

# **Annex to the 6th Report of the Republic of Austria pursuant to Article 25 (2) of the Framework Convention for the Protection of National Minorities**

**Comments by the National Minorities' Advisory Councils and National  
Minorities' Organisations**

Vienna, 2024

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# 1 Statement of the Chair of the Czech National Minority Advisory Council and its Deputy

In Resolution CM/ResCMN(2023)14 on the Implementation of the Framework Convention for the Protection of National Minorities by Austria, the Committee of Ministers listed the development of long-term, legally regulated solutions for minority language teaching in Vienna for the Czech and Slovak minority as the second point on the recommended immediate actions. This addresses the urgent concern of these two national minorities.

Still nothing has changed in terms of the different quality of the regulations of the school systems in the federal provinces of Vienna, Burgenland and Carinthia with regard to the national minorities living there since the report by the expert committee on the framework convention in 2002 for the Czech and Slovak national minorities. There is still no statutory protection for the funding for teachers that is currently available as a living subsidy and no covering of the operating costs per pupil that in this respect would mean equality between the members of national minorities living in Vienna with the members of the national minorities living in parts of Burgenland and Carinthia or even with the majority population.

There are no changes to the situation we set out in our statement in 2021 of bilingual national minority language education in Vienna being offered to members of the Czech and Slovak national minorities only in the schools run by the private Komenský School Association. For the pupils, this is linked to the financial burden of school fees, which must be charged to cover the school's operating costs.

Discussions with the competent Federal Ministry of Education, Science and Research have been ongoing since the end of May of this year. These discussions are about bilingual national minority language education for all national minorities in Vienna but also in other provincial capitals, which have no provision in this respect. The outcome of the discussions is still pending. It is not currently possible to determine whether they will lead to a change in the educational situation of members of the national minorities in Austria living in Vienna and other major cities.

In marginal number 70 of its 5th Report on the Situation in Austria, the Advisory Committee asked the authorities to consider an annual increase in the national minority funding. After the increase in the national minority funding in 2021 (doubling) roughly restored the purchasing power of the funding, which had not been changed for decades, it has since reduced again by more than 20% due to inflation. According to the 6th Report of the Republic of Austria, no further increases are planned. The National Minorities Advisory Councils have requested an adjustment in line with inflation. This is not an increase in funding, it is simply a maintenance of value. This is needed to keep the quality at the same level.

Further comments on the 5th Report on the Situation in Austria:

The passage on Article 6 cites the framework curriculum, which incorporates General Didactic Principle 6 and entered into force at the beginning of 2023. We do not feel that the addressing of the language, culture and history of the autochthonous national minorities mentioned there has yet been implemented.

## 2 Statement of the Croatian Cultural Association in Burgenland

The Croatian Cultural Association in Burgenland / Der Kroatische Kulturverein im Burgenland / Hrvatsko kulturno društvo u Gradišću is submitting a statement on the 6th Report of the Republic of Austria pursuant to Article 25(2) of the Framework Convention for the Protection of National Minorities, which was sent by the Federal Chancellery on 28 June 2024.

This statement relates to parts of the statement of the Carinthian Slovenes prepared by the Association of Carinthian Slovenian Lawyers / der Verein der Kärntner Slowenischen Juristen / Društvo koroških slovenskih pravnikov, as these cited statements are also applicable or relevant to the Croatian national minority:

### STATEMENT

#### **On the Introduction**

Despite the limited opportunity for feedback from the national minorities referred to in the introduction to the report, reference should be made to the fact that representatives of the national minorities show great interest in the report and are willing to engage in dialogue even in the short term.

“Numerous recommendations of the Committee of Ministers relate to actions, the implementation of which in the Republic of Austria should have been compulsory on the basis of Article 7 of the Austrian State Treaty, so for almost 70 years. The discussion on

most of the open problems has dragged on for decades without any noticeable progression being made.”<sup>1</sup>

### **On the awareness-raising measures for the results of the 5th monitoring cycle and the Framework Convention**

A key point is raising awareness about the Framework Convention among the members of the national minorities, the affected bodies and the public. This area is not effective and new, structured measures need to be defined and the implementation documented accordingly. We are not aware of authorities in administration (government, provinces and municipalities) referring to the Framework Convention.

From the state report, we can determine that only bodies and people who are involved in the creation of the report are informed. Greater transparency about which bodies were consulted and when about while preparing the various recommendations would clarify the earnestness of the efforts made by the individual bodies for the national minorities.

### **On Article 3**

“The Committee of Ministers has recommended a constructive dialogue with people and communities who have expressed an interest in protection by the Framework Convention. In the report there is only a reference to the fact that Austria has committed to apply the provisions of the Framework Convention exclusively to the 6 national minorities protected by the National Minorities Act.

According to the Austrian National Minorities Act, a national minority is recognised by a National Minority Advisory Council being set up for them. This is done through a regulation of the federal government, with no special procedure defined for this. Most recently, members of the Bosnian national minority expressed an interest in being recognised as a national minority. An application for this was rejected by the government with the justification that there must be broad political consensus about the recognition

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<sup>1</sup> Content consistent with the statement from the Carinthian Slovenes

of a national minority. This is problematic because the recognition or lack of recognition of a national minority is made to be dependent on the arbitrary, unverifiable decision of the government. Unlike for religious communities for which there are statutory regulations about the conditions under which they are to be recognised, there are no regulations for national minorities. Proceedings before the Austrian Constitutional Court relating to the Bosnian national minority are pending.”<sup>2</sup>

#### **On Article 4**

“The Committee of Ministers and the Advisory Committee have recommended expanding the mandate of the Ombud for Equal Treatment so it can act more effectively to prevent discrimination against members of national minorities. The report states that the Ombud for Equal Treatment is already able to address any type of ethnic discrimination, but is evidently little known among the members of the national minorities as there are hardly any proceedings relating to this.

There has recently been a proceeding before the Ombud for Equal Treatment relating to difficulties with the delivery of post that has had bilingual inscriptions. This is often delayed because of the bilingual inscription and received by the recipient with notes on it. The postal service stated that the problem had been able to be resolved and that they would reprogram the automatic reading machines so that place names in the national minority languages of Slovenian and Burgenland Croatian are recognised. However, the postal service did not wish to communicate this publicly, which is a shame.

It should also be noted, however, that the Ombud for Equal Treatment cannot replace a lack of statutory regulation.”<sup>3</sup>

“The national minority organisations have been demanding what is known as the right to legal action brought by representative entities to exercise collective national minority

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<sup>2</sup> Content consistent with the statement from the Carinthian Slovenes

<sup>3</sup> Content consistent with the statement from the Carinthian Slovenes



rights. On the occasion of the implementation of the EU Directive on legal action brought by representative entities (in the field of consumer protection), the Slovenian representation organisations made the following joint statement:

## STATEMENT

On the draft of a federal law passing a qualified establishment act (implementation amendment to the directive on legal action brought by representative entities)

The Federal Ministry of Justice sent the draft of a law on legal action brought by representative entities, or more specifically a draft of a Qualified Establishment Act for assessment.

The representative organisations of the Slovenian national minority are not establishments that would be considered to be qualified establishments in the sense of the draft law; they also do not pursue any objectives, the implementation of which would grant the qualified establishments a right to legal action brought by representative entities in the sense of the draft law. Nevertheless, the representative organisations of the Slovenian national minority feel compelled to make a statement on the draft law.

Members of the national minority are in many respects comparable to consumers or are even in a worse situation when it comes to a need for protection and an entitlement to protection.”<sup>4</sup>

There are numerous national minority rights that can individually not be implemented or can only be implemented with a great deal of difficulty. Here are some examples to exemplify the issue:

Schooling:

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<sup>4</sup> Content consistent with the statement from the Carinthian Slovenes

As recently as 2023, new curricula were passed according to which, contrary to the provisions of Section 16 of the Minorities School Act, among others, it should be possible to set the percentage of Slovenian teaching for children registered for bilingual teaching several hours a week lower than the percentage of teaching in German. The argument was that headteachers can still ensure that the teaching is provided in both languages to almost the same extent, although practitioners doubt the feasibility of this assertion. However, it is hard to imagine how parents are supposed to put up a fight if a headteacher does not follow this and teaching in Slovenian actually suffers.

Headteachers at bilingual schools should have a bilingual qualification.

There are still cases of this principle not being complied with. Parents have no opportunity to complain about this. Only the second and third-placed applicants have the opportunity to complain during the appointment procedure, but the national minority does not.

The question of whether preschool education has become part of primary teaching at least with the compulsory year of nursery and thus comes under the scope of Article 7 line 2 of the Austrian State Treaty has not been clarified. It is not reasonable for parents to have to undergo legal proceedings for their child to clarify the issue when it is clear that a decision would only be made once the child had already started primary school.

