its disposal, the Committee of Experts considers that the present undertaking is not fulfilled.

"e to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages."

993. Two pieces of legislation have been adopted in this field: the Decree of 14 June 1985 on the use of Galician in the labelling and advertising of products marketed in Galicia and above all the Decree of 16 June 1994 on the use of Galician in the labelling of products and in consumer and user information in Galicia.

994. However, it is unclear to the Committee of Experts whether the implementation of the mentioned legislation has actually led to the rights of consumers being made available in Galician. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to clarify this point in their next periodical report.

Article 14 – Transfrontier exchanges

"The Parties undertake:

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

995. The Spanish Government admits that no agreement has so far been concluded with Portugal. On top of this, the Government observes that in any event the linguistic clause of such an agreement would be very similar to that included in the bilateral treaty between Spain and France (see paras. 326, 477, 616 and 735 above).

996. The Committee of Experts would welcome information, in the next periodical report, on whether Spain is seeking to conclude a bilateral agreement with Portugal aimed at fostering contacts between Galician-speakers and Portuguese-speakers in the fields of culture, education, information, vocational training and permanent education.

"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."

997. No information was provided concerning the transfrontier co-operation involving the administration of Galicia and Galician local authorities on the one side and Portuguese regional or local authorities on the other side. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Spanish authorities to specifically comment on this point in their next periodical report.

Chapter 3. Findings

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

A. The Spanish Constitution contains a very strong commitment to the protection and promotion of regional or minority languages, insofar as it states that “(t)he richness of the linguistic varieties of Spain is a cultural patrimony which will be the object of special respect and protection” (Article 3 para. 3 of the Constitution). Furthermore, the Spanish system grants optimal recognition to some of the regional or minority languages spoken in Spain, at least in some of the territories in which they are traditionally present, insofar as it has granted a co-official status to them.

B. Spain must be praised for the high recognition and degree of protection provided in principle to regional or minority languages and for the courage and farsightedness it has shown in doing so. This places Spain in the forefront of the European countries seriously committed to the protection and promotion of regional or minority languages. The following findings, which highlight a number of shortcomings, should therefore be read in the light of these preliminary remarks and aim at encouraging the Spanish authorities to improve, where this is needed, an already remarkable system.

C. Spain has opted for a number of undertakings which is far above the limit set in the Charter. In many areas Spain also entered into the highest undertakings. The Committee of Experts commends the choice of the Spanish authorities of devising and adopting an ambitious instrument of ratification, which points to their strong long-term commitment. At the same time, there still exists a clear gap between some of the undertakings chosen and the level of protection offered by the domestic legal framework and/or practice.

D. A general problem affecting all languages covered under Part III is related to the field of justice. The fulfilment of the undertakings under article 9 is negatively affected by a number of practical and organisational deficiencies and an incomplete legal framework. The consequence of this is that some of the most important undertakings are not being complied with, in particular the conduct of proceedings in the regional or minority language when one party so requests. The Committee of Experts finds that there is a need to re-think the training and career structure of the judicial administration so that an adequate proportion of the judicial staff posted in the autonomous communities concerned has the required command of the regional or minority languages covered by Part III.

E. Regarding the State administration located in the Autonomous Communities concerned, in general the fulfilment of the undertakings under article 10 is negatively affected in the same manner as mentioned under finding D and there is a similar need to re-think the training and career structure of civil servants in this field.

F. Another general problem affecting all regional or minority languages covered by Part III of the Charter is the lack of a systematic and timely official publication of the relevant national statutory legislation in the regional or minority languages.

G. Remarkable progress in the use of Catalan in Catalonia has been made over the last decades. It has now become the most widely used language in a number of domains covered by the Charter. It can rely in particular on an impressive educational system. The shortcomings in the field of justice and State administration, however, affect this language as well.

