



Strasbourg, 9 April 2009

ACFC/SR/III(2009)003

**THIRD REPORT SUBMITTED BY GERMANY  
PURSUANT TO ARTICLE 25, PARAGRAPH 1  
OF THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

(Received on 9 April 2009)



## **Third Report of the Federal Republic of Germany**

**under Article 25 paragraph 2 of the  
Council of Europe Framework Convention for the  
Protection of National Minorities**

**February 2009**



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## Part A Introduction

### A.1 General situation

001 The Federal Republic of Germany attaches great importance to the protection of national minorities. The Framework Convention for the Protection of National Minorities entered into force for Germany on 23 July 1997. Under the Federal Act ratifying the Framework Convention, the Convention ranks in Germany as a federal law which takes precedence over subordinate law, including *Land* laws, and, as a matter of principle, is to be applied as the more specific law overriding other federal laws. Full compliance with the Framework Convention at the national level is legally guaranteed.

002 Germany is among the countries which have also ratified the European Charter for Regional or Minority Languages. In Germany, the Regional/Minority Language Charter is applied to the languages spoken by national minorities – the Danish of the Danes, the North Frisian and the Sater Frisian of the Frisians, the Lower and Upper Sorbian languages of the Sorbs and the Romany language of German Sinti and Roma as well as to the regional language Low German. Both Conventions are perceived as legal instruments that are used first and foremost to protect national minorities and their languages.

003 These two Council of Europe conventions have become part of the German legal system, both as regards the personal scope of application as designated in the respective declaration accompanying the ratification document deposited with the Council of Europe and in respect of the minority and regional-specific obligations undertaken under Part III of the Charter for Regional or Minority Languages. As both instruments were drawn up by the Council of Europe and both were ratified by Germany shortly after one another, and as both pursue comparable objectives regarding the languages of national minorities, the two conventions together represent the authoritative legal instruments for the benefit of national minorities. This implies that the two conventions will be interpreted and applied concordantly. On account of the fact that the two conventions have been formulated according to different legal principles, difficulties emerge in respect of the concordant application of the two instruments and therefore are also encountered by the competent committees of the Council of Europe in examining whether they are being properly applied. Whereas all the articles of the Framework Convention call for unqualified and uniform application, the Regional/Minority Language Charter, designed as a “menu convention”, in its Part III, leaves it to the discretion of the ratifying States to decide which obligations they undertake as regards the range, scope and depth of these obligations as well as their territorial application and their scope of application with respect to minorities. Concordant

interpretation and application of the two conventions can also be an important aspect as regards evaluation of whether the respective competent legislative or administrative bodies consider themselves to have met the obligations ensuing from these conventions.

## **A.2 Application of the Framework Convention in Germany**

### **A.2.1 Scope of application**

004 Resulting from the fact that the Convention does not contain a definition of the term national minority, it was up to the states party to the Framework Convention to define this term and, by the same token, the scope of application of the convention. In accordance with the definition adopted by the Federal Republic of Germany in its declaration notified at the time of signature of the convention on 11 May 1995, which was based on the Memorandum to the Framework Convention (*Bundestag* printed paper 13/6912) which later also formed the basis of the Act ratifying the Framework Convention, national minorities in Germany who are covered by the Framework Convention include solely the Danish minority, the Sorbian people, the Frisians in Germany, and the German Sinti and Roma. In this context it is irrelevant which term is favoured by a national minority (e.g. people or ethnic group), relevant is that the four groups mentioned above, in accordance with the intention of the legislator, are national minorities within the meaning of the Framework Convention.

005 Because only those groups of the population which meet the following five criteria are considered national minorities:

- their members are German nationals;
- they differ from the majority population insofar as they have their own language, culture and history – in other words, they have their own identity;
- they wish to maintain this identity;
- they are traditionally resident in Germany; and
- they live in the traditional settlement areas.

(As regards the last criterion, an exception is made only with reference to the German Sinti and Roma. Pursuant to the Declaration notified by the Federal Republic at the time of signature, this minority is protected under the Framework Convention although its members live mostly as small groups in almost all parts of Germany and do not have their own specific settlement areas.)

Application of the Convention on this basis to the Danes, Frisians, Sorbs, and Sinti and Roma thus ensures inclusion of all ethnic groups traditionally resident in Germany. (The

Jewish community in Germany does not consider itself a minority, but a denominational group.)

006 Therefore, the repeated recommendation of the Advisory Committee (most recently pronounced in numbers 24 to 27 of the Second Opinion on Germany) to consider the possibility of including other groups which fail to meet the above-mentioned criteria (including migrants, immigrants and non-citizens) in the scope of the Framework Convention, on the basis of an article-by-article approach, cannot be followed. Germany has manifestly laid down a clearly abstract definition of the term “national minorities” for legal applications in Germany and has – without any objections being raised by the Contracting States – designated the groups to which this definition applies.

007 The definition of national minorities laid down by Germany is not dissimilar to that laid down by other Member States of the Council of Europe (cf. for instance the Comments made by the Danish Government, CM(2000)166 Addendum). Also, the nationality reference chosen by Germany in relation to the protection of national minorities within the scope of the Council of Europe is recognized in the protection concept of Parliamentary Assembly Recommendation 1201 (1993) – see Article 1 (a) of the draft Protocol contained in that Recommendation. Reference is also made to the Regional/Minority Language Charta which stipulates in its Article 1 (a): *“the term ‘regional or minority language’ does not include the languages of migrants.”*

008 The chosen restrictive definition of the term ‘national minorities’ and thus of the Convention’s scope of application is also in line with the purpose of the Framework Convention: As already expressed in its title, the objective of the Framework Convention is to protect **national minorities**; it is not a general human rights instrument for all groups of the population which differ from the majority population in one or several respects (ancestry, race, language, culture, homeland, origin, nationality, creed, religious or political beliefs, sexual preferences, etc.). Rather, the members of the latter groups are protected by the general human rights and if they are nationals by the guaranteed civil rights. In Germany, these rights have been sufficiently established by national law and underpinned by the ratification of a wide range of relevant international instruments.

Including other groups than the four official recognized minorities on the basis of an article-by-article approach would not just dilute the specific objective of the Framework Convention, i.e. the protection of national minorities; it would also entail the risk of creating ‘first-class’ and ‘second-class’ national minorities, that is, minorities which would benefit from the protection of all rights, and those which would be only granted selective rights.

009 Moreover, the proposed extension of the scope of application would contravene Germany's interest to make a clear distinction between regulations applicable to German nationals on the one hand and regulations applicable to foreigners on the other. This is also with a view to avoiding attempts to take advantage of blurred rules and gradually extend the legal status of foreigners, against the will of the German legislator as expressed in the law on foreigners, and achieve that some groups of foreigners are granted special rights.

0010 The limited scope of application of the Convention, which also reflects the clear differentiation between autochthonous minorities, whose members are German nationals and have traditionally settled on German territory, and immigrant minorities. It is also in line with the legal understanding of protected national minorities in Germany, as was emphasized by the Domowina as the recognized representative of interests of the Sorbian people in its comments on the Second State Report.

0011 Germany has no legal obligation to expand the scope of application of the Framework Convention, as can be concluded from the fact that the Resolution adopted by the Committee of Ministers following the Second Opinion on Germany contains under "Issues of concern" the recommendation that Germany should pursue further dialogue with the Advisory Committee on the scope of application of the Framework Convention in Germany. At the same time, Germany is prepared to further engage in a dialogue on the question of the scope of application even if it sees no acceptable possibilities for implementing the legal amendments proposed by the Committee.

## **A.2.2 Compliance with the reporting obligations under the Framework Convention**

0012 In compliance with its reporting obligations under international law and in accordance with Article 25 (1) of the Framework Convention, the Federal Republic of Germany submitted its First State Report on the implementation measures in Germany to the Council of Europe on 24 February 2000 and the Second State Report in 2004.

0013 Within the framework of the second monitoring cycle following the submission of the Second State Report, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities visited Germany from 10 to 13 January 2006 and during this stay had talks with representatives of the Federal Government, the *Länder* and local governments, and representatives of the organizations of national minorities. On the basis of the information obtained on this occasion and of the information provided in Germany's Second State Report, the Committee drafted a report

on 1 March 2006 on the implementation of the Framework Convention in Germany (Second Opinion on Germany).

0014 In July 2006, Germany sent its initial comments on the Opinion on Germany to the Council of Europe.

0015 Thereafter, on 7 February 2007, the **Committee of Ministers** of the European Council adopted the **Resolution** on the implementation of the Framework Convention for the Protection of National Minorities in Germany. After conclusions on positive developments and issues of concern, the resolution contains the **following recommendations**:

“In addition to the measures to be taken to implement the detailed recommendations contained in chapters I and II of the Advisory Committee’s opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- ensure that the gathering of personal data by the police does not entail or lead to any discrimination against or stigmatisation of persons belonging to certain groups based on their ethnic origin;
- adopt a strategy to improve substantially the situation of the Roma/Sinti in all fields, which also pays particular emphasis to women and children;
- continue to take a firm stand against the racism and discrimination to which they may be exposed;
- continue to raise public awareness of the history and culture of the Roma/Sinti;
- improve the mechanisms for consulting the Roma/Sinti, with due regard for their diversity in order to increase participation of persons belonging to the Roma/Sinti minority in public life;
- address the problem of the over-representation of Roma/Sinti and immigrants’ children in special schools for under-achievers (*Sonderschulen*) and their low level of participation in secondary and university education;
- continue efforts to ensure compliance with the principle of equal treatment and guarantee more long-term support for national minorities, including in the field of education;
- in this respect, ensure that the historical network of Sorbian schools is able to continue to operate;
- ensure proper implementation of the legal provisions with regard to the use of minority languages in the public sphere and in bilingual signs;

- pursue efforts to improve the access to and representation in the media of persons belonging to national minorities, particularly in the public service media;
- continue to strengthen the mechanisms for consultation and participation of persons belonging to national minorities.”

The Committee of Ministers concludes its resolution with the customary invitation

- a. to continue the dialogue in progress with the Advisory Committee;
- b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in section 1 and 2 above.

0016 In accordance with Article 25 (2) of the Framework Convention, the Federal Republic of Germany now presents its **Third State Report** reflecting the **situation as of 30 November 2008**. In addition to generally updating the Second State Report, the present report covers the specific comments in response to the observations and information requests contained in the Opinion on Germany of the Advisory Committee and to the recommendations of the Committee of Ministers with regard to the further implementation of the Convention in Germany. In the answers to the Advisory Committee's comments on those undertakings which the Committee did not consider fulfilled, reference is made to the respective number/s (no.) of the Opinion on Germany.

0017 The Federal Republic of Germany continues to appreciate the activities of the Advisory Committee in the process of monitoring the implementation of the Framework Convention and notes again, as before in no. 15 of the Second State Report, that the Advisory Committee's comments show competent examination of the situation of the national minorities in Germany and that the Committee has in fact paid attention to important questions and problems.

0018 With regard to increasingly limited public funds, which has to be taken into account in the implementation of the Framework Convention, and with regard to the positive effects which in Germany's view the implementation has on creating pan-European standards for the relationship between the state and its citizens, it is referred to numbers 17 and 18 of the Second State Report in order to avoid repeating numbers 15 and 16 of the Second State Report and with regard to the transparency principles applicable in Germany in the process of drafting the State Report.

0019 Like the previous report, the present State Report focuses on the information provided by the *Länder* Schleswig-Holstein, Free State of Saxony, Brandenburg and Lower Saxony on legislative acts and on other measures taken to enforce the principles

enshrined in the Framework Convention, because it is only in these *Länder* where the members of the groups of German nationality who are protected under the Framework Convention (with the exception of the German Sinti and Roma) have their respective settlement area. In addition, specific parts of the Report deal with the German Sinti and Roma in the other *Länder* of the Federal Republic of Germany.

### **A.2.3 Public information regarding the Framework Convention**

0020 Following its entry into force, the Framework Convention for the Protection of National Minorities has continued to be the subject of intensive media reporting both at the supraregional level and in the central settlement areas of the minorities concerned. The Federal Ministry of Justice published and widely disseminated a brochure on the Framework Convention which covers the Convention text, the Federal Act ratifying the Convention and the pertinent memorandum, the Explanatory Report concerning the Framework Convention, and an introduction to the general subject-matter. The text of the Framework Convention has been published, *inter alia*, in the collection of texts compiled by the Federal Agency for Civic Education (BpB) and entitled "*Menschenrechte – Dokumentation und Deklaration*" (Human Rights – Documentation and Declaration). The *Länder*, too, have drawn attention to this international-law instrument in various publications (brochures, press releases, Minority Report, etc.). The minorities, in particular, have informed their members in many and various ways.

0021 As part of the public information/education activities of the Federal Government Commissioner for Matters Related to National Minorities, in November 2006 the second edition of a comprehensive information brochure on the situation of the national minorities was published, which also includes information on the Framework Convention and is widely distributed free of charge. The organizations of the national minorities provided inputs to the brochure's contents.

An equally comprehensive information brochure of the Federal Government on minority languages in Germany and on the regional language of Low German was made available to the public by the Federal Ministry of the Interior.