At the secondary level, there are no further provisions for continuous bilingual teaching and there is just language teaching, in some cases just one optional subject – English or Slovenian. This raises the question of whether in 2024 the entire compulsory schooling can be subsumed under the term “primary teaching” in the sense of Article 7 line 2 of the Austrian State Treaty. It is not reasonable for parents or pupils to have to undergo proceedings before the Constitutional Court to get a decision that the child in question will no longer benefit from even in the event that it is successful.

There are no rules regulating the qualification of bilingual nursery school teachers. This has a negative impact on the right to bilingual education in nurseries as there are no regulations anywhere for the conditions the nursery school teachers must meet in this regard. However, there are no conceivable proceedings that would exercise this right on an individual basis.

Official language:

Following a decision of the Higher Regional Court of Graz with regard to language in court, it has been clarified that all EU citizens are entitled to bring proceedings in Slovenian before the Regional Court of Klagenfurt/Celovec based on ECJ legislation (see the cases of Bickel and Franz, Grauel Rüffer/Pokorná). However, members of the Slovenian national minority in Carinthia may only do this if they come from one of the three bilingual court circuits. The remainder (the majority of the national minority) do not have this right. It is not reasonable to expect a litigant in civil or criminal proceedings to undergo costly intermediate proceedings to clarify whether this discrimination of nationals is permitted under constitutional law or not.

With regard to the official language used before administrative authorities, it is increasingly the practice not to have any official translations done when an application is made for the proceedings to be conducted in Slovenian, but rather to send the applicant translations done using Google Translate. These often only give a rough sense of the content of the German-language originals, but accuracy is essential for legal texts. It is not reasonable for those affected to undergo proceedings merely to clarify whether a translation done with Google Translate satisfies the requirements of the National Minorities Act.

In Burgenland, the Regional Administrative Court's position is that only submissions in the Burgenland Croatian variant of Croatian correspond to the "official Croatian language" by the letter of the law (Article 7 of the National Minorities Act). Submissions in "standard language" (Croatian) are not permissible (ruling of 25 August 2022). In the opinion of the association created, this differentiation does not have any (legal) basis, is entirely inappropriate and is discriminatory. It should be noted that, for example, penal orders issued by the district administrative authorities are regularly prepared in standard Croatian. Even in terms of the official language of German, nobody (in any case no court) would ever think to only permit submissions in "Austrian" German and make those in the German of Germany inadmissible.

There has also been no clarification about whether it is permissible to use Slovenian as an official language before the Public Employment Service, the Austrian Health Insurance Fund, the Chamber of Labour or the Chamber of Agriculture etc. Those in existential situations who require unemployment benefit, the services of a health insurance provider

or advice from the Chamber of Labour are not in a position to first dispute whether they are entitled to use the national minority language in this situation.

#### Topography:

The bilingual topography was regulated at a constitutional level in 2011, and the option to request bilingual copies via the circuitous route of making a complaint to the Constitutional Court no longer exists. Even the current legal situation has in practice by far not been fully implemented. Numerous bilingual signposts are missing, and unlike in Burgenland bilingual street names are entirely unknown in Carinthia. There is no option in terms of legal protection here, even though the prescribed legal situation is being disregarded.

There are many things that could be added to this list.

The examples illustrate that a right to legal action brought by representative entities is urgently needed for the representation organisations of the national minorities.”<sup>5</sup>

From a legal perspective, this could be regulated by an amendment to the proposed Qualified Establishments Act. According to the draft law, certain establishments can already be declared qualified establishments by law. There is nothing to prevent the representation organisations of the national minorities that have already been reviewed and are considered to be qualified as “representation organisations” in the sense of the National Minorities Act and are entitled to send members to the National Minority Advisory Councils and to lodge complaints about the composition of the advisory councils to the Federal Administrative Court from being put on the same level as qualified establishments by law. The possible complaints should be restricted to the exercise of the rights of national minorities. The Federal Administrative Court is recommended as the establishment before which the complaints would be handled, since, in accordance with the National Minorities Act the Federal Administrative Court is already the competent

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<sup>5</sup> Content consistent with the statement from the Carinthian Slovenes

court for processing complaints about the composition of the National Minority Advisory Councils.

Numerous national minority organisations have been asking for a right to legal action brought by representative entities for decades. If a law on legal action brought by representative entities were to be passed, this would be an opportunity to make it easier or in some areas even possible for both consumers and members of national minorities to exercise their rights.

The granting of a right to legal action brought by representative entities to the national minority organisations would be an extremely effective way of achieving equality for the national minorities. One significant problem currently is that in many areas (bilingual topography, official language) the option for the Slovenian national minority to exercise their rights as set out in the State Treaty is being curtailed by constitutional law. Awareness of this problem has already been raised multiple times. It is an abuse of the form of constitution since regulations have not been passed to provide special protection for minority rights, they are instead used to make the exercise of minority rights impossible.

This is why the Slovenian representation organisations have sent a petition to the competent Committee on Petitions of the European Parliament, as they see the lack of legal remedies as a breach of the rule of law. It is a form of discrimination if, despite rulings on this by the Constitutional Court, places that meet the criteria for bilingual place name signs do not get bilingual place name signs but have no legal remedies at their disposal to do anything about this. It is a blatant form of discrimination if a citizen who has won the right to use Slovenian as an official language in a given municipality or town (Eberndorf/Dobrla vas) for themselves but can no longer exercise this right because constitutional law has determined that the Slovenian language should no longer be authorised as an official language in this town, but they have no legal remedies to do anything about this.

In a number of cases there are no legal remedies at all, specifically in places where the state sector acts through private sector administrative facilities. One example of this is the publication of municipal newspapers. The Slovenian language is barely considered in this, and in any case not to an equal extent. An example of this is the municipality of

Sittersdorf/Žitara vas. Proceedings have been brought before the ombudsman but the outcome is still pending.”<sup>6</sup>

## **On Article 5**

“The Advisory Committee has recommended considering an annual increase in the national minority funding, checking the efficiency of the allocation procedure and ensuring that minority organisations also have access to sustainable, long-term basic funding.

The report states that no further increases are planned after the doubling of the national minority funding in 2021.

Automatic annual value adjustments are implemented in a number of other areas from pensions to politicians’ salaries. What the government called a “doubling” of the national minority funding in 2022 was in reality not a doubling, it was rather a value adjustment that was made much too late, as the national minority funding had not been increased since 1995. This “doubling” therefore only actually restored the national minority funding to the level that it had been in 1995. In order to ensure that what happened in the period from 1995 to 2022 does not happen again, it is crucial for the level of the national minority funding to increase incrementally and, as suggested, for an increase to be considered.”<sup>7</sup>

In order to improve the efficiency of the allocation procedure, there should be a regular exchange with the national minority organisations. The impact orientation as a specification from the authorities has broadly been positively received, but additional administrative burdens should be avoided. New observations must be made to be able to implement strategic, long-term projects without any risk.

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<sup>6</sup> Content consistent with the statement from the Carinthian Slovenes

<sup>7</sup> Content consistent with the statement from the Carinthian Slovenes

The effects of planned changes and improvements should be better analysed by the authorities with the representatives of the national minorities. Negative example: bringing forward the submission deadline for funding in 2025 by two months.

The negative trend in language use and the use of national minority languages in the public space lead us to the conclusion that too little is being done at the base (at the municipality level and in villages). From this, it can be determined that there is no comprehensive basic provision of qualified staff in the national minority organisations. The lack of incremental increases in the past 25 years has contributed to concerns about the survival of many organisations. The national minority groups representing the Croats are in a stabilisation phase and additional funds need to be channelled towards the structural development of the associations to enable a solid basic provision.

From the positive side, it should be noted that the operational processing and payment of the allocated funds for the basic subsidies has improved. Nevertheless, there are still restrictions on funding that, as far as we are aware, are not placed on the funding of the cultural sector, for example. The sustainability of the basic funding ultimately depends on the incremental increases requested.

Currently, approximately 30% of the funds are distributed without any recommendations from the advisory councils. Greater transparency about the composition of the committee making the decision and the assessment criteria is needed for this portion of the funding. A report should also be written on the projects that are funded.

“Article 5 also provides for refraining from all practices that have the goal of assimilating members of national minorities. The report does not expand on this at all.”<sup>8</sup>

## **On Article 6**

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<sup>8</sup> Content consistent with the statement from the Carinthian Slovenes

In terms of the information provided to the majority population about the diversity of national minorities, expectations for the framework curriculum that entered into force in 2023 are high. No positive effects are yet visible.