H. The use of the Basque language in areas covered by the Charter has increased considerably in recent decades. This demonstrates the very positive effect of the linguistic policies in favour of the Basque language. Education is a crucial part of this process and both the autonomous communities concerned, the Basque Country and Navarra, offer an educational model which corresponds in principle to the undertakings chosen by Spain. However, in the Basque Country the offer of this educational model is not systematic at primary and secondary school level. Furthermore, this model is not available at all as far as technical and vocational education is concerned.

I. In the field of media the Committee of Experts praises the effort of the Basque Autonomous Community to create a Basque-speaking public radio station and television channel. However, the Committee of Experts has noted the absence of a structured approach regarding the private electronic media in the Basque Country and broadcasting in general in Navarra.

J. The Committee of Experts finds that the Basque Country has made great efforts to introduce the use of Basque in administrative units. However, the Committee of Experts has noted that these efforts are

frustrated at local level within some municipalities. The Committee of Experts has also noted that there seem to exist problems with regard to the use of Basque within the framework of the regional administration of Navarra. The Committee of Experts stresses that the Spanish authorities remain responsible for ensuring that their obligations under the Charter are properly complied with at all levels of public authority throughout the territory concerned.

K. A specific problem concerning Navarra arises from the fact that according to the way in which the Spanish authorities seem to interpret the instrument of ratification, Part III of the Charter only applies to the “Basque-speaking zone” as defined by the legislation of Navarra. The nature of the provisions already applicable to, and the arrangements already in place in, the “mixed zone”, as defined by the legislation, suggest that it would be possible to apply an appropriate menu of protection under Part III within this zone as well (see paragraphs 64-73 and 142 above).

L. Education in Catalan in the Balearic Islands, and in Galician and Valencian is based on a structured bilingual model. However, this does not correspond to the undertakings chosen, which imply an offer also of models of education given essentially in the regional or minority languages. The considerable efforts made by the Valencian authorities towards developing a “full-immersion” model on top of the bilingual one, although still offered in a limited manner, show that the two models can co-exist. A systematic offer of a “full-immersion” model alongside the bilingual one is the objective towards which all three autonomous communities concerned should aim with a view to gradually fulfilling the undertakings entered into.

M. The Balearic Islands, Valencia and Galicia have enacted legislation on the use of regional or minority languages in the field of administration but problems of implementation, albeit at varying degrees, still seem to persist in particular in the latter two autonomous communities. In the field of media serious efforts to create electronic media in these autonomous communities have been undertaken but the state of implementation of the ambitious options chosen under Part III is rather mixed, leaving considerable deficiencies in all three communities.

N. In the cultural field there seems to be an overall considerable effort at the level of the autonomous communities for the promotion of the cultures linked to minority languages. Owing to the lack of information, however, a great number of details specifically concerning the linguistic provisions are still unknown to the Committee of Experts.

O. The lack of information has also made it impossible to conclude on many of the undertakings entered into by Spain in the field of social and economic life. Where the information has been made available to the Committee of Experts, the picture appears to be mixed: in some areas strong and innovative measures exist, for example tax exemptions for the benefit of activities including the use of regional or minority languages, whereas in other areas, deficiencies seem to exist.

P. Concerning the languages that are only covered by Part II of the Charter, the Committee of Experts has noted that the Asturian language (or “Bable”) is in a rather special situation. Bable/Asturian is officially recognised by the Statute of Asturias, although not qualified as co-official, and a wide range of measures in various fields have been taken, often stretching beyond the scope of Part II provisions. Bable/Asturian enjoys a growing social prestige. However, there are still obstacles to the promotion of the use of the language, in particular in the field of education.

Q. The situation of Asturian Galician (“Gallego Asturiano”) is unclear but very little seems to have been done in favour of this language, which suffers also from a lack of clear recognition of its specific identity as a variant of Galician.