Particularly worth mentioning are the publications and public relations work concerning national minorities in Schleswig-Holstein: In its reports on national minorities, the Schleswig-Holstein *Land* Government reports on a regular basis about the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages. In addition, detailed information regarding

the languages spoken in Schleswig-Holstein (Danish, Frisian, Romany) are available on the Internet at [www.schleswig-holstein.de](http://www.schleswig-holstein.de). How many people speak the Frisian language? How long has a Danish minority lived in Schleswig-Holstein? Answers to these questions can be found in a summary of the history of minorities and their languages and the language spread. Moreover, the website contains links to the homepages of numerous institutions, associations and other organizations. A language needs to be spoken. Therefore, visitors of the website will find sound recordings by children and youths of spoken Danish, Frisian and Romany which show that in addition to Low German other languages are alive in Schleswig-Holstein, too.

#### **A.2.4 Participation of the *Bund*, *Länder* and national minorities**

0022 Within the Federal Government (*Bund*), the Federal Ministry of the Interior has the lead responsibility for ensuring the implementation of the Framework Convention. One of the permanent tasks continues to be giving advice on how to implement the Convention to the various *Länder* and government departments, especially through sharing practical experience gained in other *Länder* and foreign countries, study of the requirements of the minorities concerned, and advice provided to *Länder* and minorities.

0023 Since November 1998, annual Implementation Conferences on the Framework Convention and the Charter for Regional or Minority Languages have been held, which bring together representatives of the Federal Ministries responsible for the protection of minorities, representatives with similar responsibilities of the *Länder*, and representatives of the groups protected under the Framework Convention. This was commended by the Advisory Committee in no. 7 of the Second Opinion on Germany. With regard to the most recent Opinion on Germany of the Advisory Committee, these conferences dealt with the implementation status of the Framework Convention in Germany, the deficits still encountered in this respect, and the development of the next report. As regards the critical remark also in no. 7 of the Second Opinion on Germany that the Advisory Committee's First Opinion had been widely circulated to the recognized national minorities, though not translated into their languages, it had been pointed out that no translation was made in order not to discriminate against German Sinti and Roma, whose Romany language does not have standardized written form, and because the members of all minorities have adequate skills in the German language, but not all Frisians have adequate command of the Frisian language.

0024 In no. 6 of the Second Opinion on Germany, the Advisory Committee for the Framework Convention also welcomed the fact that Germany had adopted a constructive

approach to the Framework Convention's monitoring process. Among other things, Germany had organized a "follow-up" seminar to discuss with representatives of national minorities and of the Advisory Committee the means of implementing the conclusions set out in the First Opinion on Germany. Such a seminar took place during one of the implementation conferences on 27 November 2008. Participants discussed the conclusions of the Second Opinion on Germany, among other things.

0025 The Council of Europe instruments on the protection of minorities and their implementation status regularly are the subject of discussions of Advisory Committees, in which parliamentarians, government representatives and representatives of the minorities cooperate. Such committees could be established for all national minorities in Germany, not only for the German Sinti and Roma.

0026 Before its final endorsement at the national level, the present Third State Report, like previous reports, was submitted for approval to the central organizations of the groups concerned and discussed at an implementation conference. The comments of the groups are annexed to the present report (see Part C), following a positive evaluation by the Advisory Committee of this practice in no. 6 of the Second Opinion on Germany.

After its submission to the Secretariat of the Council of Europe, this State Report will be published in Germany.

### **A.3 General conditions applying to national minorities in Germany**

#### **A.3.1 State structure**

0027 As is explained in greater depth in no. 26 of the Second State Report, the Federal Republic of Germany is a federated state which is characterized, among other things, by the fact that the *Länder*, in accordance with the Basic Law (the German constitution), may execute federal laws as matters of their concern, i.e. on their own responsibility. This also applies to the federal law implementing the Framework Convention. In addition, local governments are guaranteed the right to regulate all local community affairs on their own responsibility, within the limits prescribed by the laws.

### **A.3.2 Population**

0028 Germany has a population of around 82.218 million inhabitants (as of 31.12.2007)<sup>1</sup>, of whom some 7.257 millions (approx. 9%) are foreigners. Despite the concerns expressed by the Committee of Ministers of the Council of Europe in its Resolution of 7 February 2007 about the fact that there is a lack of data on the socio-economic situation of minorities, Germany has continued its practice of not collecting statistical data based on ethnic criteria. Under the Basic Law, identification with any of the national minorities or other ethnic groups traditionally resident in Germany is as free as use of and identification with a mother tongue. It is everybody's individual personal decision – which is neither registered, reviewed nor contested by the state authorities – whether he/she chooses to be considered a member of any of the these groups. There are no statistics established on the basis of ethnic or linguistic criteria. Therefore, like at the time of the First State Report, the number of members of national minorities and thus of the persons protected under the Framework Convention can only be estimated. It can be said again, however, that with the exception of some communities with a Sorbian or North Frisian majority the members of the groups protected under the Framework Convention form the minority of the overall population in their respective settlement areas.

### **A.3.3 Key figures on the economy**

0029 In 2007, the gross national income (at current prices) amounted to 2,464.19 billion euros (i.e. +4.3% as compared to the previous year); the gross domestic product (at current prices) amounted to 2,422.90 billion euros (i.e. +4.4% as compared to the previous year); and the net national product at factor cost (national income) amounted to 1,827.07 billion euros.

The national, or aggregate, income is composed of the compensation of employees amounting to 1,183.55 billion euros, and of the gross income from property and entrepreneurship amounting to 643.52 billion euros.

The gross income (per inhabitant; at current prices) in 2007 amounted to 22,210 euros, and the gross domestic product per employee (at current prices) to 60,926 euros.

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<sup>1</sup> These data are based on the census of 25 May 1987 and have been updated since 1988. The present figures were taken from the 2008 Statistical Yearbook, page 28, published by the Federal Statistical Office.

In 2007, the gross national income, per inhabitant, at current prices amounted to 29,955 euros (change as compared to the previous year: +4.4%).<sup>2</sup>

### **A.3.4 Legal framework regarding protection of persons belonging to national minorities**

0030 The protection of national minorities continues to be guaranteed by the Constitution. The constitutional provisions to this effect are put into concrete terms by laws, ordinances, statutes, and administrative action. As regards the protection of national minorities in national law, see section B.1.2, and in international law see section B.1.1 regarding Art. 1)

### **A.3.5 Specific information on the various national minorities in Germany**

#### **A.3.5.1 The Danish minority**

0031 The Danish minority lives together with the German majority population in the northern part of Schleswig-Holstein (Schleswig region) in their traditional settlement area, just as the German minority and the Danish majority population do on the Danish side in the southern part of South Denmark. Germans and Danes have been living together in this area for more than a thousand years. Today's border between the two countries was laid down in 1920 on the basis of the results of two plebiscites agreed upon in the Treaty of Versailles.

0032 The number of members of this ethnic group is estimated at some 50,000 persons who live in the Schleswig region consisting of the districts (*Kreise*) of Nordfriesland and Schleswig-Flensburg, the northern part of the Rendsburg-Eckernförde district, and in the city of Flensburg. The percentage of the members of the Danish minority in relation to the population of the various towns and communities varies greatly, and ranges from local communities where only a number of families of the minority live, to around 20 percent in the town of Flensburg and some smaller places.

0033 All members of the Danish minority understand Danish, and most of them speak this language. In addition, all of them have a good command of German. In rural areas,

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<sup>2</sup> Results from the National Accounts of the Federal Statistical Office, Source: Federal Statistical Office (publisher), series 18, vol. 1.4, domestic product calculation – detailed annual results for 2007, as at August 2007, p.37 et seqq., published in September 2008.

parts of the Danish minority – and of the German majority population as well – speak the regional Low German language; and in the immediate border area, the Danish minority as well as their German fellow citizens also speak *Sønderjysk*, a South Jutish dialect of Danish.

0034 For the major part, members of the Danish minority use the Danish language in the private sphere. However the situation in mixed-nationality marriages must be taken into account where German usually prevails. Danish is spoken within the organizations of the Danish minority. Constant use and promotion of the Danish language provide the basis for all minority-related activities. Of particular importance for proficiency in the Danish language are the Danish private schools, especially also for the children from mixed-nationality marriages.

#### **A.3.5.2 The Sorbian people (and their languages Upper and Lower Sorbian)**

0035 The Sorbs have been resident in Lusatia since the year 600 AD, when Slav tribes settled in the region between the Baltic Sea and the Ore Mountains which had been largely depopulated after the emigration of Germanic tribes. After King Henry I, in the year 929, had placed the Sorbs' settlement area under German rule and increasing numbers of Germans settled there as well, the Sorbs – a West Slavic people – have been living together with the German population for about a millennium. They have no mother country outside the borders of Germany.

In the Middle Ages, the Sorbian language was still spoken in a much more extended area than today. Sorbian is part of the West Slavonic family of languages. From the various dialects of colloquial Sorbian, two standard languages developed: Upper Sorbian and Lower Sorbian. Today's speech area of Sorbian covers Upper Lusatia in the north-eastern part of the Free State of Saxony, and Lower Lusatia in the south-eastern part of Brandenburg. The Sorbs living in Lower Lusatia are until this day also known as Wends.

0036 The number of persons considering themselves Sorbs is not known. The estimated number is about 60,000 Sorbs, of whom two thirds live in Saxony, and one third in Brandenburg. In some local communities in the district of Kamenz, they account for up to 90 percent of the population; in some other villages of the settlement area, the majority of inhabitants are Sorbs. They make up about ten percent of the population of the overall settlement area, while in the towns they account for less than two percent. According to varying estimates, around 20,000 to 35,000 Sorbs have a command of written and spoken Sorbian. While scholarly linguistic surveys – limited to specific parts of the Sorbian

settlement area - have been conducted, comprehensive surveying is problematic, both in view of the freedom to designate oneself as a member of the Sorbian people, as guaranteed under Section 1 of the Saxon Sorbs Act (*SächsSorbg*) and Section 2 of the Brandenburg Sorbs/Wends Act and on account of the fact that larger numbers of Sorbs already live outside the Sorbian settlement area; all Sorbs speak German as well. As regards use of the Sorbian language in the private and public spheres, see in particular the comments under B.10.1.2.2 (“Use of the Sorbian language”).

### **A.3.5.3 The ethnic group of Frisians in Germany**

0037 The Frisians, as a people of the North Sea coastal region, have been known since about the start of the Christian era. Westfriesland – nowadays covering the province of Friesland in the Netherlands, and adjacent regions – and East and North Friesland have been the settlement area of Frisians since the times of the earliest historic sources. The settlement area of the East Frisians essentially covers Ostfriesland and the northern Oldenburg region up to the mouth of the Weser River on the North Sea. From the coastal region and from the islands, especially after the devastating storm surges during the Middle Ages, settlement extended also to more southerly up-country regions where other, non-Frisian people already lived.

0038 Frisian, as an autonomous and ancestral language, descended from the North Sea Germanic division of the West Germanic subfamily, distinctly differs from Netherlandic and Low German and, in terms of historical linguistics, is closely related to Old English. It has evolved in three subgroups: West Frisian, East Frisian, and North Frisian. West Frisian is spoken in the province of Friesland in the Netherlands. East Frisian is native to Ostfriesland in Lower Saxony. These two regions form the historical geographical centre of the Frisians. North Frisian is spoken in the Nordfriesland district in the western coastal region of Schleswig-Holstein and on the island of Helgoland.

0039 **Ostfriesland**, or East Friesland, is still inhabited mainly by people of East Frisian origin.

0040 Already around the year 1500, the East Frisians replaced the Frisian language by Low German as the language used for drafting legal documents. By 1800, for the major part, and last on one of the North Sea islands at the beginning of the 20<sup>th</sup> century, they relinquished their ancestral Frisian language which, however, continued to be used as the language of everyday oral communication.

0041 Although the Frisian language subsequently became extinct in Ostfriesland, an East Frisian cultural identity continues to be preserved by the majority of the Ostfriesland people living in the area between the Netherlands border and the Weser River. However, it is not possible to give any precise estimates regarding the share of people identifying themselves as Frisians within the Ostfriesland population.

0042 The **Saterland Frisians** descended from those Frisians who, between 1100 and 1400, moved from the North Sea coast which had been devastated by storm tides, to settle more to the south in the Saterland where Westphalians had already settled earlier. The Saterland Frisians live in the Saterland Community which comprises the villages of Strücklingen, Ramsloh, Scharrel and Sedelsberg, including many farmstead hamlets. Also due to the general mobility entailed, in particular, by the economic changes in the course of the 20<sup>th</sup> century, and as a result of the immigration of refugees and expellees who arrived here, as in all regions of Germany, after World War II, the population structure of the Saterland changed as well. The share of Saterland Frisians in the total population of the community has, since a number of years ago, been reduced once more on account of the arrival of many “late repatriates” who, as former members of German minorities, especially in the former Soviet Union and in South Eastern Europe, returned to their ancestors’ native country where they resettled in places having sufficient housing available. The majority, however, of the inhabitants of the Saterland local government unit (total population of some 12,000 persons) consider themselves Saterlanders.