Public service broadcasting should increase content about topics that affect the national minorities in German for the majority population. Recommendations on this have been discussed in the Viewers' and Listeners' Council and the matter has been taken to the ORF (Austrian Broadcasting Corporation) leadership.

The House of National Minorities that is to be built in Oberwart is planned as a place for encounters. Visiting the House should be compulsory for school pupils in the area and visits should be recommended and facilitated for school pupils outside of the area.

### **On articles 7 and 8**

"The report states that there were no recommendations on this and the obligations in this area are met.

This is true in principle,

but reference should be made to the problem of the National Minority Advisory Councils in this area. They are viewed by the federal government as a de facto kind of national minority representation although they are not and have never been recognised as such.

The problem is set out in detail in the statement on the 5th State report, so reference is made to this to avoid repetition."<sup>9</sup>

Later developments in the council for the Slovenian national minority are more generally relevant: "In the meantime, the input for the Slovenian national minority has been rewritten. Important structures and associations within the national minority were again not taken into account. In particular, in the so-called "political senate" the members are

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<sup>9</sup> Content consistent with the statement from the Carinthian Slovenes



appointed without any transparent and verifiable criteria. The Council of Carinthian Slovenes/Der Rat der Kärntner Slowenen/Narodni svet koroških Slovencev filed a complaint about this to the Federal Administrative Court. In the meantime, the membership of the member proposed by the FPÖ has been revoked due to being unlawful. Nobody has yet been appointed to replace them. The composition of the National Minority Advisory Council has therefore been incorrect for half of its mandate period. The promised reform of the National Minority Advisory Councils, which was also set out in the federal government programme, has not taken place.”<sup>10</sup>

## **On Article 9**

The situation in the media remains almost entirely unchanged. There have been some positive developments at the Austrian Broadcasting Corporation, where national minorities have got additional broadcasting time on the radio and TV. The new TV programme “Wir” (“Us”), which broadcasts in all national minority languages across Austria is unique but has been demanded for a long time. The statutory obligation of the Austrian Broadcasting Corporation to expand programming in national minority languages to receive subsidies from the state (Austrian Broadcasting Corporation Act) is also new.

The multilingual radio show “MORA” for all three national minorities in Burgenland needs to be able to continue to expand its reach. The funding needed for this is currently not sufficient.

It is public institutions to train enough qualified journalists in the national minority languages, recruit them through special programmes and retain them in the long term with attractive offers.

The scope of the programmes in national minority languages still needs to be expanded compared to other European countries.

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<sup>10</sup> Content consistent with the statement from the Carinthian Slovenes

The protection of the weekly newspaper “Hrvatske novine” as a lead medium has been very positively received. There is, however, no legal protection for the funding. This legal gap should be closed as quickly as possible. Other media “Novi glas” and “Glasilo” – online or print, which are important for a diverse society are only funded by individual annual grants and are thus not protected in the long term.

### **On Article 10**

The Committee of Ministers and the Advisory Committee have recommended expanding the options for using the national minority language as an official language and in the judicial sector.

Reference is made to the explanations in the statement on the previous report, as there have been no relevant developments that would have promoted the use of Croatian as an official language. Reforms that would enable bilingual forms have failed to materialise. There are no plans for the ongoing or further training of officials in bilingualism.

We reject the historical deduction that there is barely any tradition of Croatian being used as a language in court. There are definitely historically proven cases of official acts being processed in Croatian. The Second Republic is not meeting its obligations arising from the State Treaty with regard to the official language, and no efforts are being made to actively promote it.

The provision of Croatian translations of the forms that are in German instead of the required bilingual forms is perceived as an affront and is rejected by the population.

### **On Article 11**

The Advisory Committee has recommended affixing additional inscriptions in minority languages.

In Burgenland, there are bilingual place name signs in some municipalities, but these are erected on a voluntary basis as a result of resolutions at a municipality level. The number of municipalities with an understanding of visible bilingualism is rising, but not all bilingual municipalities have got there.

The bilingual signs at train stations provided by the Austrian Federal Railways (ÖBB) is welcomed, ÖBB have highlighted, however, that this was done on a voluntary basis. The legal status with regard to topography does not correspond to the provisions of Article 7 of the Austrian State Treaty.

Reference is also made to the explanations in the statement on the previous report on this point too.

### **On Article 12**

The Advisory Committee has, among other things, recommended expanding the idea of bilingual teacher training to bilingual nurseries and checking the teacher training for bilingual lessons at all levels of education, including nurseries, regularly and effectively.

A legal entitlement to bilingual nursery education can be derived from Article 7 line 2 of the Austrian State Treaty. Extensive reforms are needed to the training of bilingual nursery school teachers as multilingual practice and the need in nurseries is not addressed. One language class in Croatian as an optional subject does not cover this need.

There is also a lack of bilingual nursery school teachers. A plan for increasing the attractiveness of the profession for members of national minorities should be created by the competent bodies.

The collaboration between the University College of Teacher Education Burgenland and the national minorities as part of the Forum4Burgenland created a positive atmosphere around improving the situation in terms of teacher training. This is the right approach and the collaboration should be increased. The acute lack of teachers at bilingual schools must be counteracted with targeted, joint measures.

### **On Article 13**

The calls for a sustainable continuation of the Komenský School for the Czech and Slovak national minorities is also unanimously supported by the Croatian organisation. It is incomprehensible that the operation of the Komenský School has not yet been financially protected for decades.

On 14 October 2023, the Coordination Committee of the Croatian Associations and Organisations passed a resolution to establish an education system based on the model of the Komenský School:

“...in light of the need for all-encompassing lessons and education in Croatian in the city of Vienna, we support the initiative to establish a bilingual education system of this type in Vienna.

We support the planned founding of a school association based on the model of the Komenský School, which has been successful for decades. We believe that the project to create a private, bilingual educational facility is the best way to preserve Croatian language and culture in Vienna. In a Europe of many languages in which Croatian is one of the official languages of the European Union, only a functioning, bilingual, Croatian-German education system can ensure the maintenance of the Croatian language and everything that goes with it in the form of a private facility “from nursery to final secondary school examinations”, in other words all levels of schooling from primary to secondary. ...”

An open dialogue between the competent representatives of the ministry and representatives of the national minorities is needed as the representatives of the national minority know the need and their own structures best. The successful Komenský School model should be applied to the other national minorities.

#### **On Article 14:**

The report does not state that it is possible to deregister from Croatian class at any time. This option of deregistering puts pressure on teachers only to give good marks despite a lack of progress in the language. The quality required for a defined level of skill in Croatian after attending primary school for four years is not being achieved.

The new statutory regulation providing that bilingual nursery school teaching has been included as part of the 15a agreement has been very positively received by the national minority organisations. The goal is for the increased channelling through the University College of Teacher Education Burgenland (for the province of Burgenland) for these purposes to result in new projects and achieve visible results in the municipalities.

Qualified bilingual afternoon care is not available everywhere in the area. In some municipalities, associations have tried to close this gap temporarily, but this is a drop in the ocean.

**On Article 15:**

The Committee of Ministers has recommended reforming the procedure for the composition of the National Minority Advisory Councils. This was also part of the government programme. Ensuring the presence of young people was also expressly recommended in order to limit the term of office of the members.

Unfortunately there is total political gridlock when it comes to these recommendations. Young people from the Croatian national minority in particular do not feel that they are sufficiently well represented, and they have filed complaints in writing when the councils were appointed but there has been no improvement.

**On Article 16:**

No recommendations

**On articles 17 and 18:**

It would be desirable for the cultural agreement between Croatia and Austria to be expanded.

For the Croatian Cultural Association in Burgenland / Der Kroatische Kulturverein im Burgenland / Hrvatsko kulturno društvo u Gradišću:

Mag. Josef Buranits    Mag. Helga Machtinger

Deputy Chair

Secretary

### 3 Statement of the Association of Carinthian Slovenian Lawyers

The Association of Carinthian Slovenian Lawyers / Der Verein der Kärntner Slowenischen Juristen / Društvo koroških slovenskih pravnikov was asked by the Council of Carinthian Slovenes / Rat der Kärntner Slowenen / Narodni svet koroških Slovencev to make a statement on the 6th Report by the Republic of Austria pursuant to Article 25(2) of the Framework Convention for the Protection of National Minorities, which was sent by the Federal Chancellery with the letter of 28 June 2024.

In accordance with the request, the following

STATEMENT is made:

#### **Preliminary remark:**

Even the introduction to the report states that the measures recommended by the Committee of Ministers cannot be implemented in the short term due to the legal implications, and there is also the problem that the time constraints mean a limited opportunity for feedback from the national minorities or their representatives.