R. Aragonese (“Fabra”) and Catalan in Aragon are officially recognised in the legislation of the Autonomous Community of Aragon, but a language law is yet to be adopted. Very few measures have been taken so far in favour of the Aragonese language (“Fabra”), in spite of the fact that a will to revive it has recently appeared among the younger generations. The situation of Catalan in Aragon appears to be even worse: the Committee of Experts has not been made aware of any concrete measures in favour of Catalan in Aragon and the situation of this language in this territory was described to the Committee of Experts as being critical.

S. The Committee of Experts has observed that some languages that are not referred to in the instrument of ratification, seem nevertheless, according to the information provided by the Spanish Government, to have a traditional presence in Spain and are therefore covered by Article 7 of the Charter. These languages are Galician in Castilla y León, Portuguese in the town of Olivenza, Berber in the Autonomous City of Melilla and Arabic in the Autonomous City of Ceuta.

T. Finally, the Committee of Experts considers that there is still a need for awareness-raising in Spain about regional or minority languages. In particular, very little attention is devoted to linguistic diversity by the national Spanish media and there still seems to be a lack of awareness among the Castilian-speaking majority population and especially in the autonomous communities other than those directly concerned, that Spain is a plurilingual country. More efforts therefore seem to be needed in education for the majority Castilian-speaking population and in the national media with a view to fostering a greater acceptance and respect by the majority vis-à-vis the specificities of regional identities as an integral part of the Spanish heritage. There is also a need to improve mutual understanding, with a view to promoting the virtues of plurilingualism and linguistic diversity and, in both majority and minority language groups, the fundamental idea of peaceful and harmonious co-existence.

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

At its 938th meeting on 21 September 2005, the Committee of Ministers adopted its Recommendation addressed to Spain, which is set out in Part B of this document.

Appendix I: Instrument of ratification



Spain:

Declarations contained in the instrument of ratification deposited on 9 April 2001 - Or. Spa.

Spain declares that, for the purposes of the mentioned articles, are considered as regional or minority languages, the languages recognised as official languages in the Statutes of Autonomy of the Autonomous Communities of the Basque Country, Catalonia, Balearic Islands, Galicia, Valencia and Navarra.

For the same purposes, Spain also declares that the languages protected by the Statutes of Autonomy in the territories where they are traditionally spoken are also considered as regional or minority languages.

The following provisions of the Part III of the Charter will apply to the languages mentioned in the first paragraph:

Article 8:

- paragraph 1 sub-paragraphs a(i), b(i), c(i), d(i), e(iii), f(i), g, h, i.
- paragraph 2.

Article 9:

- paragraph 1, sub-paragraphs a(i), a(ii), a(iii), a(iv), b(i), b(ii), b(iii), c(i), c(ii), c(iii), d.
- paragraph 2, sub-paragraph a.
- paragraph 3.

Article 10:

- paragraph 1, sub-paragraphs a(i), b, c.
- paragraph 2, sub-paragraphs a, b, c, d, e, f, g.
- paragraph 3, sub-paragraphs a, b.
- paragraph 4, sub-paragraphs a, b, c.
- paragraph 5.

Article 11:

- paragraph 1, sub-paragraphs a(i), b(i), c(i), d, e(i), f(ii), g.
- paragraph 2.
- paragraph 3.

Article 12:

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

Article 13:

- paragraph 1, sub-paragraphs a, b, c, d.
- paragraph 2, sub-paragraphs a, b, c, d, e.

Article 14:

- sub-paragraph a.
- sub-paragraph b.

All the provisions of Part III of the Charter, which can reasonably apply according to the objectives and principles laid down in Article 7, will apply to the languages mentioned in the second paragraph.

Period covered: 1/8/2001 -

The preceding statement concerns Article(s): 2, 3, 7

Appendix II: Comments by the Spanish authorities



MINISTERIO
DE ASUNTOS
EXTERIORES Y DE
COOPERACIÓN

SECCIÓN DE
TRADUCCIÓN INVERSA E
INTERPRETACIÓN

CLASSIFIED

Comments pertaining to the Committee of Experts' report on the European Charter for Regional or Minority Languages submitted to the Committee of Ministers of the Council of Europe, pursuant to Article 16 of the Charter on 27th May 2005.