0043 Around 2,000 persons use Sater Frisian which forms part of the Old East Frisian subgroup of languages. About twice as many people understand Sater Frisian. Despite many Low German loan words, Sater Frisian has preserved its linguistic independence. Sater Frisian originally had superimposed itself on the Westphalian Low German language of the first inhabitants of the Saterland. After Ostfriesland and the adjacent regions of the Saterland had changed over to Low German, survival of Sater Frisian was possible only because the Saterland villages were located in a sandy river valley surrounded by extensive fens which until the 20<sup>th</sup> century provided a shield from contacts with the outside world and from its influence that penetrates and moulds all spheres of life. Use of Sater Frisian by the Saterland Frisians is gradually increasing since school-children are taking a greater interest in learning this language and children and the grandparent generation have started to communicate in Sater Frisian again.

0044 Since the times of the migration of peoples, **North Friesland** at first had not been colonized. Frisians – presumably as early as in the 7<sup>th</sup> and 8<sup>th</sup> centuries – were the first to settle in some areas of North Friesland. Another group of settlers came to the low-lying marshes in the 11<sup>th</sup> and 12<sup>th</sup> centuries. The old North Friesland was not a political entity,

but consisted of loosely connected administrative districts. Until 1867, North Friesland was part of the Kingdom of Denmark, after that – until 1871 – part of Prussia, and subsequently, together with Prussia, part of the German Empire. The settlement area of the North Frisians is along the west coast of Schleswig-Holstein (Nordfriesland district with the islands of Sylt, Föhr, Amrum and Helgoland). About 50,000 to 60,000 persons consider themselves North Frisians on account of their origin and their sense of personal identity. In their settlement area, North Frisians account for about one third of the population, while in some island communities they form the majority.

0045 North Frisian developed about 1000 years ago after Frisians had settled also north of the Frisians' geographical centre. North Frisian consists of two groups of dialects (**Continental North Frisian** and **Insular North Frisian**) with nine local varieties: six of these are spoken on the continent along the west coast of Schleswig-Holstein (including the holms, or Halligen islands), and three of them on the offshore islands of Sylt, Föhr and Amrum, and Helgoland. The linguistic communality of North Frisian prevails despite the linguistic diversity brought about by the subdivision into dialects. Of the total number of nine North Frisian local idioms, three spoken by less than 150 persons are acutely threatened by extinction. The other six local idioms are not only used orally but also exist in written form. Their orthography is based, for the major part, on uniform rules.

0046 Written records in the North Frisian language date from the Middle Ages. The first book in the North Frisian language was published in 1809. Since then, a large body of Frisian-language literature has been created, which covers several hundreds of books and, in addition, several thousands of literary items in a variety of publications. This ensures that the Frisian language also fulfils the requirements expected to be met by a modern means of communication.

0047 Of the present number of around 50,000 to 60,000 North Frisians, some 10,000 still speak North Frisian; another 20,000 persons understand this language. The North Frisian language still is, to a major extent, the language spoken within the family and the language for communication in public, especially among the Frisians living on the islands and in the northern continental region (extending from the German-Danish border to the town of Bredstedt). In mixed-language marriages, German and Frisian are increasingly being used as languages of equal rank.

0048 The **perception of their Frisian identity** differs among the aforementioned groups: The Frisians in Ostfriesland are united by the perception of a common history and culture, which finds its expression in a regional identity. They do not consider themselves a national minority. The Saterland Frisians regard themselves as the Sater Frisian language

group. Neither do the largest group of organizationally associated North Frisians – the North Frisian Association (*Nordfriesischer Verein*) – consider themselves a national minority; rather, they regard themselves as a group having their own language, history and culture within Germany. The other supraregional organization, the *Frisk Foriining* (Frisian Association), sees the Frisians as a people in its own right and considers them a national minority in Germany. Nowadays, the two groups have reached a compromise, i.e. referring to themselves as the “Frisian ethnic group”, and are designated as such also in the Schleswig-Holstein *Land* Constitution.

Under the Framework Convention for the Protection of National Minorities, the Frisian ethnic group is accorded the same status as a national minority. This is welcomed by all Frisian associations and organizations.

#### **A.3.5.4 The German Sinti and Roma**

0049 Since the 14<sup>th</sup>/15<sup>th</sup> century, the Sinti have traditionally been living on German-language territory. Roma came to be at home in Germany at a later time. Time and again, in the course of history, Sinti and Roma had to suffer discrimination, were crowded out from various trades, and driven out of towns or regions. In instances, attempts made by Sinti to settle in their home region were thwarted in the past up until the 20<sup>th</sup> century. Despite these problems, the Sinti and Roma by and by managed to establish themselves locally, and in their respective home regions, they worked as manual workers, employees, civil servants, craftsmen, artists, small tradesmen and handicraftsmen, and other businessmen. Due to the racist fanaticism under the National-Socialist (Nazi) despotic rule, the Sinti and Roma in Germany and in the areas occupied by German armed forces were exposed to persecution and genocide with the aim of their extermination. Hundreds of thousands of them were murdered, and their cultural heritage was destroyed for the major part. Of the 40,000 officially registered German and Austrian Sinti and Roma, more than 25,000 had been murdered by May 1945. This persecution, aimed at systematic and definitive extermination, left its mark on the survivors and also has an impact on the generation born after 1945. The memories of those persecuted will continue to decisively influence their consciousness and their identity. After 1945, many of the surviving Sinti and Roma, whose health had been impaired and whose material basis of existence had been destroyed, still have had to struggle with discrimination; for instance, they have been subject to local registration with the police and the (criminal) identification service. In this context, see also the comments regarding Article 4 (1) (no. 04009 et seqq.).

0050 The German Sinti and Roma are estimated to number up to 70,000 persons. Some of the Sinti organizations put the numbers even higher. The majority of them live in the capitals of the “old *Länder*” of Germany, including Berlin and its environs, and in the conurbations of the Greater Hamburg area, the Rhine/Ruhr region with Düsseldorf and Cologne at its centre, the Rhine/Main and Rhine/Neckar conurbations, and the Greater Kiel area. In some cases, major numbers of German Sinti and Roma also live in regions of geographically close, smaller towns. Thus, German Sinti and Roma populations are to be found, for instance, in medium-sized and small towns of Ostfriesland, Northern Hesse, the Palatinate, Baden and Bavaria. The German Sinti and Roma only represent a small, not quantifiable, share of the population in all of their settlement areas. Thus, there is no single speech area confined to any one *Land* for the Romany language traditionally spoken in Germany. Rather, the language is spoken in most of the *Länder* of the Federal Republic of Germany.

0051 Romany is the language spoken by those German Sinti who traditionally live in Germany. It is spoken by an estimated number of 60,000 persons. This is an autonomous language, deriving from Sanskrit, which is spoken by the Sinti in Western Europe, especially in the German speech area, and which differs from the other Romany languages used in Europe. In addition, the Romany of the German Roma is spoken by an estimated number of up to 10,000 persons.

0052 Historically, the language can be assigned to quite a number of small regions in Germany where Sinti for centuries have been, or still are, traditionally resident. The race policy of the despotic Nazi regime entailing stigmatization and discrimination, persecution and the genocide inflicted also on the Sinti and Roma has, moreover, destroyed the historical structure and the speech communities of some members of the Sinti and Roma people. Nowadays the German Sinti and Roma are integrated into society. In everyday life, however, they are still subject to private discrimination, due to the prejudices held by some fellow citizens.

0053 However, the high degree of dispersal and what often are only small numbers of users of the Romany language in a narrowly delimited region must not result in any impairment of the objective scope for protection if the causes of such dispersal have been generated, or at least been significantly influenced, by earlier government action. In this regard, there is a particular obligation incumbent on the State to help reduce problems which have arisen in respect of the existence of the language and to expand the scope for developing the language and culture. To the extent possible at this time, account is taken of this requirement in the measures, both applied and envisaged, for protection and promotion.

0054 Within the organizations of the German Sinti and Roma, there is no general agreement on the designation as either a national minority or an ethnic group. The Central Council of German Sinti and Roma (*Zentralrat deutscher Sinti und Roma*), with its nine affiliated *Land* Associations, and other associations and institutions which are members of the Central Council consider the German Sinti and Roma a national minority in Germany, but part of the German people at the same time. This view is shared by some other associations of German Sinti and Roma and of German Roma.

0055 On the other hand, associations of German Sinti, which cooperate within the *Sinti Allianz Deutschland* (Sinti Alliance Germany), see themselves as an ethnic Sinti group within the German people, which – without discrimination, and without any special privileges as well – wishes to be integrated and to cultivate the traditional language and culture at the private level, without any governmental action in this sector. This position must be taken into account by the State to the same extent as the position taken by the Central Council.

0056 The obligation flowing from Article 3 (1) of the Framework Convention means for the State that the only choice is to offer special protection and promotion. It is for every individual concerned to avail him/herself of this offer of protection and promotion, or to reject it. The same approach must be taken as regards the designation of the German Sinti and Roma as a national minority. German Sinti and Roma who, on the basis of their sense of identity, do not consider themselves a national minority, must *not*, either by a third party or by the State, be classed with a national minority. On the other hand, however, it cannot be denied to any German Sinto/Sintessa or Roma that he/she should identify him/herself both as an integral part of the German people *and* as a member of the national minority of German Sinti and Roma. Both factions are agreed on the position that the German Sinti and Roma are an inseparable part of the German people. The State acknowledges this shared basic position.

### **A.3.6 Overlapping of settlement areas common to national minorities in Schleswig-Holstein**

0057 In the Schleswig region, there are common settlement areas of various minorities (Danes and North Frisians, and a few Sinti and Roma) in some places of the Nordfriesland district. Both groups cooperate, also politically in instances (cf. the comments under Article 6). Frisian is taught also at some schools of the Danish minority. Difficulties regarding relations with one another and/or discrimination against members of the smaller ones of these groups have not become known.

0058 Regarding Sinti and Roma settling also in areas where other groups live, there is no information on any cooperation with other groups at the local level. So far, discriminatory action by members of other minority groups has not been reported. In Schleswig-Holstein, the *Land* Association of German Sinti and Roma, *Sydslesvigsk Forening* (South Schleswig Association) and the Frisian Council *Frasche Rådj*, Section North (*Sektion Nord*) closely cooperate in the forum *DialogForumNorden*.

**Part B****Protection of national minorities under the various Articles of the Framework Convention****B.1 Article 1**

**The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international cooperation.**

**B.1.1 International instruments for the protection of minorities applicable in Germany**

01001 The Federal Republic of Germany has actively contributed to the development of binding rules of law for the protection of national minorities and traditional ethnic groups and/or of their respective language and culture. For information on the scope of application of the Framework Convention for the Protection of National Minorities and of the European Charter for Regional or Minority Languages see paragraph A.1 of the introduction;

01002 Furthermore, Germany acceded to the International Covenant on Civil and Political Rights of 19 December 1966, to the International Covenant on Economic, Social and Cultural Rights of 19 December 1966, and to the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) of 7 March 1966. In the context of the reporting obligations imposed by these instruments, reports are also given on the measures taken for the protection of minorities.

01003 The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) entered into force in the Federal Republic of Germany on 15 December 1953.

01004 Moreover, in implementing its minorities policy, Germany also adheres to the OSCE standards on the protection of minorities, in particular the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 29 June 1990.

01005 In 1996, the Federal Republic of Germany (represented by the Federal Government and the *Land* of Schleswig-Holstein) and the Kingdom of Denmark founded

the European Centre for Minority Issues (ECMI) to help solve problems related to minorities and majorities. ECMI conducts practice-oriented research, provides information and documentation, and offers advisory services concerning minority-related issues in Europe. It cooperates with various governments and international organizations. ECMI supports the media, the general public and research activities of the academic community by providing information and analyses.

01006 The Centre organizes its activities around three principal themes: It is concerned with the evaluation and further development of universal, regional, bilateral and national standards which may help consolidate democratic governance on the basis of ethnic diversity and human rights. In this context, ECMI is also particularly interested in the emerging convergence of standards between the EU Member States and candidate countries. A second area of interest relates to implementation procedures and mechanisms for such standards and the study of their effectiveness. ECMI provides advice to governments and minorities and, in cooperation with them, develops approaches to implementing minority-related regulations. The third strand of ECMI's activities concerns constructive conflict management. ECMI is at present developing its capacities to support international peace-building efforts and peacekeeping measures by increasingly addressing conflicts with an ethnopolitical dimension. To this end, ECMI has established contacts with various regions of tension in Europe and encouraged local protagonists to engage in dialogue. For these activities, the Centre located in Flensburg benefits from the exemplary development of minority-related issues in the German-Danish border region.

01007 ECMI relies on a highly qualified team of scholars. The team is supported by a number of Visiting Fellows and Visiting Research Associates and can draw upon an extended network of outside experts. The Centre maintains active relations with other institutions engaged in similar activities and develops joint projects with them. ECMI is governed by a Board of nine members: three from Denmark, three from Germany, and one representative each from the OSCE, the Council of Europe and the European Union.

01008 Priority areas of international cooperation pursued by the Federal Republic of Germany with regard to the protection of national minorities are, in particular, the following:

01009 Council of Europe

Participating, with the involvement of the national minorities in Germany, in Europe-wide implementation conferences on the Framework Convention and the European Charter for Regional or Minority Languages; cooperating within the Committee of Experts on the Protection of National Minorities (DH-MIN); participating in cross-national working

programmes of the Council of Europe (Joint Programme, Intergovernmental Activities, etc.) concerning the protection of minorities; and supporting programmes.