These statements must unfortunately be labelled as simply an embarrassment. Numerous recommendations of the Committee of Ministers relate to actions, the implementation of which in the Republic of Austria should have been compulsory on the basis of Article 7 of the Austrian State Treaty, so for almost 70 years. The discussion on most of the open problems has dragged on for decades without any noticeable progression being made. Making the excuse that there is too little time to implement various measures legally is not an acceptable excuse. Indicating that there is too little time to obtain statements from representatives of the national minorities is equally not an acceptable excuse. They are always willing to enter into a dialogue even at very short notice, and the problem is that the federal government shows a marked disinterest in national minority topics and is not really interested in feedback.

### **On the measures taken to raise awareness of the results of the 5th monitoring cycle and the Framework Convention:**

There was no organised inclusion of the Slovenian national minority in the preparation of the report and there was no discussion about it either. The report states that all of the parties involved in the report's preparation have been notified of the findings and results of the fifth reporting period. In other words: the bodies that wrote the report were informed. The assumption can be made that these bodies are of course aware of the framework convention. Measures to increase awareness of the goals of the framework convention should, however, be implemented where the national minority actually lives. The assumption must unfortunately be made, however, that the majority of the authorities, mayors, courts etc. in the bilingual area are simply not aware of the framework convention. These groups must be informed about the framework convention itself and about the recommendations for its implementation.

### **On Article 3:**

The Committee of Ministers has recommended a constructive dialogue with people and communities who have expressed an interest in protection by the framework convention. In the report there is only a reference to the fact that Austria has committed to apply the provisions of the Framework Convention exclusively to the 6 national minorities protected by the National Minorities Act.

According to the Austrian National Minorities Act, a national minority is recognised by a National Minority Advisory Council being set up for them. This is done through a regulation of the federal government, with no special procedure defined for this. Most recently, members of the Bosnian national minority expressed an interest in being recognised as a national minority. An application for this was rejected by the government with the justification that there must be broad political consensus about the recognition of a national minority. This is problematic because the recognition or lack of recognition of a national minority is made to be dependent on the arbitrary, unverifiable decision of the government. Unlike for religious communities for which there are statutory regulations about the conditions under which they are to be recognised, there are no regulations for national minorities. Proceedings before the Austrian Constitutional Court relating to the Bosnian national minority are pending.

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The Committee of Ministers and the Advisory Committee have recommended expanding the mandate of the Ombud for Equal Treatment so it can act more effectively to prevent discrimination against members of national minorities. The report states that the Ombud for Equal Treatment is already able to address any type of ethnic discrimination, but is evidently little known among the members of the national minorities as there are hardly any proceedings relating to this.

There has recently been a proceedings before the Ombud for Equal Treatment relating to difficulties with the delivery of post that has had bilingual inscriptions. This is often delayed because of the bilingual inscriptions and received by the recipient with notes on it. The postal service stated that the problem had been able to be resolved and that they would reprogram the automatic reading machines so that place names in the national minority languages of Slovenian and Burgenland Croatian are recognised. However, the postal service did not wish to communicate this publicly, which is a shame.

It should also be noted, however, that the Ombud for Equal Treatment cannot replace a lack of statutory regulation.

The national minority organisations have been demanding what is known as the right to legal action brought by representative entities to exercise collective national minority rights. On the occasion of the implementation of the EU Directive on legal action brought by representative entities (in the field of consumer protection), the Slovenian representation organisations made the following joint statement:

#### **“STATEMENT**

On the draft of a federal law passing a qualified establishment act (implementation amendment to the directive on legal action brought by representative entities)

The Federal Ministry of Justice sent the draft of a law on legal action brought by representative entities, or more specifically a draft of a Qualified Establishment Act for assessment.

The representation organisations of the Slovenian national minority are not establishments that would be considered to be qualified establishments in the sense of



the draft law; they also do not pursue any objectives, the implementation of which would grant the qualified establishments a right to legal action brought by representative entities in the sense of the draft law. Nevertheless, the representation organisations of the Slovenian national minority feel compelled to make a statement on the draft law.

Members of the national minority are in many respects comparable to consumers or are even in a worse situation when it comes to a need for protection and an entitlement to protection.

There are numerous national minority rights that can individually not be implemented or can only be implemented with a great deal of difficulty. Here are some examples to exemplify the issue:

#### Schooling:

As recently as 2023, new curricula were passed according to which, contrary to the provisions of Section 16 of the Minorities School Act, among others, it should be possible to set the percentage of Slovenian teaching for children registered for bilingual teaching several hours a week lower than the percentage of teaching in German. The argument was that headteachers can still ensure that the teaching is provided in both languages to almost the same extent, although practitioners doubt the feasibility of this assertion. However, it is hard to imagine how parents are supposed to put up a fight if a headteacher does not follow this and teaching in Slovenian actually suffers.

Headteachers at bilingual schools should have a bilingual qualification. There are still cases of this principle not being complied with. Parents have no opportunity to complain about this. During the appointment procedure it is also only the second and third-placed applicants who have the opportunity to complain, but the national minority does not.

The question of whether preschool education has become part of primary teaching at least with the compulsory year of nursery and thus comes under the scope of Article 7 line 2 of the Austrian State Treaty has not been clarified. It is not reasonable for parents to have to undergo legal proceedings for their child to clarify the issue when it is clear that a decision would only be made once the child had already started primary school.

At the secondary level, there are no further provisions for continuous bilingual teaching and there is just language teaching, in some cases just one optional subject – English or

Slovenian. This raises the question of whether in 2024 the entire compulsory schooling can be subsumed under the term “primary teaching” in the sense of Article 7 line 2 of the Austrian State Treaty. It is not reasonable for parents or pupils to have to undergo proceedings before the Constitutional Court to get a decision that the child in question will no longer benefit from even in the event that it is successful.

There are no rules regulating the qualification of bilingual nursery school teachers. This has a negative impact on the right to bilingual education in nurseries as there are no regulations anywhere for the conditions the nursery school teachers must meet in this regard. However, there are no conceivable proceedings that would exercise this right on an individual basis.

Official language:

Following a decision of the Higher Regional Court of Graz with regard to language in court, it has been clarified that all EU citizens are entitled to bring proceedings in Slovenian before the Regional Court of Klagenfurt/Celovec based on ECJ legislation (see the cases of Bickel and Franz, Grauel Rüffer/Pokorná). However, members of the Slovenian national minority in Carinthia may only do this if they come from one of the three bilingual court circuits. The remainder (the majority of the national minority) do not have this right. It is not reasonable to expect a litigant in civil or criminal proceedings to undergo costly intermediate proceedings to clarify whether this discrimination of nationals is permitted under constitutional law or not.

With regard to the official language used before administrative authorities, it is increasingly the practice not to have any official translations done when an application is made for the proceedings to be conducted in Slovenian, but rather to send the applicant translations done using Google Translate. These often only give a rough sense of the content of the German-language originals, but accuracy is essential for legal texts. It is not reasonable for those affected to undergo proceedings merely to clarify whether a translation done with Google Translate satisfies the requirements of the National Minorities Act.

There has been no clarification about whether it is permissible to use Slovenian as an official language before the Public Employment Service, the Austrian Health Insurance Fund, the Chamber of Labour or the Chamber of Agriculture etc. Those in existential situations who require unemployment benefit, the services of a health insurance provider

or advice from the Chamber of Labour are not in a position to first dispute whether they are entitled to use the national minority language in this situation.

#### Topography:

The bilingual topography was regulated at a constitutional level in 2011, and the option to request bilingual copies via the circuitous route of making a complaint to the Constitutional Court no longer exists. Even the current legal situation has in practice by far not been fully implemented. Numerous bilingual signposts are missing, and unlike in Burgenland bilingual street names are entirely unknown in Carinthia. There is no option in terms of legal protection here, even though the prescribed legal situation is being disregarded.

There are many things that could be added to this list.

The examples illustrate that a right to legal action brought by representative entities is urgently needed for the representation organisations of the national minorities.

From a legal perspective, this could be regulated by an amendment to the proposed Qualified Establishments Act. According to the draft law, certain establishments can already be declared qualified establishments by law. There is nothing to prevent the representation organisations of the national minorities that have already been reviewed and are considered to be qualified as “representation organisations” in the sense of the National Minorities Act and are entitled to send members to the National Minority Advisory Councils and to lodge complaints about the composition of the advisory councils to the Federal Administrative Court from being put on the same level as qualified establishments by law. The possible complaints should be restricted to the exercise of the rights of national minorities. The Federal Administrative Court is recommended as the establishment before which the complaints would be handled, since, in accordance with the National Minorities Act the Federal Administrative Court is already the competent court for processing complaints about the composition of the National Minority Advisory Councils.