The Kingdom of Spain wishes to make the following observations and comments pertaining to the Committee of Experts' Report on the European Charter for Regional or Minority Languages, conveyed to the Spanish Representatives on 30th May 2005 (MIN-LANG (2005) 1).

1. Spain thanks the Committee of Experts for the recommendations concluding its report on the application of the European Charter for Regional or Minority Languages, and for the findings preceding them, which are detailed in Chapter 3 thereof.
2. Spain thanks the Committee for its recognition of the efforts made by the Spanish authorities in the sphere of protection of regional or minority languages, and is very pleased with the acknowledgement that the system adopted by these authorities grants "optimal" recognition to the co-official languages.
3. The report recognises that the degree of protection provided to regional or minority languages places Spain in the forefront of the European countries seriously committed to the protection and promotion of regional or minority languages, and points out that in many areas Spain has reached the highest undertakings, above the limit set in the Charter.
4. Given these considerations, Spain would like the following comments to be taken into account, with the aim of responding to, complementing or qualifying certain specific aspects on which the Committee has made statements, in the following paragraphs:

PARAGRAPH C:

As highlighted in the Committee's report, Spain's domestic legal framework regarding the territorial organisation of power, is that of a State in which sub-state bodies, especially Autonomous Communities, are granted a significant degree of autonomy, including legislative autonomy.

This form of organisation enables the promotion and defence of the right to use regional languages, because a large number of measures that should be taken to apply the Charter fall under the competences of the Autonomous Communities, which are the administrative bodies with the greatest interest in promoting their respective languages.

In addition, it must be borne in mind, as a general consideration, that the linguistic reality of Spain is particularly abundant, to the point that there may not be another State in Europe with such a large number of co-official languages.

However, this linguistic wealth is often compatible with complex situations, in which the personal interests of speakers coexist with administrative measures fostering and promoting languages. This is how the comment made in the report should be understood. In short, **the Spanish Government considers it appropriate to recall that the authorities can and must introduce formulas to enable and foster the promotion of regional or minority languages, but the fact that the effectiveness of these measures depends on voluntary acceptance by speakers cannot be overlooked.**

PARAGRAPH D:

As to the application of Article 9 of the European Charter for Regional or Minority Languages, attention must be drawn to Article 231 of the Organic Act on the Judiciary, already included in the report of 2002, with

reference to the provision of posts for judges and magistrates in the Autonomous Communities that have a co-official language. **When evaluating the merit or preference which the knowledge of that co-official language might entail, the Constitutional Court does NOT consider it an indispensable or “sine qua non” requirement.** This same philosophy imbues Article 431 of the Act, concerning the temporary filling of vacancies, and Article 483, as regards the selection of civil servants working for the Justice Administration.

PARAGRAPH F:

Current Spanish legislation, by virtue of Royal Decree 489/1997, dated 14th April, recognises that Acts, Royal Decree- Laws and Royal Legislative Decrees may also be published in the other official languages of the different Autonomous Communities, if the competent bodies in the respective Communities so decide.

To this purpose, there is a plan to sign cooperation agreements between the Spanish Government, through the BOE (Official Spanish Gazette), and the Governing Bodies of the Autonomous Communities, in order to cooperate in the translation, edition and distribution of publications.

To date, by virtue of this plan, Agreements have been signed with the *Generalitat* of Catalonia, with the *Xunta* of Galicia and with the *Generalitat* of Valencia. From 1998 to July 2005, 139 supplements with 2,255 provisions translated into Catalan and 94 supplements with 1,238 provisions translated into Galician, have been published. From 2001 to July 2005, 20 supplements with 271 provisions translated into Valencian have been published.