Bilateral contacts with other Council of Europe Member States on issues regarding the general and specific protection of minorities (information exchanges and consultations).

#### 01010 OSCE

Participating in conferences on legal aspects of minority issues (implementation meetings, minorities conferences, Roma seminars), with the involvement of the national minorities in Germany; supporting the work of the OSCE High Commissioner on National Minorities (HCNM) in The Hague and the Office of Democratic Institutions and Human Rights (ODIHR) in Warsaw, with its Roma Contact Point. At the invitation of the Federal Government, the head of the secretariat of the four autochthonous minorities in Germany is regularly part of the German delegation at the annual meeting on the OSCE's human dimension and has thus the opportunity to present the opinions of national minorities on current issues, which may diverge from the opinion of the Federal Government.

#### 01011 Other institutions

Supporting the activities of the Commissioner of the Council of the Baltic Sea States on Democratic Institutions and Human Rights, including the Rights of Persons Belonging to Minorities; promoting, through non-governmental organisations (NGOs) and their institutions, the development of the practical dimension of the protection of minorities in Europe; supporting work projects of the international umbrella organizations of minorities, i.e. Federal Union of European Nationalities (FUEN) and Youth of European Nationalities (YEN), of which all national minorities and ethnic groups in Germany are members.

### **B.1.2 Protection of minorities under the national legal system**

01012 As part of human rights protection, the protection of minorities is guaranteed by the **fundamental rights enshrined in the Basic Law** (*Grundgesetz*, GG), the Constitution of the Federal Republic of Germany. Pursuant to Article 1 (3) of the Basic Law the basic rights are binding upon the legislature, the executive and judiciary as directly applicable law. If basic rights are violated, a constitutional complaint may be filed. This also applies to the justiciability of issues concerning the protection of members of national minorities. Under Article 19 (4), first sentence, of the Basic Law, any person whose rights might have been violated by public authority may have recourse to the courts. Public authority within the meaning of paragraph 4 refers to the entire executive branch, irrespective of whether

the latter is qualified as government or administration. Consequently, recourse to the courts is also guaranteed to any member of a national minority.

01013 In this context, the **Administrative Procedure Act** (*Verwaltungsverfahrensgesetz, VwVfG*) and the **Code of Administrative Court Procedure** (*Verwaltungsgerichtsordnung, VwGO*) are of particular significance. The VwVfG lays down the principles for the procedure to be applied by an administrative authority for the purpose of passing an administrative act or concluding a public-law contract. Courts may review governmental administrative action on the basis of the protest procedure for reconsideration of acts of administrative authorities and the administrative remedy procedure in court laid down in the VwGO (sequence of courts for successive stages of appeal: administrative court - Higher Administrative Court - Federal Administrative Court).

01014 However, the general prerequisite for having recourse to the courts is that the relevant rule of law grants the person concerned a subjective right and that the complainant is legally affected. The rights granted to an individual include not only the fundamental rights but all subjective public rights (of an individual) deriving from the Constitution, formally enacted laws, statutory instruments, autonomous legislation (local statutes), and customary law. On the other hand, general regulatory orders are directly binding only on the administration. However, they may affect third parties outside the administration in cases where administrative practice in conjunction with the equal treatment principle so warrants. The same goes, with regard to the Danish minority in Germany, for the 1955 Bonn Declaration which also does not grant any direct subjective rights.

01015 As German nationals, members of the groups protected under the Framework Convention for the Protection of National Minorities enjoy all rights and freedoms granted under the Basic Law without any restrictions. The prohibition of discrimination pursuant to Article 3 (3), first sentence, of the Basic Law also refers to the members of these groups. The principle of equal treatment and the prohibition of discrimination bind the legislature, the executive, and the judiciary as directly enforceable law (under the provisions of Article 1 (3) of the Basic Law). The constitutional stipulations regarding the protection of these groups are put into concrete terms by laws, ordinances, statutes, and administrative action. The Basic Law rules also apply directly in the *Länder* and are explicitly confirmed in the respective Constitution of some of the *Länder*. The legislation of the *Länder* refers to national minorities who have their settlement area in the respective *Land*.

01016 As the Advisory Committee states in no. 8 of its Second Opinion, “since the adoption of the First Opinion, the legislative framework specifically conceived for national minorities has thus remained largely unchanged, whether at federal level or for the *Länder*, although a few new legislative provisions have come into force, as for example the law of 2004 on the promotion of Frisian in the public sector in the *Land* of Schleswig-Holstein”.

01017 Another new development is the **General Equal Treatment Act** (*Allgemeines Gleichbehandlungsgesetz*, AGG) which was adopted to implement the Anti-Racism Directive 2000/43/EC, among others<sup>3</sup>. In no. 11 of its Second Opinion the Advisory Committee still criticized the lack of such legislation. In the areas of work and employment, the General Equal Treatment Act corresponds with the requirements of the European directives on equal treatment. Thus, any employee affected by discrimination can file a complaint at the relevant authorities and is entitled to compensation for material and immaterial damage suffered. Employees can even sue for these individual rights in labour courts or raise the matter with their works councils. In the case of serious violations of the prohibition of discrimination by the employer, the works council or a trade union represented in the relevant company may also take legal action.

01018 Also for private law, the act fully implements the requirements of the Anti-Racism Directive. Thus, concerning a person’s race or ethnic origin, comprehensive protection will be provided also in the area of general civil law. This particularly includes a claim for compensation.

01018a The General Equal Treatment act is not applicable to particular relationships of proximity and trust, which is in line with the Anti-Racism Directive. When renting housing space an unequal treatment is also permitted to create and maintain socially stable residents structures and well-balanced settlement structures as well as a balanced economic, social and cultural environment, as provided for by Section 6 of the Housing Assistance Act (*Wohnraumförderungsgesetz*). Thus, the housing industry is able to meet the principle of a social urban and housing policy which has proved successful in Germany. The European Commission’s criticism expressed in the framework of the infringement proceedings on the grounds of an allegedly insufficient implementation of Directive 2000/43/EC is not justified. Socially stable residents structures and well-balanced settlement structures are precisely the basis for a discrimination-free coexistence of cultures. Successfully integrating people of different origin reduces discrimination based on ethnic origin. Occupancy management is the basis to achieve this goal.

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<sup>3</sup> The law implements four European directives: the Racial Equality Directive 2000/43/EC, the Employment Framework Directive 2000/78/EC, the amended Equal Treatment Directive 2002/73/EC and the Gender Directive 2004/113/EC.

01018b Moreover, the government draft even goes beyond the requirements of the European directives on equal treatment. For general private law, in the area of bulk business and private insurance, it provides protection against discrimination not only on the grounds of a person's sex, but also in case of discrimination on grounds of disability, age, sexuality, religion or ideology.

01018c None of the eligible applicants in the legislative process considered it necessary to extend the General Equal Treatment Act to public authorities, as requested by the Central Council of German Sinti and Roma. Public authorities are required to ensure equal treatment by the Basic Law: The prohibition of discriminating against a person derives from every person's right to the respect and protection of human dignity. Human dignity is enshrined in the Basic Law of the Federal Republic of Germany as the supreme legal value. Article 1 (1) of the Basic Law stipulates: "Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority." Pursuant to Article 3 (1) of the Basic Law all persons are equal before the law. The third paragraph differentiates this equal treatment requirement to be fulfilled by the state. Article 3 (3), first sentence, of the Basic Law states: "No person shall be favoured or disfavoured because of sex, parentage, race, language, homeland and origin, faith, or religious or political opinions." The principle of equal treatment is binding on each the executive, the judiciary and the legislature. The provisions of the Basic Law also apply directly in the *Länder* and are explicitly confirmed in the respective Constitution of some of the *Länder*. The legislation of the *Länder* refers to groups which have their settlement area in the respective *Land*.

01019 A representative of the national minorities participates in the board of the Anti-Discrimination Office.

**B.2 Article 2**

**The provisions of this Framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and cooperation between States.**

02001 The Federal Republic of Germany attaches great importance to the protection of national minorities in view of safeguarding peace within the international community and in the interest of harmonious and mutually beneficial community life within countries, and at the national level complies with its obligations. The principles of tolerance, understanding, and good and friendly relations have their roots, *inter alia*, in the United Nations Declaration Principles of International Law regarding friendly relations between States in conformity with the United Nations Charter. The Federal Government feels a particularly strong commitment to these principles and to the standards laid down in the OSCE documents on the Human Dimension, and has taken them as the basis for bilateral good-neighbour and good-will treaties as well as for other agreements containing provisions on the protection of minorities, which Germany concluded with the former Soviet Union, Poland, the former Czechoslovakia, Hungary, Romania and some other countries (cf. the comments below, regarding Article 18 (1)).

**B.3 Article 3**

**(1) Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such, and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.**

**(2) Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually as well as in community with others.**

**B.3.1 Paragraph 1****B.3.1.1 The freedom to decide whether the group of the population with which one identifies should be designated as a national minority**

03001 Of the national minorities in Germany which are covered by the Framework Convention as stated in the Declaration by the Federal Republic of Germany on signing the Convention (i.e. the Danish minority, the Sorbian people, the Frisians in Germany, and the German Sinti and Roma), only the Danes, the members of the Sorbian people and those German Sinti and Roma represented by the Central Council of German Sinti and Roma are designated as national minorities. The Frisians, on the other hand, are not classed as a national minority, but are called “Frisian ethnic group”, to reflect a compromise reached among the Frisians on this point (cf. Article 5 (2) of the Schleswig-Holstein Constitution). Under the Council of Europe Framework Convention for the Protection of National Minorities, the Frisian ethnic group is accorded the same status as a national minority. The same applies to those Sinti who are clearly represented by the *Sinti Allianz Deutschland*.

03002 Regarding the Advisory Committee’s recommendation made in no. 24 et seqq. of its Second Opinion regarding Article 3 of the Convention, but actually concerning the Convention’s scope of application, to include other groups in the scope of the Framework Convention on the basis of an article-by-article approach, see section A.2.1 on the Convention’s scope of application. For Article 3 of the Convention applies only to persons who belong to a national minority in the Contracting State.

### **B.3.1.2 The freedom to choose to be treated or not to be treated as a member of a national minority**

03003 The freedom of the individual members of a national minority to decide for themselves whether they wish to be identified with the given national minority and therefore choose to be treated as belonging to that national minority is a fundamental element of the protection of national minorities, based on democratic principles. Nobody may – neither directly nor indirectly – be forced, against his/her will, to identify him/herself as a member of a national minority. Thus, every person belonging to a national minority can decide for him/herself whether he/she wishes to be included in the category of persons for whose protection and promotion nations take measures in compliance with the Framework Convention. For the Federal Republic of Germany, this right derives from the general freedom of the person as guaranteed by the Basic Law: “Every person shall have the right to free development of his personality insofar as he does not violate the rights of others or offend against the constitutional order or the moral law” (Article 2 (1) of the Basic Law). Thus it is everyone’s personal decision – which is neither registered nor reviewed nor contested by the German State – whether he/she chooses to be considered a member of any of the groups protected under the Framework Convention.

### **B.3.1.3 Safeguards of the legal system to protect the right to freely identify oneself with a minority**

03004 In various *Länder*, the principle of freedom to declare oneself a member of a national minority is defined in the respective *Land* Constitution or in relevant laws:

Article 5 (1) of the Constitution of the *Land* of **Schleswig-Holstein** expressly lays down that such declaration is voluntary. The Declaration by the *Land* Government of Schleswig-Holstein on the Status of the Danish Minority (Kiel Declaration of 26 September 1949) under II.1 says that: “Everybody is free to declare his/her affiliation with the Danish ethnic community and with the Danish culture. Such declaration shall not be officially contested or reviewed.” This passage of the Kiel Declaration has also been incorporated in the Declaration by the Government of the Federal Republic of Germany of 29 March 1955 (on the rights of the Danish minority). In Schleswig-Holstein also the Act on Promoting Frisian in the Public Sphere of 13 December 2004 states in its preamble “that persons are free to identify with the Frisian ethnic group”.

03005 Article 37 (2) of the Constitution of the *Land* of **Saxony-Anhalt** also explicitly establishes the freedom to declare oneself a member of a national minority.

03006 Section 1 of the Act on the Sorbs' Rights in the **Free State of Saxony** and Section 2 of the Act on the Specification of the Rights of the Sorbs (Wends) of the *Land of Brandenburg* provide that a member of the Sorbian people is whoever acknowledges his or her affiliation with the Sorbian people, and that such declaration shall be free. In addition, it is expressly provided that it shall be neither contested nor verified.

03007 Nor is identification with a national minority registered by the **executive** authorities of the Federation and the *Länder*. (Regarding the cases pointed out by the Central Council of German Sinti and Roma where police authorities indirectly recorded the ethnic origin of offenders and suspects thus influencing media coverage and which were addressed in no. 79 et seqq. of the Second State Report, and regarding the relevant recommendations of the Advisory Committee and the conclusions drawn by authorities from the criticism see the comments on Article 4 in no. 04009 et seqq.).