Numerous national minority organisations have been asking for a right to legal action brought by representative entities for decades. If a law on legal action brought by representative entities were to be passed, this would be an opportunity to make it easier

or in some areas even possible for both consumers and members of national minorities to exercise their rights.

The granting of a right to legal action brought by representative entities to the national minority organisations would be an extremely effective way of achieving equality for the national minorities. One significant problem currently is that in many areas (bilingual topography, official language) the option for the Slovenian national minority to exercise their rights as set out in the State Treaty is being curtailed by constitutional law. Awareness of this problem has already been raised multiple times. It is an abuse of the form of constitution since regulations have not been passed to provide special protection for minority rights, they are instead used to make the exercise of minority rights impossible.

This is why the Slovenian representation organisations have sent a petition to the competent Committee on Petitions of the European Parliament, as they see the lack of legal remedies as a breach of the rule of law. It is a form of discrimination if, despite rulings on this by the Constitutional Court, places that meet the criteria for bilingual place name signs do not get bilingual place name signs but have no legal remedies at their disposal to do anything about this. It is a blatant form of discrimination if a citizen who has won the right to use Slovenian as an official language in a given municipality or town (Eberndorf/Dobrla vas) for themselves but can no longer exercise this right because constitutional law has determined that the Slovenian language should no longer be authorised as an official language in this village, but they have no legal remedies to do anything about this.

In a number of cases there are no legal remedies at all, specifically in places where the state sector acts through private sector administrative facilities. One example of this is the publication of municipal newspapers. The Slovenian language is barely considered in this, and in any case not to an equal extent. An example of this is the municipality of Sittersdorf/Žitara vas. Proceedings have been brought before the ombudsman but the outcome is still pending.

#### **On Article 5:**

The Advisory Committee has recommended considering an annual increase in the national minority funding, checking the efficiency of the allocation procedure and ensuring that minority organisations also have access to sustainable, long-term basic funding.

The report states that no further increases are planned after the doubling of the national minority funding in 2021.

Automatic annual value adjustments are implemented in a number of other areas from pensions to politicians' salaries. What the government called a "doubling" of the national minority funding in 2022 was in reality not a doubling, it was rather a value adjustment that was made much too late, as the national minority funding had not been increased since 1995. This "doubling" therefore only actually restored the national minority funding to the level that it had been in 1995. In order to ensure that what happened in the period from 1995 to 2022 does not happen again, it is crucial for the level of the national minority funding to increase incrementally and, as suggested, for an increase to be considered.

We are still not at a point where the allocation procedure can be considered to be efficient. The allocation procedure via the National Minority Advisory Council is cumbersome and linked to numerous bureaucratic requirements. This type of funding also risks leading to a splitting of the national minorities into numerous small and tiny groups to compete for the funds to be allocated. Larger or long-term projects are therefore impossible or very difficult to be implemented. It would be better for the allocation of the funds available to be left to the representation organisations of the national minorities, of course with public scrutiny.

Basic funding of this type also often fails because of the requirement for annual, project-related accounting.

Article 5 also provides for refraining from all practices that aim to assimilate members of national minorities. The report does not expand on this at all.

The report gives the number of Carinthian Slovenes according to the last census when a question about language was asked (12,586) without mentioning that in the first census carried out during the monarchy this figure was still over 100,000, without mentioning that at the time of the referendum in 1920 this figure was still around 65,000 and without mentioning that the vast majority of the decline in numbers ultimately occurred during the Second Republic. In the past 20 years since censuses have been asking about language, there has been a decline of around 25% (the figure was 16,552 in 1981). In September 2022, an OGM study was commissioned on behalf of the Federal Chancellery, on the basis of which it is plausible that this figure has now dropped below 10,000. In light

of this alarming development, countermeasures are urgently needed to prevent the national minority from disappearing, but they are not being taken.

We cannot speak of voluntary assimilation, since, contrary to the obligations set out in the State Treaty, no bilingual environment has been created in the bilingual area and the preservation of the Slovenian language and the Slovenian ethnic identity is associated with significant challenges for children from bilingual families. The greatest deficits in this area can be seen in preschool education, secondary-level schooling and public bilingualism, which is still only done where it is specifically requested and by no means is a matter of course. A programme with the express goal of “re-assimilation” is urgently needed to maintain the national minority, particularly in municipalities in which only small numbers of the national minority can be found, such as in Gailtal/Zilja or the district of Völkermarkt/Velikovec north of the Drava river.

#### **On Article 6:**

The report addresses measures to prevent hate crimes in detail, but this approach does not go far enough. In the election for the Carinthia State Parliament in 2023, one political party (FPÖ – Freedom Party of Austria) warned extensively about the “Slovenianisation” of Carinthia, which is absurd given the trend in terms of numbers of the national minority. On the Day of Intercultural Dialogue in Styria/Steiermark/Štajerska of all days, members of the same political party called to make the country German again, which brings back memories of slogans from the Nazi era. It is too infrequently emphasised that attitudes like this are unacceptable for a political party that even has aspirations to the Chancellery. Calls to the state prosecution service to do something about it were put aside.

In terms of the information provided to the majority population about the diversity of national minorities, it should be noted that there has been a very positive change in the atmosphere between the national minorities in the past few years in Carinthia/Kärnten/Koroška. This change remains superficial in terms of a positive fundamental attitude towards the national minority but without in-depth background knowledge. There is no discussion of the more recent history, such as the dispute around the town signs or the national minorities conflict of the 1970s and 1980s. As a consequence, this prevents an understanding of the need for further measures to ensure that the national minority is maintained. Political measures that are needed are not implemented as a result.

### **On articles 7 and 8:**

The report states that there were no recommendations on this and the obligations in this area are met.

This is true in principle, but reference should be made to the problem of the National Minority Advisory Councils in this area. They are viewed by the federal government as a de facto kind of national minority representation although they are not and have never been recognised as such.

The problem is set out in detail in the statement on the 5th state report, so reference is made to this to avoid repetition.

In the meantime, the Advisory Council for the Slovenian national minority has been newly appointed. Important structures and associations within the national minority were again not taken into account. In particular, in the so-called “political senate” the members are appointed without any transparent and verifiable criteria. The Council of Carinthian Slovenes/Der Rat der Kärntner Slowenen/Narodni svet koroških Slovencev filed a complaint about this to the Federal Administrative Court. In the meantime, the membership of the member proposed by the FPÖ has been revoked due to being unlawful. Nobody has yet been appointed to replace them. The composition of the National Minority Advisory Council has therefore been incorrect for half of its mandate period. The promised reform of the National Minority Advisory Councils, which was also set out in the federal government programme, has not taken place.

### **On Article 9:**

The situation in the media in terms of the Austrian Broadcasting Corporation remains unchanged. The scope of the programmes in Slovenian could be improved compared to the scope of programmes in national minority languages in other European countries.

It is true that the increase in national minority funding has eliminated the existential threat that the national minority newspaper “NOVICE” had been facing for years. One criticism, though, is that only one “lead medium” has been defined for each national minority, as stated in the report too. While it is a matter of course for the majority population to be able to access a plurality of media (which is ultimately essential in a democratic society), only one “lead medium” is planned for the national minorities. The

problems, particularly financial ones, for the remaining media persist. For the Carinthian Slovenes, questions must be asked about why the church newspaper “NEDELJA”, which is steeped in tradition and is produced in a high quality, does not receive any corresponding funding, and also why it is not possible to fund RADIO AGORA too. There is also a need for media aimed at young people specifically. There is no medium that appeals to members of the national minorities that is published at least monthly or every two months in the form of a magazine. While it is possible for the majority society to access detailed background information on certain problems from any topic without any problems, this option is not available for topics relevant to national minorities.

#### **On Article 10:**

The Committee of Ministers and the Advisory Committee have recommended expanding the options for using the national minority language as an official language and in the judicial sector. These recommendations have not been implemented.

A reform of the bilingual jurisdiction in Carinthia was even part of the government programme. This has not been implemented even though a draft was submitted about it that was welcomed by the national minority. It would be necessary to expand the territorial scope and it would be necessary to facilitate the option of using Slovenian in practice too. Ultimately it would be necessary to clarify that all members of the national minority are entitled to use the Slovenian language in court before the Regional Court of Klagenfurt/Celovec.

The assertion in the report that there have been no proceedings before the Regional Court of Klagenfurt/Celovec in Slovenian is plainly and simply incorrect.