An Agreement was also signed with the Autonomous Community of the Balearic Islands, dated 4th December 2001, for subscribers to the BOE in Spanish to receive, free of charge, the edition in Catalan, which has been published since 1998.

PARAGRAPH G:

The special nature of the system of the judiciary career and the civil service is not considered a shortcoming in its internal structure, but an added plus that goes beyond exercising a right, and not an obligation imposed by Spain's ratification of the text of the European Charter. **The Spanish judicial system gives priority to access to justice, and promotes the action of justice without discrimination for reasons of language, thus not allowing this circumstance to paralyse in any case the handing down of justice in any area of the national territory.**

PARAGRAPH H:

As for the situation of the use of Basque in Vocational Training, the special nature of this training must be taken into account. Priority is accorded to professional placement over the mastery of a language, because business requirements are largely guided by professional competence.

PARAGRAPH K:

As regards the application of the Charter in the *Comunidad Foral de Navarra* (Autonomous Community of Navarre), the Spanish Government considers it necessary to recall the fact that the ratification of the Charter by Spain was effected with reference to the recognition of each of these languages in the relevant Statutes of Autonomy. **Therefore, extending the level of protection of Basque existent in the Basque-speaking zone to the territory of the mixed zone, as suggested in the Committee of Experts' report, would mean amending the menu of protection of Basque recognised in the legislation of the *Comunidad Foral de Navarra*, and accordingly, the terms of ratification by Spain.**

The Parliament of Navarre has debated during this last year the possibility of amending the Act on Basque and has reached the conclusion, with the majority support of the House, that: "In the area of Pamplona, a socio-linguistic study be made in the towns bordering the non-Basque-speaking area, in order to determine the situation after 20 years of the Act on Basque, and according to the results, either include or not some new towns in the area known as the mixed zone."

Spain believes that these considerations must be taken into account as regards paragraph 5 of the proposals for recommendations.

PARAGRAPH L:

Good note is taken of the experts' comments on the desirable increase in the offer of educational models essentially taught in regional or minority languages, and we restate the Government's great interest in this field. Progress in this regard has been outstanding in recent years, and is evidenced, for example, by the approval on 21st September 2004 of the *Plan General de Normalización de la Lengua Gallega* (General Plan for the Normalisation of the Galician Language). This Plan includes 445 measures to promote the use of Galician in different spheres. The general objective, as regards education, is to spread the use of Galician to all the levels of the educational system.

PARAGRAPHS N & O:

The concern expressed in the Committee of Experts' Report is understandable, because, indeed, at times the data required is difficult to obtain or, in some cases, very difficult to complete. It must also be borne in mind that the data provided in the report must be homogeneous for the whole country, and that the availability of data is different in each Autonomous Community.

Taking into account the difficulty of managing administrative data in a decentralised State, the Spanish Government has promoted the creation of specialised Statistical Committees, with the participation of the State and the 17 Autonomous Communities, attached to the Sectorial Conferences, which are the main bodies for cooperation between the State and the Autonomous Communities. Currently, this type of body exists in Agriculture, Health, Labour and Labour Affairs, and Education; and in 2005 they have also been set up in Environment and Culture. With these measures, it is expected that more complete data will be made available soon.

In addition, as a second measure promoted by the Spanish Government to improve statistical data, a new methodology has been designed in the Annual Statistical Programme approved by the Government at the end of each year. Thus, by 2006 a marked improvement will have taken place, as each statistical operation will reflect the type and manner of cooperation, if applicable, by the Autonomous Communities.

PARAGRAPH R:

The Government of the Autonomous Community of Aragon has already carried out the necessary prior studies for the forthcoming regulation in a single Act of the different languages spoken in its territory. The great differences between Catalan, a socially well-established language with a solid literary tradition, and Aragonese *Fabla*, with a very limited number of speakers and limited standardisation and literary use, undoubtedly explain why this bill has not yet been passed.