### **B.3.2 Article 3 (2)**

#### **(Entitlement to exercise rights individually as well as in community with others)**

03008 The rights and freedoms granted to members of such groups by the implementation of the Framework Convention may be exercised individually. These individual rights may also be exercised in community with others (for further details, see comments referring to Article 7). In addition to these individual rights and freedoms, legal provisions have been laid down explicitly to provide for the interests of political parties of national minorities under federal law (election to the German *Bundestag*, Political Parties Act) and under *Land* legislation (election of Sorbian parties in Brandenburg and of Danish parties in Schleswig-Holstein), or for bodies representing the interests of a national minority (*Rat für sorbische Angelegenheiten* [Council for Sorbian Affairs] in the Free State of Saxony and in Brandenburg).

**B.4 Article 4**

(1) The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

(2) The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

(3) The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

**B.4.1 Paragraph 1 (Prohibition of discrimination)****B.4.1.1 Societal purport of the prohibition of discrimination**

04001 Equality before the law and the prohibition of factually unwarranted unequal treatment (discrimination) are the keystones of a democratic body politic and, at the same time, of the protection of national minorities, which aims at the peaceful coexistence of various ethnic groups in a state community in which tolerance prevails. The principle of equality before the law and the prohibition of discrimination are enshrined in the Basic Law of the Federal Republic of Germany and in the Constitutions of the *Länder*, as well as in various subject-specific laws, and comply with the obligations under paragraph 1.

**B.4.1.2 Safeguards in the legal system to enforce the prohibition of discrimination**

04002 Central provisions of the **Basic Law** are Article 3 (1) ("All persons are equal before the law.") and Article 3 (3), first sentence, stipulating that no person must be favoured or disfavoured because of sex, parentage, race, language, national or social origin, faith, religion or political opinions.

04003 Section I of the Declaration by the Government of the Federal Republic of Germany on the Rights of the Danish Majority of 29 March 1955 made clear that the members of the Danish minority, like all German nationals, enjoy the rights guaranteed by

the Basic Law of the Federal Republic of Germany of 23 May 1949. These constitutional rights are listed under paragraphs 1 to 12 of the Declaration. The Bonn Declaration of 29 March 1955 was preceded by the Kiel Declaration of the Schleswig-Holstein *Land* Government on the Status of the Danish Minority of 26 September 1949.

04004 In some of the **Land Constitutions**, additional safeguards have been included to enforce the prohibition of discrimination, for instance:

- in Article 2 (1), of the Baden-Württemberg *Land* Constitution;
- in Article 12 of the Constitution of the *Land* of Brandenburg;
- in Articles 1 and 134 of the Hessian Constitution;
- in Article 4 (1) of the *Land* Constitution of North-Rhine/Westphalia;
- in Article 18 of the Constitution of the Free State of Saxony; and
- in Article 1 of the Constitution of the *Land* of Schleswig-Holstein.

In Article 10 (2) of the Constitution of Berlin an overarching non-discrimination clause has been included, under which “nobody shall be prejudiced or favoured because of their sex, parentage, race, language, national or social origin, faith, religion or political opinions, or sexuality”. Article 4 (1) of the *Land* Constitution of North-Rhine/Westphalia, also expressly prohibits discrimination on the grounds of belonging to a national minority in that *Land*. In Bremen, the prohibition of discrimination is enshrined in Article 2 of the *Land* Constitution.

04005 The constitutional prohibition of discrimination is also included in various **ordinary laws** of the Federal Government and the *Länder*, of which some examples are given in the following.

Thus, non-discriminatory **school education** is specifically laid down in Section 1 (1), first sentence, Section 1 (2), and Section 3 (3) of the Hessian Schools Act and in Section 1 (1) of the Schools Act of Baden-Württemberg.

04006 Eligibility for **employment in the public service** is laid down as a legal rule in Article 33 (2) of the Basic Law. It provides that every German national shall be equally eligible for any public office according to his/her aptitude, qualifications and professional achievements. The relevant implementing provisions are contained in Section 8 (1), second sentence, of the Act on Federal Public Officials (*Bundesbeamtengesetz*) which stipulates that the selection of applicants for public official status must be based on aptitude, qualifications and professional achievements, irrespective of sex, parentage, race, faith, religious or political opinions, origin or the person’s associations. Similar rules are laid down in Section 7 of the Act Defining the Scope of Public Officials’ Rights and

Duties (*Beamtenrechtsrahmengesetz*). Therefore, this principle is effective in all of the *Länder*.

04007 Section 67 of the Federal Personnel Representation Act (*Bundespersonalvertretungsgesetz*, BPersVG) states the following:

“The employing agency and the staff council shall see to it that all staff members of the agency are treated in justice and fairness, and in particular, that there is no form of unequal treatment of persons on account of their parentage, religion, nationality, origin, political or unionist activities or views, or sex.”

The *Länder* have adopted similar provisions.

For example, Section 71 (1) of the Personnel Representation Act of **Berlin** states:

“The employing office, agency, supreme agency and the staff council shall see to it that all staff members of the agency are treated in justice and fairness, and in particular, that there is no form of unequal treatment on account of their sex, sexuality, parentage, religion, nationality, origin, or political or unionist activities or views approving the free and democratic order.”

Section 77 of the **Hamburg Personnel Representation Act** (of 16 January 1979, Section 77 amended on 27 August 1997) reads as follows:

“The employing office and the staff council shall see to it that all public service staff members of the agency are treated in justice and fairness, and in particular, that there is no form of unequal treatment on account of their sex, sexuality, parentage, race, belief, religious or political views, home country, origin, relations, or political or unionist activities or views.”

In Section 59 no. 1 the **Personnel Representation Act of Lower Saxony** of 22 January 2007 states:

“The staff council shall perform the following general tasks:

1. See to it that all staff members of the agency are treated in justice and fairness, and in particular, that there is no form of unequal treatment of persons on account of their parentage, religion, nationality, origin, sexuality, political or unionist activities or views, or pursuant to no. 5 on account of their sex.”

Section 62 of the Personnel Representation Act of **North-Rhine/Westphalia** last amended on 9 October 2007 and corresponding to Section 105 of the Federal Personnel Representation Act now reads as follows:

“The employing office and the staff council shall see to it that all staff members of the agency are treated in justice and fairness, and in particular that there is no form of discrimination against persons on account of their race or ethnicity, parentage or other origin, nationality, religion or world view, disability, age, political or unionist activities or views, sex or sexuality.”

The *Land* Personnel Representation Act (*Landespersonalvertretungsgesetz*, LPersVG) of **Rhineland-Palatinate** includes a similar provision in Section 68 (1):

“The employing agency and the staff council shall see to it that all staff members of the agency are treated in justice and fairness, and in particular, that there is no form of unequal treatment on account of their sex, age, parentage, religion, nationality, origin, or political or unionist activities or views.”

Section 58 (II) of the Personnel Representation Act of **Saxony-Anhalt** also includes a relevant provision (prohibition of discrimination).

04008 Special protection against discrimination is also provided by the **General Act on Equal Treatment** (also see Chapter B.1.2) called for by the Advisory Committee in nos. 28, 30, 32 and 37 of its Second Opinion.

04009 Regarding compliance with the prohibition of discrimination by **administrative authorities** and discrimination-free **media coverage**, the Central Council of German Sinti and Roma repeatedly complained about media coverage conveying stigmatizing prejudices and discrimination against minorities and called for anti-discrimination provisions in media law. These problems were encountered in particular in the context of reporting on criminal charges which – also on the basis of information provided by the police – contained indications as to the ethnicity of an accused person, while such indication was not required for understanding the reported incident. Moreover, the Central Council suggested a legal prohibition of direct or indirect descriptions by public authority staff, in particular police officers, indicating a person’s ethnicity and also said by which laws the prohibition should be governed. (See comment by the Central Council of German Sinti and Roma in Part C of this State Report.) However, **Saxony-Anhalt** would like to point out that the Central Council of German Sinti and Roma has not yet specified a case where the police of Saxony-Anhalt have violated the prohibition of discrimination.

04010 As has already been explained in no. 93 et seqq. of the Second State Report, for constitutional reasons it is not possible to impose further legal restrictions on the media and that such provisions could not be more effective than the described mechanisms of self-regulation.

04011 In this context, the Advisory Committee has asked the Federal Government and the *Länder* in nos. 14, 17, 41-46, 82-84 of its Second Opinion to review the use of ethnic data on offenders to ensure that it is in line with the principles of the Framework Convention. In response, the Federal Government and the *Länder* explained that precautions are in place and that there are no files containing direct or indirect reference to an offender's ethnicity. The Committee has not submitted the requested evidence to the contrary.

04012 To meet the requests of the Central Council and the Advisory Committee, a working group of the Standing Conference of the Interior Ministers of the *Länder* in the Federal Republic of Germany drafted an additional sample ordinance for police authorities on the protection of national minorities which summarizes the applicable minimum requirements regarding discrimination-free behaviour of police authorities towards national minorities, putting aside the interest to cut red tape in Germany. The ordinance is implemented by almost all *Länder* and the Federal Government and is binding on police authorities.

The version for **police authorities at federal level** reads as follows:

***Ordinance on the Protection of Minorities against the Use of Discriminating Designations by Police Authorities***

***I.***

*The Basic Law and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) prohibit discrimination against individuals on account of their race, colour, parentage or religious origin; the same holds true for persons with special ways of living.*

***II.***

*The police shall authentically and faithfully record information obtained through complaints, interrogations or reports. The present ordinance shall not affect this. Further, the police may indicate membership of a minority in internal and external reports if this is required to understand the case or to establish a factual relationship.*

### III.

*Moreover, the following applies: The police shall consider the legal requirements under I. as a form of human dignity and refrain from stigmatization, categorization and generalized designation of people. This also applies to alternative designations or terms, regardless of whether they are objectively or subjectively suited to stigmatize, decry or discriminate against a person, an ethnicity, a nationality or a minority.*

*Internally and externally, the police shall use differentiated and detailed descriptions instead of categories, in particular in connection with searches, physical descriptions and crime descriptions. The form and contents of internal and external police communication shall not discriminate or foster prejudices. Both in internal and external communication the police shall prevent using terms which third parties might misuse or interpret to degrade people. This must also be taken into account internally since internal documentation might be disclosed to outside third parties and affect the public (e.g. lawyers accessing files, texts drafted by the press office on the basis of documents from the responsible office).*

Lower Saxony has chosen another approach. Applicable provisions on cooperation between police authorities and the press will be revised taking into account the provisions of the sample ordinance.

In Rhineland-Palatinate all police authorities and institutions were informed by a circular of 28 April 1992 regarding the use of ethnic designations in police communication and police press releases that the use of discriminating minority designations is not allowed, not even in exceptional cases.

In addition, the *Land* Government signed the framework agreement with the Rhineland-Palatinate *Land* Association of German Sinti and Roma on 25 July 2005. In Article 4, the agreement stipulates that discrimination against members of the Sinti and Roma should be prevented also by the police refraining from references to the membership of a minority in police reports and towards third parties, including the media.

04013 Taking into account the fact that provisions in laws and ordinances require implementation – which has already been pointed out in previous State Reports – and thus taking into account that human error, which is always possible, does not automatically change reality, German authorities are grateful that the Central Council of German Sinti and Roma remains critical and informs the responsible authorities about possible future deviations from this ordinance.

04014 Given the aforementioned criticism that police authorities recorded data on the ethnicity of offenders and suspects also in the recent past, and taking into account the Committee's request to take the necessary precautions (through the above-cited ordinance), another recommendation of the Advisory Committee seems surprising: In no. 40 of its Second Opinion it states that "it also believes that the authorities could consider the possibility, already recommended by the European Commission against Racism and Intolerance (ECRI)<sup>4</sup>, of introducing a system of registration in connection with police checks that would enable individuals to document how frequently they are checked, in order to identify possible patterns of direct or indirect racial discrimination."

04015 In this respect, the Free State of Bavaria states:  
"If police checks are concluded on the spot without any further consequences for the person concerned, the collection of his/her personal data is inadmissible, since the storage of such data would infringe on the person's right to determine the use of his/her data without any necessity in line with the principles of data protection. Hence, a general registration of police checks is rejected for legal reasons."

04016 The Free and Hanseatic City of Hamburg commented in detail:  
"The recommendation to consider the introduction of a system of registration in connection with police checks that would enable individuals to document how frequently they are checked, in order to identify possible patterns of direct or indirect racial discrimination is rejected. For implementing such a system, it would be necessary to register all persons checked for different reasons and in different ways in a data file. Such a comprehensive registration raises considerable data protection issues."

For the exclusive registration of people of a certain ethnicity, it would be necessary to ask all checked persons to indicate their ethnicity or membership of a national minority, since this is probably not obvious from their appearance or the presented documents. Hamburg believes that such questions are highly problematic. Such a data system would also need to store comprehensive data on the control situation, because, as mentioned above, more frequent checks on a person are not due to a person's ethnicity but behaviour that may be dangerous or gives rise to the suspicion of an administrative or criminal offence. The assumption underlying the recommendation is only a hypothesis which does not reflect common experience."

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<sup>4</sup> European Commission against Racism and Intolerance, 3<sup>rd</sup> Report on Germany, 05/12/2003. Doc. CRI (2004) 23.