In an appeal decision, the Higher Regional Court of Graz determined that all EU citizens are entitled to use Slovenian as a language before the Regional Court of Klagenfurt/Celovec. This is also applied in practice, and there are now at least three proceedings in which Slovenian citizens have been allowed to use Slovenian as a language before this court and the proceedings were carried out as bilingual proceedings. This means there is a situation in which Carinthian Slovenes are being discriminated against over EU citizens as the Carinthian Slovenes can only use Slovenian as a language before the Regional Court of Klagenfurt/Celovec if they live in one of the three bilingual court circuits or one of these court circuits would theoretically have local competence. Two thirds of the members of the national minority are effectively excluded from the option to



use Slovenian as a language in court. This is an inadmissible discrimination and contradicts the principle of equality even though this is protected under constitutional law in Austria and therefore cannot be opposed by the national minority.

In terms of bilingualism before the district courts, there is only one judge at the three bilingual courts who actually speaks Slovenian himself. This judge will be retiring shortly, and then there are fears that the bilingual jurisdiction will exist on paper only.

Even before the three bilingual courts the bilingual jurisdiction effectively does not work. Bilingual minutes are only prepared if this is specifically requested, and with delays of months. If order for payment procedures or applications for execution are submitted in Slovenian, the petitioners are regularly asked if they would be able to send a German version as this would accelerate the processing. If this does not happen and reference is made to the legal position, this results in waiting times of weeks or even months, which is associated with disadvantages for the applicant (particularly in the case of enforcement procedures) as other creditors may come before them in the meantime. Since holding the proceedings in Slovenian therefore continues to be associated with various disadvantages, this also explains the relatively low number.

The proposed reform that was already submitted as a draft would have mostly eliminated these problems. The implementation of the reform was prevented at a local politics level for non-objective reasons. Suddenly the significance of the smaller courts for the rural area was discovered, while everywhere else in Carinthia and in Austria courts of this type have long been being disbanded for organisational, quality and financial reasons. The argument of regionality was made to prevent the actual goal, namely the expansion and improvement of the bilingual jurisdiction.

In response to the suggestion of enabling, by means of a decree according to Article 13(3) of the National Minorities Act, the authorisation of Slovenian as a language for all parties before the Regional Court of Klagenfurt/Celovec, the President of the Regional Court answered that in his opinion this would be an interference in the decision-making powers of the judges. It currently seems to be the case that each judge would be entitled to permit proceedings to be held in Slovenian according to Article 13(3) of the National Minorities Act, but this requires an application to be submitted by one of the parties and there is no legal remedy against this being refused. The situation in terms of the bilingual jurisdiction is therefore overall highly unsatisfactory and requires urgent reform.

In terms of the use of Slovenian as an official language before administrative authorities, the situation is unchanged since the statement on the previous report, or has even worsened in some cases. In the statement on the report by the Carinthian State Government on the situation for the Slovenian national minority, the following was set out:

“The report does not discuss the problem of why the Slovenian language is only permitted as an official language in 14 or with reservations 16 municipalities out of 36 at all. In the reporting period it was indeed stated that the province provided bilingual forms that should be accessible to all, and a digitalisation project was implemented using the example of the municipality of Globasnitz/Globasnica. In the presentation and more generally to this day it has remained unclear whether this service is available in all bilingual municipalities or only those officially recognised. No examples are known to date of a bilingual municipality that is not officially recognised making use of this option.

Paragraph 13 (3) of the National Minorities Act should be mentioned specifically in this context. Every Austrian citizen has the option to permit the Slovenian language as an official language if this “promotes exchange with the parties”. This is fundamentally assumed to be the case. There is no clear recommendation from the Province of Carinthia/Kärnten/Koroška to all municipalities at least in the bilingual area if not the entire Province of Carinthia/Kärnten/Koroška to make use of this option. In the sense of Article 8(2) of the Federal Constitutional Law, we can even assume that there is a legal entitlement to this, so the optional provision in Paragraph 13 (3) of the National Minorities Act can thus be interpreted as a mandatory provision.

While there is sadly a lack of positive examples, numerous negative examples can be listed.

The report cites a business procedure before the district administrative authorities in Völkermarkt/Velikovec in which it was determined that the Slovenian language should be used and this was then implemented. In procedures on the same topic, decisions were also issued in Slovenian as part of regional planning and construction law procedures, and the translation of the documents available for inspection was requested in advance in the regional planning procedures. This was refused by the municipality of Bleiburg/Pliberk. A statement was made by the province indicating that the use of Slovenian is permitted in

these procedures but is not necessarily prescribed. In light of Article 7 line 3 of the Austrian State Treaty and Article 8 (2) of the Federal Constitutional Law this statement is not comprehensible, and a complaint was filed. It took months for the municipality of Bleiburg/Pliberk to be able to submit the complaint, which was written in Slovenian, to the Regional Administrative Court, and the procedure is still pending after almost two years. The building that is the subject of the procedure is now complete. This is how all effectiveness can be removed from the permissible legal remedies.

Penal orders have been received by the district administrative authorities in Klagenfurt-Land/Celovec-dežela in which the content of the Slovenian version deviated significantly from the German version. Various pre-printed forms were used, and where they looked somewhat similar they were used as text components for the Slovenian version of the decision. The Regional Administrative Court revoked these penal orders.

Entries made by the party also before the Klagenfurt-Land/Celovec-dežela district administrative authorities were translated into German using Google Translate and included word-for-word in the decision. The result was disastrous right from the form of address: The form of address “Spoštovani” (which corresponds to “Sir or Madam”) was translated as “dear”, and the text continued in that manner. This makes a mockery of Slovenian as an official language. The Regional Administrative Court confirmed the sentence imposed because the penal order was written correctly later on, but very clearly criticised the approach adopted by the Klagenfurt-Land/Celovec-dežela district administrative authorities in its decision.

After the Province of Carinthia/Kärnten/Koroška introduced the bilingual forms, the newspaper “Novice” ran a survey in the bilingual municipalities to determine whether these forms were being used. The employees in multiple bilingual municipalities (namely Ebenthal/Žrelec and St. Margareten im Rosental/Šmarjeta v Rožu) initially stated that this did not affect them as they were not officially recognised bilingual municipalities. It is shocking that bilingual municipalities do not know that they are legally recognised bilingual municipalities 69 years after the Austrian State Treaty and 47 years after the Official Language Ordinance. It therefore currently seems to be wishful thinking to expect “officially monolingual” municipalities such as Völkermarkt/Velikovec or Hermagor/Šmohor to use Slovenian, which they could according to Paragraph 13 (3) of the National Minorities Act. In May 2024, the President of Slovenia visited the municipality of Völkermarkt/Velikovec, and this could have been a cause to (at least symbolically) declare

that Slovenian would be authorised as an official language from that point onwards (and maybe to put up a small sign with a Slovenian inscription), but this was not possible.

Unlawful references to the fact that only German is authorised as an official language before the district administrative authorities continue to appear in decisions from all these authorities in the bilingual area. This even happens in procedures in which a decision in Slovenian is issued at the same time. Reference has been made to this for years. It is astounding that this unlawful approach has not yet been eliminated. Instead of being proud of offering administrative activities in multiple languages, attempts are made to deter applicants by using unlawful references. It should also be noted with criticism that attention has been drawn to this issue multiple times without any reaction from the province or an authority. Since there are no legal remedies to prevent this incorrect information, it is clearly irrelevant to everyone involved. An appreciation of the national minority would look different.

After there having been some improvements in the past few years, last year there have been strange place names such as “v Klagenfurtu”, “v Villachu” and similar in the Slovenian-language versions of the decisions even in procedures also held in Slovenian. There are Slovenian names for all of these places, and if Slovenian is used as an official language then the Slovenian name for the place should be used (even if there are no bilingual signposts).

In the newspapers of the municipalities in the bilingual area, the Slovenian language is only used marginally even in bilingual municipalities. There is no legal entitlement to this as it is a private sector administrative activity. Nevertheless, this contradicts the spirit of Article 7 line 3 of the Austrian State Treaty and also the state objective provision of Article 8 of the Federal Constitutional Law. Proceedings are pending before the ombudsman using the example of the municipality of Sittersdorf/Žitara vas. Despite multiple requests by the ombudsman, the municipality has not yet issued a statement.”

Reference is also made to the explanations in the statement on the previous report on this point.

#### **On Article 11:**

The Advisory Committee has recommended installing additional inscriptions in minority languages.

The report makes reference to the fact that the municipalities of Feistritz im Rosental/Bistrica v Rožu, St. Jakob im Rosental/Šentjakob v Rožu and Sittersdorf/Žitara vas have voluntarily passed resolutions on bilingual inscriptions. With regard to the municipality of St. Jakob im Rosental/Šentjakob v Rožu, it should be noted that the bilingual designations about which the resolutions were passed have not been implemented on a single signpost. It is therefore not correct that all 22 towns and villages in the municipality have bilingual signs; this is not true for the signposts leading there, including signposts on the motorway. Unlike in Burgenland, there are no bilingual place name signs anywhere in Carinthia/Kärnten/Koroška.