PARAGRAPH S:

As for the application of the Charter to the languages listed in this paragraph, the Spanish Government considers it necessary to recall the fact that the ratification of the Charter by Spain was carried out with reference to the recognition of each of these languages in the relevant Statutes of Autonomy. Therefore, the recognition of the protection this Charter offers these languages would mean amending the regime of protection of regional languages in Spain and, accordingly, the terms of ratification by Spain.

PARAGRAPH T:

As regards the comments made on the existing difficulties for the use of regional languages by the political institutions of the State, it must be pointed out that it is a gradual process, which must be considered as one of progressive incorporation.

In this respect, this gradual process has taken a further step in recent months, with the amendment of the Bye-laws of the Senate, passed on 4th July 2005, by virtue of which, as of next 1st September, the different regional languages may be used in the debates of the Senate's General Committee for the Autonomous Communities. Subsequently, the debates shall be published in the Senate's Journal of Sessions in the language in which the contribution was made, as well as in Spanish. Parliamentary initiatives in this House shall equally be processed in any of the co-official languages and shall be published in the corresponding languages.

Finally, in recent months, the Spanish Government has presented a Memorandum and has fostered a process so that regional languages recognised as co-official in any of the EU Member States may be

Comments by the Spanish authorities

recognised by the Community Institutions. The results of this process are the Conclusions adopted by the European Council held on 15th -16th June 2005, which cleared the way for the Spanish Government to sign agreements with the different institutions so that citizens may address them in the different co-official languages of Spain, and so that the members of the Spanish delegation to the different institutions may express themselves orally in their respective languages, with the Spanish Administration covering the financial costs of this measure.

With regard to the presence of regional or minority languages in the media, it is worth noting that practically all the State radio channels disconnect at times from the national programme in each of the Autonomous Communities and broadcast in its co-official language. In addition to stations owned by regional Governments, which usually broadcast in Spanish and/or the co-official language, the National Public Radio (RNE) has, for example, a radio station of its own (Radio Cuatro) broadcasting entirely in Catalan (8,800 hours per year).

The efforts of the National Public Radio (RNE) to contribute towards defending these languages has materialised in the broadcasting of 28 hours per week in Galician, 29 hours in Catalan for the Balearic Islands, 25 hours in Catalan for Catalonia in its general and news programmes, and the combination of the treatment of news in Spanish and the co-official language in the Basque Country, Navarre and the Valencian Community, the choice being up to the participants.

As for television, Spanish Public Television (RTVE) disconnects daily from the national programme in all the Autonomous Communities of Spain, broadcasting all its programmes during that disconnection in the co-official language wherever there is one. Thus, over 125 hours in Basque, 237 hours in Valencian/Catalan for the Valencian Community, 323 hours in Galician, 271 hours in Catalan for the Balearic Islands and 1,000 hours in Catalan for Catalonia are broadcast yearly.

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

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation RecChL(2005) 3 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Spain

*(Adopted by the Committee of Ministers on 21 September 2005
at the 938th 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 Spain on 9 April 2001;

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

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

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

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

1. take the necessary legal and practical measures needed to ensure the implementation of the undertakings under article 9 of the Charter, in particular by ensuring that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter has a working knowledge of the relevant languages;
2. review the recruitment, career and training schemes for the staff of the State administration offices with a view to ensuring that an adequate proportion of the staff in this field posted in the autonomous communities concerned by the application of Article 10 of the Charter has a working knowledge of the relevant languages;
3. strengthen the offer of education in Basque in the Basque Country, in particular with regard to secondary education and technical and vocational education;
4. adopt a structured approach, with a view to strengthening the use of Basque in the private electronic media in the Basque Country and in broadcasting in general in Navarra;
5. consider the possibility of applying an appropriate form of Part III protection to the Basque language within the "mixed zone" as defined by the legislation of Navarra;
6. strengthen the protection of Aragonese ("Fabra") and Catalan in Aragon, including establishing an appropriate legal framework.