04017 Hesse also explicitly underlined the above opinion that the introduction of such a registration system for police checks allowing individuals to document how frequently they have been checked is not possible for data protection reasons.

04018 In addition to the general legal situation, Schleswig-Holstein also referred to a special ordinance opposing the recommendation:

“The prohibition of discrimination of different ethnicities has also been laid down in an ordinance for the *Land* police force of Schleswig-Holstein. For legal reasons, there is no need for an additional control instrument in the form of a registration system. Such a registration system recording an individual’s ethnicity would also run the risk of specifically registering people of different ethnicities and hence discriminate against them.”

It should be added that such a register would contradict the request to refrain from collecting data on the ethnicity of offenders and suspects.

04019

## **B.4.2 Article 4 (2) (Obligation to promote equal living conditions)**

### **B.4.2.1 General principles**

04020 Article 3 of the Basic Law, the relevant provisions in the *Land* Constitutions and subject-specific laws ensure that, in the Federal Republic of Germany, the measures to be taken by the Contracting States under paragraph 2 meet the requirements of paragraph 1.

04021 For all persons who, in a given country, are members of the majority population and speak the official language as their native language, it is a matter of course to cultivate their specific culture and traditions, to learn, and be taught in, their language, to make daily use of their language and to derive from it elements for shaping their identity. For a much smaller group within the nation’s population, the prerequisites for the cultivation of an autonomous culture, preservation of their own language and development of their identity can only be ensured by providing an appropriate infrastructure. Therefore, measures taken by the state for the protection of national minorities are aimed at according the members of those minorities equal status with the majority population within the country. Thus, such measures do not constitute a violation of the principle of equality; rather, they comply with it by ruling out discrimination and unequal treatment. Wherever it is necessary and appropriate, the state may take adequate measures to promote equality between the members of national minorities and the majority population in the economic, social,

political and cultural fields. Such measures must take account of the specific conditions existing for the respective group and its members.

#### **B.4.2.2 Equality in all areas of economic, social, political and cultural life**

04022 As regards the areas of economic, social, political and cultural life considered under paragraph 2, the following should be noted:

The economic and social structure, including the educational structure, in the respective settlement area is basically the same for the groups protected under the Framework Convention and for the majority population. However, the economic and social development of the persons belonging to the Sinti and Roma minority in Germany has been more conflict-laden than in the case of the members of the other national minorities. Around the end of the 15<sup>th</sup> century, Sinti and Roma were increasingly oppressed and persecuted by the majority population. They were denied the practice of craft trades, and were expelled from many areas. At the same time, however, there were, especially at the local and regional levels, many and various forms of normal and peaceful coexistence of this minority and the majority population. It was only in the course of the 19<sup>th</sup> century that social exclusion was succeeded by the minority's gradual integration into society. This process made further progress under the democratic governmental system after World War I so that German Sinti and Roma then came to be citizens, of legally equal status, of the state and part of society. Nevertheless, they continued to be subject to a wide-ranging set of ordinances, decrees and orders – partly dating back to Imperial Germany – which regulated their lives.

04023 The progressive development towards integration and equality was interrupted by the search into the minority's ancestry and origin by so-called "race researchers", and by the minority's persecution by the despotic Nazi regime. Every Sinti or Roma family in Germany had to mourn murdered kinsfolk. Many families were extinguished, with only a few individuals surviving. Racial persecution by the Nazi regime has continued to have a direct impact on the survivors, especially by permanently impairing their health and physical fitness and through the sequels of the destruction of the domestic/family community, of their infrastructure and material basis of life, as well as on account of the years lost as regards school education and vocational training; and this persecution has also had an indirect effect on the next-born generation. Moreover, due to the compulsory sterilization carried out by the Nazi regime, many survivors were deprived of the possibility to build up a family for themselves.

04024 It was only in the decades after World War II that a general process of change, within the state and society, gradually evolved towards acceptance of the German Sinti and Roma. With reference to the overall population, the process has undergone a positive development, but is not yet completed. Also, society must come to understand the free decision of various groups within this minority to centre their community life around centuries-old standards of the Sinti rather than to adapt themselves to the majority population in each and every respect. The fact that Sinti or Roma standards are, and will continue to be, respected must not be misunderstood as a lack of readiness to be integrated; rather, adherence to these standards serves to preserve their own identity. In this respect, an important task of practical minority-related policy activities will be, also in the future, to find a way of mutual understanding.

04025 Where some members of this minority require help in difficult life situations and to enhance their economic and social integration, the government side – by funding counselling bureaus of the Sinti and Roma organizations and through other continuous initiatives or one-time individual projects – contributes towards achieving gradual harmonization of the social and economic status of all segments of society.

04026 Regarding the Advisory Committee's statement in no. 34 of its Second Opinion that even in the absence of detailed statistical data "persons belonging to the Roma/Sinti minority continue to find it more difficult than the rest of the population to gain access to employment, which is partly the case because of discrimination against them in accessing the labour market but also because of a lack of skills linked to existing barriers to equal opportunities in the educational system" (see remarks regarding Articles 6 and 12), Germany has not received information from the Advisory Committee, which might have facilitated the requested measures.

04027 In no. 36 of its Second Opinion "the Advisory Committee further notes that there appears to be no overall policy to move towards increased equal opportunities for the Roma/Sinti and that the National Social Inclusion Plans do not contain specific measures designed for them even though, according to information reaching the Advisory Committee, their situation in various fields seems to be noticeably worse than that of other groups and the majority population (see also the comments regarding Article 6 and 12)."

04028 In no. 39 of its Second Opinion "the Advisory Committee strongly urges the German authorities to address as a matter of priority the disadvantages, due to discrimination, encountered by persons belonging to the Roma/Sinti minority and to step up efforts to narrow the gap between persons belonging to the Roma/Sinti minority and the rest of the population. The Advisory Committee is of the opinion that the authorities should

give thought to a targeted and long-term strategy at national level to improve the situation of the Roma and Sinti, possibly by including the latter in the target groups listed in the National Social Inclusion Plans prepared in the context of the European Union.”

04029 In response, the German authorities heavily refuted any obligation imposed by the Advisory Committee to bridge the assumed gap between a minority’s social status and that of the majority population regardless of the efforts already taken and those envisaged for the future paid for by the taxpayer. State measures can only be successful to the extent to which the individual person concerned participates. This is particularly true for the regular attendance of pre-schools and regular schools given the assumption that a particularly large number of children of minorities attend general remedial schools.

04030 Given the federal structure of Germany, national inclusion plans for German Sinti and Roma are hardly feasible. Moreover, plans designed specifically for the minority of German Sinti and Roma could be implemented only with the consent of the group concerned. In this respect, it needs to be taken into account that promoting a specific group would convey the message that it is dependent on such promotion, which would create a basis for social prejudices. National plans for German Sinti and Roma would not be reasonable also if they included measures focused on specific areas since members of the national minority of German Sinti and Roma do not settle in defined regions as members of other national minorities in Germany or Roma in some eastern and south-eastern European countries, but live in almost all federal states of Germany. In addition to a lack of reliable figures on the total number of members, which is partly due to the freedom to declare oneself a member of a national minority pursuant to Article 3 of the Convention, plans at federal and *Länder* levels cannot be drawn up due to a lack of reliable information on the minority’s regional distribution.

04031 Moreover, according to German authorities tailored measures to promote equal opportunities for German Sinti and Roma are often not useful. One reason is the aforementioned decentralized settlement structure of the group concerned, which in most cases prevents special programmes for this group for economic reasons. Through contacts with German Sinti and Roma associations at federal and *Länder* levels it became clear that the group accepts special measures only if they are necessary – also under the Framework Convention – to document their discrimination in history and to gain acceptance for their group and understanding for its historical fate, to overcome prejudices in society and to prevent future discrimination. Otherwise, according to their associations, German Sinti and Roma do not want to be treated differently from members of the majority population in a similar social situation. In particular, they reject special schooling to prevent segregation.

04032 The responsible *Land* and local authorities therefore mainly take promotion measures which may contribute to overcoming regional and local education issues and to reducing unemployment. Hence, only in exceptional cases promotion measures will be taken specifically for German Sinti and Roma since they require a regional concentration of the group concerned. However, the constitutional right to equal treatment and provisions specifying this right ensure that also general promotion measures are justified only if all groups affected by the issue, i.e. possibly also German Sinti and Roma, can participate. Since such measures must take into account the concerns of the relevant groups, associations which might contribute to finding a solution, i.e. also associations of German Sinti and Roma, are involved. For this reason, authorities are grateful for information from associations about internal rules and about the way of life of German Sinti and Roma groups concerned. According to this information, participation of German Sinti and Roma is facilitated by the fact that they are travelling much less. For example, as any other eligible person unemployed German Sinti or Roma would lose their unemployment benefit if they rejected adequate job offers, even if they claimed that the offer is not appropriate for their travelling way of life.

However, according to the *Sinti Allianz Deutschland* public authorities in consultation with Sinti associations were able to make decisions regarding members of the Sinti ethnic group with a view to their culture and the respective traditional rules of life. In addition to the forms of expression of Sinti art, this should include also cultural rules regarding employment which prohibit, among other things, working with the health service, the funeral services and in jobs involving waste and faeces. Moreover, the Sinti ethnic group is bound by nutritional rules and must respect traditional rules regarding housing and furniture as well as contacts with people not belonging to the Sinti community, rules which Germans, Roma and members of other groups do not have to follow. Respecting these rules is made difficult, also for public authorities and institutions, by the fact that their traditional cultural order does not allow the Sinti to talk about their manners and customs and to disclose their traditional order to the public. Both the authorities and the Sinti representatives should ensure, through mutual consultations and trust, the protection of the traditional way of life also in a uniform legal framework and in a globalized world.

04033 Given this situation, measures aiming at an equal treatment of German Sinti and Roma usually take the form of financial help for the group's institutions and organizations which facilitate the exchange of information between the minority and the majority population and which may advise minority members on the use of general social, educational and employment institutions and inform these institutions about the minority's special concerns. Regarding the relevant efforts that have already been made for some time see nos. 112 to 126 of the Second State Report.

04034 Regarding the Advisory Committee's statement in no. 16 of its Second Opinion that "although efforts have been made since the first monitoring cycle, the situation remains particularly difficult for part of the Roma/Sinti population" in terms of **access to the labour market**, it needs to be added that the labour market cannot be adapted to the needs of job seekers. It is the job seeker who needs to adapt to the conditions and requirements of the labour market. This affects all job seekers, including Sinti and Roma. Even if the future requirements for a successful integration into the labour market are identified, special promotion measures in education take time. Therefore, the educational system of *Länder* aims at imparting key skills which help students acquire the necessary knowledge and qualifications. Persons who are entitled to unemployment benefits may participate in measures in line with Books II and III of the Social Code (*Sozialgesetzbuch, SGB*) which help them integrate into the labour market. However, no information is available on the results of efforts to integrate especially Sinti and Roma into the labour market because the ethnicity of persons receiving social benefits is not registered.

04035 Together with the Baden-Württemberg and Schleswig-Holstein Sinti associations, the Regional Centre for Education, Integration and Democracy (RAA Berlin) and Roma representatives from Hamburg, the Free and Hanseatic City of Hamburg intends to provide special promotion to young Sinti and Roma based on a training strategy for Roma and Sinti without school education qualifying for admission to a university (*Abitur*). The strategy will be developed in 2009. At the same time, a survey regarding the interest of young Sinti and Roma in such training will be conducted. The curriculum should help Roma and Sinti without university admission certificate to qualify for work in children and youths institutions and schools, thus improving the education of this group and their chances on the labour market. Another aim of employing qualified persons is to prevent that children from poorly educated families suffer disadvantages. (Also see no. 12189 regarding activities in Hamburg to promote equal opportunities for young Sinti and Roma in terms of access to education.)

04036 If an applicant is not accepted for a job apparently because of his/her membership of a national minority and not because his/her profile does not fully meet the job requirements as compared to other applicants, the applicant may take legal action against the rejection in line with the General Equal Treatment Act. In accordance with the European equal treatment directives, the act states that no one may be discriminated against based on race, ethnic origin, sex, religion or belief, disability, age or sexuality. It provides for sanctions in case of violations, for reducing the burden of proof for discriminated persons and for the tasks of the Anti-Discrimination Office which is a contact point for those who believe that they have been discriminated against for one of the aforementioned reasons.

04037 In Germany's response to the Advisory Committee's Second Opinion **Hesse** pointed out the following efforts to integrate youths into the labour market:

"The Hessian *Land* Government would like to provide a broad range of vocational training opportunities to all young people in Hesse, including Sinti and Roma, which enhances their future prospects. It therefore promotes programmes which mainly aim to create new vocational training opportunities. Another objective is to promote labour market access. These programmes also improve the opportunities of persons belonging to national minorities. The following programme is given as an example: An increasing number of young people must postpone their desired training and reapply for the training position in the following year. These young people disadvantaged on the labour market are given the opportunity to find a training position through a programme specifically tailored to their needs."