The report also makes reference to the fact that the ÖBB (Austrian Federal Railways) has put bilingual signs in train stations. It is correct that additional bilingual signage has been provided for the train station in Bleiburg/Pliberk, which is of course welcome. There is still no bilingual signage in Rosenbach/Podrožca station, though, where there are also bilingual place name signs. There is also no bilingual naming of the destinations in the buses operated by the ÖBB, even if they are going to towns with bilingual place name signs.

In the statement on the report by the Carinthian State Government on the situation for the Slovenian national minority in 2023, the following was set out with respect to this point:

“No single additional bilingual place name sign has been put up since the last report, and there are also no additional bilingual signposts. While in the past the criticisms made in the statement on the report by the provincial government always used to be addressed and in individual cases additional bilingual signs were erected, this has ceased happening recently. Interest in the topic has tailed off markedly. The authorities act as if the problem had been solved.

It has not. There are currently 184 towns and villages with bilingual signs. Based on the judicature of the Constitutional Court before the reform in 2011 it should be around 370, and if you take the Austrian State Treaty from 1955 seriously then it should be around 840.

There have been positive trends in individual municipalities, where the setting up of additional bilingual signs is supported. Unfortunately, these efforts fail at the individual municipal councils even if the majority within the municipality are in favour. No party (of the majority population) is willing to risk a conflict within their party over the issue of

bilingual place name signs. This has resulted in a failure to erect additional bilingual place name signs in at least four municipalities in which it is known that in principle the majority of the municipal council has nothing against it.

This shows the absurdity of the so-called “opening clause”, which in reality is not this at all. Respect for and implementation of minority rights is made dependent on whether the majority agrees. This is precisely the opposite of which minority rights fundamentally mean. Minority rights are called that because they can never be made dependent on the majority agreeing with it. They are meant to protect the rights of the minority. The theoreticians behind the “opening clause” from 2011 misjudged this underlying problem of minority protection and ensured that it is possible in some southern Carinthian municipalities for two or three municipal councils led by SPÖ (Social Democratic Party of Austria) or ÖVP (Austrian People's Party) (the FPÖ should not be discussed in this context) to prevent a fundamental right of the national minority recognised under international law and constitutional law from being implemented. In this context, too, it is important to emphasise that it is a cheap excuse to point to the fact that the federal legislature did not intend for this. Despite the existing legal situation, which is contrary to international law because it is not consistent with Article 7 of the Austrian State Treaty, it is possible to create a legally compliant situation if the will for this is there in the individual municipalities. It does not say anywhere that you cannot erect bilingual place name signs, but since 2011 it has no longer been a requirement to erect them.

It should be emphasised that this also applies to bilingual street signs and other topographical signs. Making them bilingual is not prohibited. The legal situation in Burgenland/Gradišče is therefore no different from that in Carinthia/Kärnten/Koroška. A quick look at the municipality of Trausdorf/Trajštof shows that it is easily possible to make all of the signs bilingual. It is not possible to understand why the assertion is being made in Carinthia that this is not legally possible when this is very much possible in Burgenland on the basis of the entirely identical legal situation according to the National Minorities Act.

Since the province made the objection that bilingual inscriptions would be supported anyway but they could not order the municipalities to do so because of the autonomy of the municipalities, the comment that the province itself is responsible for the vast majority of the signposts and signs through the public roads administration is permitted. The province should be asked to lead with a good example, and reference should again be made to the fact that using bilingual signs is permitted even if it is not required. The

Province of Carinthia/Kärnten/Koroška can clearly and unequivocally commit itself to the Slovenian national minority (and not just with empty words without any consequences). The ruling parties can overcome their fear of an eternal German national opposition party. If you want to wait until the final German national has been converted into someone promoting international understanding it will be too late.“

Reference is also made to the explanations in the statement on the previous report on this point.

### **On Article 12:**

The Advisory Committee has, among other things, recommended expanding the idea of bilingual teacher training to bilingual nurseries and checking the teacher training for bilingual lessons at all levels of education, including nurseries, regularly and effectively. This has not happened. Although a legal entitlement to bilingual nursery education can be derived from Article 7 line 2 of the Austrian State Treaty, there are still no regulations on the training of bilingual nursery school teachers. Slovenian continues to be offered as an optional subject only. There are no verifiable criteria for who can call themselves a bilingual nursery school teacher, there is no evidence of qualification and there is also no additional pay to compensate for the additional training. The criticism has been known for years and for decades, but nothing has changed.

Until the training of nursery school teachers is regulated, comprehensive introduction of bilingual nurseries across the entire bilingual area will continue to fail because of the fact that there are not enough appropriately qualified teachers and it is not possible to verify whether there is an appropriate number of necessary staff because no criteria have even been defined.

In terms of teacher training, the fact that it is still only possible at the University College of Teacher Education Carinthia/Kärnten/Koroška should be viewed critically, and at the same time Slavic studies has been abolished at the University of Klagenfurt/Celovec and Slavic studies is not based in Graz/Gradec. This range of university courses does not sufficiently take into account the needs of the national minority.

There are not enough bilingual staff in nursery school teacher training. Efforts to employ teachers from other EU countries, particularly Slovenia, primarily as native speakers of Slovenian have been consistently torpedoed by the competent authorities due to the

requirement to show C1 level German skills even though the plan is not for them to use German. This criterion does not apply to Austrian citizens, so the requirement is discriminatory under Union law.

We will say once again that knowledge of the culture, history and language of the Slovenian minority in Carinthia/Kärnten/Koroška can best be taught to all pupils in the bilingual area attending bilingual lessons or the current registration principle at least being replaced by a deregistration principle. Reference is also made to the explanations in the statement on the previous report. When almost half of children are registered for bilingual lessons, it is hard to understand why the system of bilingual lessons, which should fundamentally be preferred, is still disadvantaged by parents specifically having to choose this system and not the other way around.

#### **On Article 13:**

In connection with the Komenský School for the Czech and Slovak national minority, the Slovenian national minority emphatically supports the demands of these national minorities for protection and regulation for the Komenský School. It is no longer comprehensible that this “problem”, which in and of itself is very small, cannot be resolved after decades.

In this context, reference is also made to the fact that for decades there have also been projects in collaboration with the Komenský School to enable Slovenian (and other national minority languages) to be taught in Vienna. This is a problem that urgently needs to be resolved in light of increasing mobility and the rising number of members of the Slovenian national minority in Vienna/Wien/Dunaj. Members of the Slovenian national minority in Vienna/Wien/Dunaj also have a right to pass their culture and language on to their children. This also includes an appropriate education.

#### **On Article 14:**

The Committee of Ministers has expressly recommended ensuring the right to bilingual teaching in the final year of nursery in Carinthia/Kärnten/Koroška. The recommendation has not been taken into account. A new Childcare Act has been passed in Carinthia/Kärnten/Koroška, and it is disappointing in terms of bilingualism.



The Advisory Committee also recommended further expanding the opportunity to learn Slovenian at the secondary level and creating ways to ensure bilingual afternoon care at all-day schools. Here, too, nothing has happened.

The joint statement of the Slovenian representation organisations on the schooling issue was included in the statement on the previous report. Effectively nothing has changed in terms of the problem set out there. Quite the opposite – things have got even worse.

A new curriculum was passed without consulting the representatives of the national minority, which, contrary to Section 16 of the Minorities School Act that provides for the use of German and Slovenian to approximately the same extent for pupils who are registered, enables Slovenian to be used for two hours a week less. In other words, the Slovenian teaching available has been reduced.

When appointing the new headteacher at the Slovenian Grammar School, the main educational facility for the Slovenian national minority, there were entirely unnecessary difficulties as the ministry was not able to communicate promptly that the conditions for appointing headteachers have changed. The fact that, unlike for other schools, there is only a very limited pool of suitable people who could even be considered as headteachers of the Slovenian Grammar School and this school cannot be treated like all the other schools was overlooked. This resulted in a letter from the Slovenian representation organisations:

“To the

Federal Minister of Education, Dr Martin Polaschek

and the Governor of Carinthia, Dr Peter Kaiser via email: martin.polaschek@bmbwf.gv.at; Peter.KAISER@ktn.gv.at

For information: martin.netzer@bmbwf.gv.at; ministerium@bmbwf.gv.at; sabine.sandrieser@bildung-ktn.gv.at; michael.vrbinc@bildung-ktn.gv.at; bg-klu-slow@bildung-ktn.gv.at; wolfgang.sobotka@parlament.gv.at; susanne.raab@bka.gv.at; hanspeter.huber@bmbwf.gv.at

Klagenfurt/ Celovec, 13 June 2024

Re: Headteacher at the Slovenian Grammar School BG und BGR für Slowenen/ZG in ZRG za Slovence in Klagenfurt/Celovec

Dear Persons Responsible for Education Policy in Austria/Österreich/Avstrija and Carinthia/Kärnten/Koroška!