04038 In response to the Second Opinion **Lower Saxony** has commented as follows:

"In the framework of the full institutional funding Lower Saxony bears the personnel and equipment costs of the Lower Saxony Counselling Bureau for Sinti and Roma. Personnel funding includes three full-time positions (one director and two assistants) and three counsellors who work for the Bureau as volunteers and receive a small allowance. The Counselling Bureau operates throughout the *Land*, offering personal support and advice to Sinti and Roma with the objective of helping them integrate into social, cultural and economic life. The bureau's activities also comprise comprehensive public relations work to raise the public's awareness for the cultural and social concerns of Sinti and Roma and to counteract any social exclusion and discrimination.

04039 The statements under number 04038 also apply to the institutionally funded office of the **Rhineland-Palatinate** *Land* Association of German Sinti and Roma. The Rhineland-Palatinate Sinti Union, which is a member of the *Sinti Allianz Deutschland*, also employs volunteers who offer advice and assistance to Sinti living in Rhineland-Palatinate. The association applied for funding to improve their service for Sinti in Rhineland-Palatinate. Also see comments in no. 05123.

04040 The office and counselling bureau of the **Schleswig-Holstein** *Land* Association follows a similar approach as the Lower Saxony counselling bureau. Half of the funds are used for educators assisting children of the minority at schools in Kiel. Moreover, in 2006 the *Land* Association of German Sinti and Roma compiled information on cultural rules for authorities responsible for labour issues.

04040a **North-Rhine/Westphalia** funds the Sinti and Roma counselling bureau in Düsseldorf. The bureau run by the North-Rhine/Westphalia *Land* Association of German

Sinti and Roma assists Sinti and Roma in communicating with authorities. In addition it is responsible for raising awareness and providing further training in schools and workshops, for providing individual advice in schools, for organizing commemoration days and for settling conflicts with other institutions. Moreover, compensation for injustice suffered during the Third Reich has become a key issue of counselling.

#### **B.4.2.3 Measures to promote equality, even without statistical data**

04041 Regarding the equal status of persons belonging to national minorities on the **labour market**, especially the Sinti and Roma, the Advisory Committee expressed the view in both its first (no. 75) and Second Opinion (nos. 12, 29, 31, 33, 38, 175) that the authorities should seek means of obtaining more reliable **statistical data** on persons belonging to national minorities broken down according to age, sex and geographical distribution to promote full and effective socio-economic equality.

04042 However, on the basis of the official federal statistics this recommendation has already been commented on as follows:

1. Ever since the end of World War II, data on members of national minorities have not been collected as part of the official statistics, particularly because of Germany's history and the persecution of minorities during the Nazi regime – as was recognized by the Committee in number 33. (In Germany's view, the fact that certain minority representatives spoke out in favour of the collection of such data during a visit is not sufficient to renounce this principle.)
2. Furthermore, there would be many practical and methodological obstacles to overcome to collect such data as part of the federal statistics:
  - The German population statistics and many statistics in the social area (e.g. social benefits, education, public health) are largely based on the evaluation of existing administrative documents. Since such records do not contain any information on national minorities, it is not possible to make any relevant evaluations with regard to national minorities.
  - The number of persons belonging to national minorities in Germany is relatively low. This explains why no reliable statistics can be collected on this population segment within the framework of current official sample surveys.

For the above-mentioned reasons, it would not be possible to include data on national minorities in Germany's official statistics or only with a disproportionate effort.

3. Concerning the request for new statistics, it must be pointed out that the Federal Government intends to cut red tape and in this context wants to restrict official statistics as far as possible.

4. Regarding the Advisory Committee's remarks, e.g. in no. 38, it can be said that scientific sociological studies unrelated to official statistics to satisfy any specific need for information are outside the scope of official statistics.

04043 As indicated in no. 130 of the Second State Report, collecting the requested statistical data on Germany is not possible also for legal reasons.

04044 For these reasons, the official statistics in Germany cannot contain information on one of the national minorities.

04045 But also the national minorities objected to the collection of data on the situation of national minorities. For example, the Lusatian Sorbs association *Domowina-Bund Lausitzer Sorben e. V.* commented on no. 12 of the Second Opinion as follows: "The collection of reliable data on the situation of minorities is considered problematic because of the legally protected freedom of individuals to declare their commitment to the Sorbian people and the mixed population in the Sorbian settlement area. It is of fundamental importance for us to ensure that implementing obligations under the Framework Convention does not require statistical data."

04046 The Danish minority comments on the collection of statistical data relating to a national minority as follows:

"We would like to point out that as a consequence of the Bonn-Copenhagen Declarations people are free to declare their commitment to the Danish minority and culture, which must not be contested or verified by public authorities. For this reason there is neither a basis for the collection of statistical data on minorities nor would it be desirable."

04046a In the follow-up workshop on the second monitoring cycle for the Framework Convention which took place in the framework of the implementation conference on 27 November 2008, representatives of minority associations confirmed to representatives of the Advisory Committee that they do not wish statistics on ethnicity.

04047 As mentioned before, Germany is neither willing nor able – even if national minority associations participated – to introduce statistics on ethnicity. Apart from that, Germany has not received any further information regarding no. 31 of the Advisory Committee's Second Opinion claiming that during its visit some minorities were in favour of collecting more accurate data on their socio-economic situation.

04048 Moreover, the Second State Report has already pointed out that the Advisory Committee's own assessments regarding the overall subject of collecting criminal police

data on persons belonging to national minorities show that, in the context of administrative practice, objections will indeed be raised to any recording of the affiliation with national minorities.

04049 Finally, the question remains whether statistical data on national minorities are really necessary. They are required neither for German Sinti and Roma to benefit from social welfare as stipulated in Article 3 nor for funding institutions of this national minority.

04050 Therefore, the Federal Government still does not intend to collect statistical data on membership of a national minority.

04051 At the proposal of the German member deployed by the Federal Ministry of the Interior, the Council of Europe DH-MIN expert committee is currently discussing general issues regarding the collection and use of data on minorities. For example, the committee is considering whether questions on the ethnicity must be answered truly taking into account the freedom to declare oneself member of a national minority, e.g. pursuant to Article 3 of the Framework Convention, which value such answers would have and how the data gained from these answers could be reasonably used. No results have been achieved so far. However, the Advisory Committee is free to participate in this discussion of the expert committee at any time.

#### **B.4.2.4 Supporting equality through financial equalization for disadvantaged areas**

04052 Regarding the national minorities of the Danes, Sorbs and Frisians, it should be pointed out once more that their settlement areas belong to those areas of the Federal Republic of Germany which – like other regions having a weak structure in terms of trade and/or industry as compared to the economically stronger conurbations – face special economic and social problems. The financial equalization among the *Länder* designed to remedy structural differences by sharing tax revenue helps also the *Länder* with economically disadvantaged regions meet their state obligations, and thus also benefits regions with settlement areas of national minorities and ethnic groups. However, minority policies of the *Länder* are not separately itemized as regards allocations.

04053 Migration – especially of the younger generation – to metropolitan areas, which is due to the different economic structure of the various regions, removes the basis for preserving the culture and language, i.e. the identity, of the groups protected under the Framework Convention. Such migration is particularly painful for minorities if those who leave are highly educated and committed to the work of minority organizations since they

would be needed as junior staff within the structures of the minorities' cultural self-management. Therefore, individual efforts aimed at opening up perspectives for the employment of such persons in the settlement areas of minorities are particularly deserving of support.

04054 Other governmental promotion measures to the benefit of national minorities, in particular of German Sinti and Roma, which also aim at promoting full and effective equality with the majority population, are covered by the comments on other Convention articles – especially on Articles 5 and 15 – since fulfilling the obligations under these articles is the primary objective of the respective measures.

#### **B.4.3 Article 4 (3) (Confirmation that promoting equality is not an act of discrimination)**

04055 See comments regarding Article 4 (2), no. 04021.

**B.5 Article 5**

**(1) The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.**

**(2) Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.**

**B.5.1 Paragraph 1**

**(Promoting the culture and preserving the identity of national minorities)**

**B.5.1.1 Support based on needs, in accordance with the federal structure of the Federal Republic**

05001 The obligation of the Contracting States to promote the overall conditions necessary for persons belonging to national minorities to maintain and develop their culture and to preserve their identity continues to be implemented in Germany through applicable law and the funding practices of public agencies.

05002 According to the distribution of responsibilities within the federal system of the Federal Republic of Germany, culture and education are the responsibility of the *Länder*. Within the framework of local self-government under the statutes enacted by the *Länder* concerning the organization and powers of local governments, e.g. Section 10 (2) of the Local Authorities Code of Baden-Württemberg, local authorities are called upon to promote the common good of their inhabitants through the citizenry's self-government. This also means attending to residents' social and cultural needs, including the needs of those residents who belong to the groups protected under the Framework Convention, because the definition of "resident" does not depend on the person's nationality, language, cultural heritage, or religion. (On this point, cf. the comments of the Danish minority in Part C.)

05002a Other areas that may promote a sense of identity, e.g. the judicature law and the law governing names, may be a federal responsibility.

05003 Referring to the federal structure of cultural promotion, the Advisory Committee in its First Opinion (in no. 76) and its Second Opinion (in no. 47), found that representatives

of several national minorities viewed the present system of financial support as being very complicated because of the large number of government agencies involved. The Advisory Committee was of the opinion that Germany should work with the national minorities concerned to simplify and clarify the financial support system for minority languages and cultures.

05004 In this regard it should again be noted that Germany's federal structure allows minorities to receive support according to their specific needs and the local circumstances, and that the information and communication issues can be dealt with in consultative committees at the Federal Ministry of the Interior. Such committees exist for the German Sinti and Roma as well as all other national minorities in Germany and consist of representatives of the respective minority group as well as representatives from legislative and executive bodies at *Land* and federal level.

05005 If in no. 48 of its Second Opinion, the Advisory Committee means to say that the regular awarding of grants to the national minorities is a form of acknowledgement of the Federal State's responsibility towards them, it should be noted that federal financial support is allowed only to the extent demonstrably required in the interest of the state as a whole.

#### **B.5.1.2 Article 2 of the Basic Law as the basis for preserving culture and identity**

05006 Of particular significance to the members of national minorities are the right to free development of personality, as guaranteed by Article 2 (1) of the Basic Law, which *inter alia* leaves the use of the relevant language, maintenance of the relevant autonomous culture, and preservation of the ethnic identity to each individual; and Article 4 (1) and (2) of the Basic Law, guaranteeing freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, as well as the undisturbed practice of religion.

#### **B.5.1.3 Conditions for preserving the religion of national minorities**

05007 Germany does not have a state church. The freedom of faith, conscience, and religious or ideological creed guaranteed under Article 4 (1) of the Basic Law includes the following: the right to decide freely whether to join a particular community of religious faith or belief, or not; the right to proselytize on behalf of one's beliefs; the right of parents to teach their children the religious or ideological creed which they consider to be the right

one; and generally the right to act according to one's beliefs. For more information, please see the response to Article 8.

#### **B.5.1.4 Conditions for preserving the languages of national minorities**

05008 In Germany, the obligation derived from Article 5 (1) to promote the preservation of minority languages (also stated as an aim in Article 7 (1) (c) of the European Charter for Regional or Minority Languages: "to promote ... languages in order to safeguard them") is put into specific terms and fulfilled by the following legal provisions:

(On the scope for using minority languages in private and in public, cf. the comments below regarding Article 10.)

05009 For all persons speaking a country's official language as their native language it is self-evident to learn, use and be taught in that language. For a much smaller group within the nation's population, the prerequisites for preserving an autonomous language can be ensured only by means of an appropriate infrastructure. Therefore, government measures serving to cultivate regional or minority languages are aimed at placing the speakers of the given language on an equal footing with the majority population which uses the official language as their native language. Thus, such measures do not violate the principle of equality but rather fulfil it by ruling out discrimination and unequal treatment. The state may take adequate measures to promote equality between speakers of regional or minority languages and speakers of the generally spoken official language wherever such measures are necessary and appropriate. Such measures must take into account the specific conditions existing for the given language and its users.

05010 In keeping with the federal structure of the Federal Republic of Germany, responsibility for implementing measures to promote and preserve the languages of national minorities primarily lies with the *Länder*. The constitutions of five *Länder* of the Federal Republic of Germany contain provisions relating to national minorities and ethnic groups, or to national and ethnic minorities. In part, these provisions also relate directly to their language(s).

05011 The following constitutional provisions, which were explained in greater detail in the Second State Report in numbers 145 to 150, form the basis for legislative measures or administrative action taken on behalf of these languages:

- in Brandenburg concerning the rights of the Sorbs (Wends), Art. 25 of the *Land* Constitution;

- in Mecklenburg-Western Pomerania, Art. 18 of the *Land* Constitution;
- in Saxony, for all national minorities living there, Art. 5 (2) of the *Land* Constitution, and for the Sorbian people in particular, Art. 2 (4), Art. 3 (1) and Art. 6 of the *Land* Constitution;
- in Saxony-Anhalt, for all ethnic minorities, Art. 37 (1) of the *Land* Constitution;
- in Schleswig-Holstein, in some cases for all national minorities, in some cases specifically for the Danish minority and the Frisian ethnic group, Art. 5 of the *Land* Constitution.

05012 The following provisions offer additional protection for the national minorities:

In Schleswig-Holstein, the Danish minority receives special protection under the Bonn Declaration of the Government of the Federal Republic of Germany on the Rights of the Danish Minority of 29 March 1955; the Frisian ethnic group receives special protection under the Frisian Language and Culture Act, which the Advisory Committee specifically welcomed in its Second Opinion, no. 49. (Cf. nos. 151 – 153 of the Second State Report.)