We are contacting you as we are very concerned about the future of the most important educational establishment of the Slovenian national minority in Carinthia/Kärnten/Koroška, the Slovenian Grammar School in Klagenfurt/Celovec.

After many years of temporary solutions, advertisements went out for a new headteacher for this excellent educational establishment, which is unique in all of Austria. Two female applicants and one male applicant subsequently applied, and from the perspective of the Slovenian national minority they were all suitable to take on the leadership of the most important school for the Slovenian national minority.

The Department of Education subsequently communicated that none of the candidates met the application criteria. They had not passed a “headteacher test”.

We are faced with the Slovenian Grammar School having a headteacher imposed from outside, possibly someone with insufficient Slovenian skills and who is not anchored in the national minority without the consent of the national minority.

With bureaucratic requirements of this type Federal Minister Drimmel would never have been able to found the Grammar School for Slovenes back in 1957, and it would never have been possible for this school to become one of the most successful schools in the country over almost seven decades.

The Parents’ Council, the Pupils’ Council and the Slovenian representation organisations are dismayed about how unplanned and unprofessional the attitude towards the appointment of one of the most important positions for the Slovenian national minority in Carinthia has been.

The fact that a new headteacher needed to be appointed has been known for years.

For years there have also been no objections to having a temporary solution for both the headteacher of the Slovenian Grammar School and the Minority Schooling Division of the Department of Education.

Now suddenly there is a focus on formal criteria.

We wish to emphasise that a “separate secondary school” for the national minority is part of the Austrian State Treaty and is a right of the national minority that is enshrined in the constitution. The right of the national minority to set up their own department in the school supervisory authority is also enshrined in the constitution.

In the past few years, however, the school has been treated as if it were any other school. The representation organisations of the national minority are no longer given a voice in the appointment of the headteacher, and they do not even have a right to be consulted. In our opinion, this is a breach of the provisions of the Austrian State Treaty.

If the faculty, the pupils and the representation organisations of the national minority do not agree with the result of the appointment of a new headteacher for the Slovenian Grammar School, we must reserve the right to take suitable legal and political steps for a breach of Article 7 of the Austrian State Treaty.

We do not currently wish to go public due to the sensitive nature of the matter. We hope, however, that this will not be necessary.

We were recently disappointed that the Slovenian representation organisations were not asked about the appointment of a new head of the Slovenian Music School. This cannot be repeated in the appointment of the headteacher of our most important educational establishment.

If it is necessary for the candidate to pass an additional test, the selected candidate could be granted an appropriate period of time to do this – we have learned to live with temporary solutions. It would not be acceptable, however, for a headteacher to be imposed against the will of the Parents’ Council, the Pupils’ Council, the Professorial Council, the Graduate Association of the Slovenian Grammar School and the political representation of the Slovenian national minority.

We ask for a possible joint meeting date to be scheduled as a matter of urgency as there is significant alarm within the national minority.”

In the education sector we are increasingly seeing the problem that, contrary to the provisions of the State Treaty, there is no actual school supervisory authority for the bilingual school system since the administrative reform in the school system that abolished the provincial school councils and established the departments of education. We are also seeing that a lack of dialogue about current and planned developments between the representatives of the national minority and the school authorities is leading to negative consequences. There have been hardly any discussions about the concerns of the national minority about education that have repeatedly been brought up for years.

The report literally states: “Statutory regulation for bilingual education in the final year of nursery as part of the 15a Agreement on Elementary Education has now been achieved.” This is grossly misleading. The regulation merely says that bilingual nursery education can now be funded with federal funds. This has nothing to do with statutory regulation of bilingual education in the final year of nursery, and definitely nothing to do with a right to education of this type. It is simply about guaranteeing an option for financial support, which is welcome but has nothing at all to do with the actual issue of creating a legal entitlement to bilingual nursery education. Attempts like this to mislead in state reports must absolutely be rejected.

The report also states that continuous language education from nursery education to the completion of schooling is the goal of numerous measures implemented by the Province of Carinthia. If this is the case, it raises the question of why this is still not offered at agricultural schools, at vocational schools, as part of afternoon care etc. even though these measures are largely under the remit of the Province of Carinthia/Kärnten/Koroška.

The report further asserts that the decline in the number of pupils between primary and secondary education can be explained less by a lack of options and is more a consequence of social change, particularly migration out of the settlements where the national minority language was spoken homogeneously. This is quite simply an untrue assertion. The decline is related to the fact that there are no appropriate options for bilingual teaching at the secondary level. The pupils who received bilingual teaching in primary school have not migrated, they are still living in this area and are now attending secondary school where there is no longer any suitable bilingual teaching and they are therefore not able to receive this. It is therefore not about “awareness-raising measures”, albeit measures of

this type would of course not be rejected. What is primarily needed, though, is a system change to ensure that bilingual teaching is offered at secondary level in the same way that it is at the primary level.

The report further states that the option for Slovenian lessons is not territorially limited to the minority school area. This is true in principle. However, with the exception of Klagenfurt/Celovec, where the national minority itself fought for this option by filing a complaint with the Constitutional Court, there are in reality no options for Slovenian lessons outside of the bilingual area. This option should be requested in Villach/Beljak in particular, but also in other towns in the district. It would be in the interest of the Province of Carinthia/Kärnten/Koroška to advertise this option actively and not to wait or rely on the national minority, which is small anyway, potentially achieving a sufficient number of registrations at individual school locations. This would be a measure that the Province of Carinthia/Kärnten/Koroška could implement to promote knowledge about the national minority and actively fight further assimilation.

#### **On Article 15:**

The Committee of Ministers has recommended reforming the procedure for the composition of the National Minority Advisory Councils. This was also part of the government programme. Ensuring the presence of young people was also expressly recommended in order to limit the term of office of the members.

None of this has happened. Using the example of the National Minority Advisory Council, the Federal Administrative Court recently made the decision for the Slovenian national minority that the composition was unlawful. A further complaint to the Constitutional Court is pending.

The current statutory regulation can in reality not be complied with. According to the regulation, all of the members of the advisory council must be members of the national minority, including in the political senate. These criteria cannot be met in the political senate for the Advisory Council for the Slovenian national minority, as the ruling from the Federal Administrative Court shows. This is true to an even greater extent for the national minorities of the Roma, the Czechs and the Slovaks.

The applicable law dates back to the year 1976 and was tailored to the specific situation in Carinthia at the time. It is effectively unusable and needs urgent reform – we have known this for years. Politicians, though, refuse to deal with this problem.

It is a cheap excuse for the government to say that the working group was not able to be implemented because of a “difference of opinions”. If you made this argument in other areas of politics, it would result in a total deadlock or anarchy. Of course there are different opinions in various areas of politics, but the point of politics is to find solutions despite differences in opinions and to provide decision-making mechanisms. The Republic of Austria is refusing to do precisely this on the topic of national minority politics.

### **On Article 16:**

This article addresses the obligation of the contracting parties to refrain from taking any measures that alter the proportions of the population in areas inhabited by persons belonging to national minorities.

Although there were no recommendations on this, it remains to be stated that the proportions of the population in the bilingual area of Carinthia have permanently been changed to the detriment of the Slovenian national minority since the Republic of Austria has existed, and this negative change continues even after the entry into force of the Framework Convention. No measures to stem this trend are apparent. It would be conceivable for the Province of Carinthia/Kärnten/Koroška or the Republic to launch a campaign prompting people to learn the national minority languages, actively advertising the fact that members of national minorities should be aware of their identity, highlighting the achievements of those who have remained members of the national minorities in a positive way and similar. In the past there have always been campaigns against bilingualism, but there has not been a government-supported campaign with the goal of “Govori slovensko” (Speak Slovenian) or “Ostani Slovenka” (Stay Slovene).

### **On articles 17 and 18:**

The law does not interfere with the maintenance of contacts across borders. However, the border controls that are still being carried out between Austria and Slovenia, which an ECJ ruling has already found to be unlawful but which still continue, have an extremely onerous and restrictive impact on these contacts. It is in the interests of the national minority that these border controls, which conflict with the Schengen Agreement, are

abolished immediately. They are demonstrably unable to achieve the alleged objective, and are actually a form of harassment for cross-border traffic.

In terms of state treaties, the Austrian State Treaty is particularly relevant for the Carinthian Slovenes. There is still no formal recognition on all sides that the Republic of Slovenia is the legal successor of the Socialist Federal Republic of Yugoslavia as a signatory to the Austrian State Treaty. This position of Slovenia should be recognised by all sides.

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