Additional protection for the Sorbian people is provided by provisions in a protocol note to Article 35 of the Treaty on the Establishment of German Unity of 31 August 1990 and the Brandenburg Act on the Sorbs (Wends). (Cf. nos. 154 –155 of the Second State Report.)

05013 At international level, additional protection for the national minorities and their languages is provided by the European Charter for Regional or Minority Languages. (Cf. nos. 156 –157 of the Second State Report.)

05014 Further, in light of their history, an agreement between Rhineland-Palatinate and the *Land* association of German Sinti and Roma in 2005 affirmed the status of the German Sinti and Roma as a national minority and gave them access to funds in accordance with *Land* budgetary law, which the Advisory Committee welcomed in its Second Opinion, no. 50.

05015 And finally, in its comments on no. 50 of the Second Opinion, Hesse emphasized that it has accorded special protection to German Sinti and Roma by largely adopting the European Charter for Regional or Minority Languages for the special Romany language of these groups. However, a number of the obligations given in the Charter are impossible to fulfil, as the expert committee for this agreement has noted.

### **B.5.1.5 Conditions for preserving culture and traditions**

05016 In Germany, measures needed to maintain and develop the culture and to preserve the protected languages and the identity of persons belonging to minorities are promoted via the law in force and the activities of government agencies.

05017 In accordance with the distribution of responsibilities within Germany's federal system, cultural promotion comes under the *Länder's* autonomy in cultural matters. Within the framework of local self-government under the statutes enacted by the *Länder* concerning the organization and powers of local governments, e.g. Section 10 (2) of the Local Authorities Code of Baden-Württemberg, local authorities are called upon to promote the common good of their inhabitants through the citizenry's self-government. This also covers attending to residents' social and cultural needs, including the needs of those residents who belong to the groups protected under the Framework Convention, because the definition of "resident" does not depend on the person's nationality, language, cultural heritage, or religion.

05018 Of particular significance to the members of national minorities are the right to free development of personality, as guaranteed by Article 2 (1) of the Basic Law, which *inter alia* leaves the use of the relevant language, maintenance of the relevant autonomous culture, and preservation of the ethnic identity to each individual; and Article 4 (1) and (2) of the Basic Law, guaranteeing freedom of faith and of conscience, and freedom to profess a religious or philosophical creed, as well as the undisturbed practice of religion.

05019 In keeping with the federal structure of the Federal Republic of Germany, responsibility for the implementation of the relevant measures lies primarily with the *Länder*. The regulations contained in the constitutions of five *Länder* and already quoted above in the sections on preserving the languages of national minorities also contain explicit provisions on promoting and preserving the culture of the groups protected under the Framework Convention: Article 25 of the Constitution of Brandenburg; Article 18 of the Constitution of Mecklenburg-Western Pomerania; Article 5 (2) and Article 6 of the Constitution of Saxony; Article 37 (1) of the Constitution of Saxony-Anhalt; and Article 5 of the Constitution of Schleswig-Holstein.

05020 The aforementioned constitutional stipulations are specified by laws, ordinances, statutes, and administrative action. For example, Section 2 (3) of the Act on the Sorbs' Rights in the Free State of Saxony expressly states that conditions shall be ensured and promoted which enable the citizens of Sorbian origin to preserve and further develop their language and traditions as well as their cultural heritage.

### **B.5.1.6 Institutional infrastructure for promoting the culture and preserving the identity of national minorities**

05021 The bodies established to encourage the conditions required to preserve the identity of the protected groups pursuant to Article 5 (1), which were listed in the Second State Report under nos. 164 – 181 and are summarized below, also provide for implementing the obligations under Article 15 (therefore cf. also the comments under Article 15 below).

#### **B.5.1.6.1 Bodies at federal and *Länder* level**

05022 Special bodies have been set up at federal and *Länder* level where regular exchanges take place between the policy-makers, public administration and the various national minorities. These bodies discuss all minority-relevant issues concerning these groups. Also, functions have been established within public administration which are constantly in touch with the minorities and have direct responsibility for protecting and promoting the groups protected under the Framework Convention. In creating this infrastructure, it was necessary to consider the different needs of the various groups and the existing scope for government action. In addition, various organizations exist to deal with the preservation and promotion of the protected languages.

#### **B.5.1.6.2 Government agencies, other public authorities, and commissioners**

##### **B.5.1.6.2.1 Federal level**

05023 The **Federal Ministry of the Interior** is responsible for law on minorities and for coordinating the implementation of the agreements on the rights of national minorities and their languages.

##### **05024 The Federal Government Commissioner for Matters Related to Repatriates and National Minorities**

is

- the point of contact at federal level for the national minorities in Germany;
- the representative of the Federal Government to the relevant contact bodies;
- the chair of the consultative committees at the Federal Ministry of the Interior for each of the national minorities;

- responsible for public information regarding the national minorities in the Federal Republic of Germany.

05025 The **Federal Ministry of Justice** is responsible for the **human rights aspects** of minority protection.

05026 **Other ministries** are responsible for aspects of minority protection which touch on their specific tasks.

05027 The **Federal Government Commissioner for Culture and the Media** is responsible for promoting the culture of the individual national minorities where this is not already the responsibility of another ministry and/or the *Länder*.

#### **B.5.1.6.2.2 Land level**

05028 The **Brandenburg** Ministry for Science, Research and Cultural Affairs has a **Section for Sorbian (Wendish) Matters**. Its Ministry for Education, Youth and Sport has a **Section for Matters Related to the Sorbian Minority**.

05029 The Free State of **Saxony's** Ministry of Scientific Affairs and Arts has a **Section for Sorbian Matters and Memorials**. Responsibility for dealing with the interests of the Sorbian and German/Sorbian schools in the Sorbian settlement area in the Free State of Saxony lies with the Saxon State Ministry of Education and Cultural Affairs and the Bautzen Regional Schools Office; each has assigned one desk officer responsibility for school matters.

05030 In **Schleswig-Holstein**, the head of a section of the State Chancellery is responsible for minority matters. In other *Länder* of the Federal Republic of Germany, these tasks are performed by units of various supreme *Land* authorities. In order to provide the minorities in Schleswig-Holstein with a direct point of contact, the post of border region commissioner, reporting to the Minister-President, was established in 1988. Since 2005, this post has had the title "Commissioner for Minorities and Culture". The commissioner advises the Minister-President on matters concerning the Danish minority as well as Frisians and German Sinti and Roma who live in Schleswig-Holstein. The commissioner monitors the cultural, social and economic developments in the border region in terms of their implications for the minorities and reviews the development and implementation of legislation on minorities and ethnic groups at international level.

### **B.5.1.6.2.3 Agencies at the regional level**

05031 Administrative districts with larger proportions of national minorities and ethnic groups, and local authorities in the settlement areas of these minorities/groups have, like other public-law corporations (e.g. Ostfriesische Landschaft), also provided regional institutions to attend to the minorities' interests.

In Schleswig-Holstein, the district council for the district of Nordfriesland added a supplement to its statutes, thereby taking into account the minority situation in Nordfriesland. Section 3 (2) second sentence states: "The district shall protect and promote the cultural autonomy of the Danish minority and the Frisian ethnic group."

In Brandenburg, the municipality of Cottbus and the Spree-Neisse administrative district have designated full-time commissioners for Sorbian matters. In the districts of Oberspreewald-Lausitz and Dahme-Spreewald, volunteer commissioners have been designated. In the Spree-Neisse district, for example, the offices in Burg and Peitz, the latter incorporating the sole Sorbian office Jänschwalde since an administrative reform in 2003, have had volunteer commissioners for Sorbian matters for some time.

05032 The Sorbian associations had the right to nominate candidates for commissioner in Cottbus, Jänschwalde and Burg. In the Oberspreewald Lausitz district, the Domowina local association NL e.V. participates in searches for new commissioners. Domowina also participated in selecting the commissioner in the Dahme-Spreewald district.

05033 In compliance with Saxony's regulations for local authorities and administrative districts, the local authorities and administrative districts in the Sorbian settlement area are required to draft and implement **statutes on promoting the Sorbian culture and language**.

05033a The **Act on Restructuring the Public Administration in Saxony** (SächsVwNG) and the **Act on Restructuring the Administrative Districts in the Free State of Saxony** (SächsKrGebNG) entered into force on 1 August 2008. As a result, the districts of Kamenz and Bautzen and the municipality of Hoyerswerda were merged to form the new district of Bautzen, while the districts of Löbau-Zittau and Niederschlesische Oberlausitz and the municipality of Görlitz were merged to form the new district of Görlitz. Prior to this reform on 1 August 2008, the district of Bautzen and the municipality of Hoyerswerda each had **commissioners for Sorbian affairs**. The Kamenz district had laid down the rule that a senior position in the administration was to be held by a member of the Sorbian people. This post was the Head of the Department for Youth and Social Affairs. In the district of

Niederschlesischer Oberlausitz, this function was performed by the office of the district's chief executive. Volunteer commissioners for Sorbian affairs work in various communities in the Sorbian settlement area, such as Boxberg, Radibor, Schleife, Weisswasser and Uhyst. With the district reform, the following arrangements were made:

The commissioners for the former districts of Bautzen and Kamenz will continue to carry out their tasks as usual until the new district of Bautzen appoints a new commissioner. The commissioner in the new district of Görlitz will continue in office until a successor is appointed. Hoyerswerda has long had a consultative council for Sorbian affairs (10 members) appointed by the town council; this consultative council will continue.

05034 The tasks of these public authorities include protecting national minorities at the federal and *Land* levels, including responsibility for legislative proposals; implementing minority-related law, including the pertinent international-law instruments; promoting the work of national minorities and ethnic groups; and, at the local government level, providing assistance/counselling and direct support.

05035 The activities of public authorities relate to the minorities/language groups living in the respective *Land* or region, and at federal level to the Danish minority, the Sorbian people, the Frisians in Germany, and the German Sinti and Roma.

### **B.5.1.6.3 Councils, institutions, and/or round tables at the federal level**

05036 **The Federal – *Länder* Conference with the minorities on the Framework Convention for the Protection of National Minorities:** Participants are the federal ministries dealing with the protection of national minorities, the respective *Land* authorities with lead responsibility, representatives of the umbrella organizations of the minorities protected by the Convention and of their research institutions. One of the conference tasks is discussing the implementation of the Framework Convention.

05036a **The Federal – *Länder* Conference with the language groups concerned on the European Charter for Regional or Minority Languages:** participants are federal and *Land* Government authorities dealing with aspects of the Charter, and representatives of the umbrella organizations of these language groups and their research institutions. One of the conference's tasks is discussing the Charter's implementation.

05036b **Consultative Committee for Issues of the Danish Minority at the Federal Ministry of the Interior** (favourably mentioned by the Advisory Committee already in its First Opinion): members are the Federal Minister of the Interior and a state secretary of the

ministry; two members from each of the parliamentary groups of the German Bundestag; three members of the Danish minority in Germany, and the Commissioner for Minorities representing Schleswig-Holstein. The Committee is chaired by the Federal Minister of the Interior. The Committee is intended to ensure the Danish minority a voice in the Federal Government and the Bundestag. Its task is to discuss all issues of the Federal Government's domestic policy that concern or affect the Danish minority.

05036c **Consultative Committee on Issues concerning the Sorbian People**, set up at the **Federal Ministry of the Interior**: membership of the Consultative Committee includes three members of the Sorbian people designated by Domowina, a representative of the Foundation for the Sorbian People and representatives of the Federal Ministry of the Interior and of the Brandenburg and Saxony governments. Members of the German Bundestag and representatives of other federal ministries can be invited to attend the meetings. The committee is chaired by the Federal Minister of the Interior. The Consultative Committee's task is to discuss all issues of the Federal Government's domestic policy that concern or affect the Sorbian people.

05036d **Consultative Committee for the Frisian ethnic group in Germany**. This committee, established in summer 2004, is comparable to the above-mentioned committees in terms of its structure and tasks.

505036e So far, no similar bodies have been established at the federal level for matters concerning the German Sinti and Roma. However, leading personalities from the spheres of politics, academia and industry in Germany are represented on the Board of Curators of the Documentation and Cultural Centre of German Sinti and Roma.

05036f The **German Bundestag** continues to run its **Round Table on National Minorities**: With the support of the chairperson of the Committee on Internal Affairs, this round table brings together Members of Parliament and representatives of the umbrella organizations of the national minorities for discussions several times a year.

In autumn 2003, the **German Bundestag** launched an **all-party initiative for regional and minority languages** with the aim of taking particular care of the interests of the language groups protected under the Charter. Because the minority languages (e.g. under Article 14) are also protected under the Framework Convention for the Protection of National Minorities, this initiative also serves to fulfil obligations resulting from this convention.

05037 Regarding the **Secretariat for Minorities**, please see Chapter B.15.4, because this body is an autonomous representative institution of the national minorities (a kind of lobby) which receives federal funding, but was not set up by the government.

05037a The **Foundation for the Sorbian People**, an institution under public law, is covered in nos. 05060 to 05067.

05037b The **Minority Council** is a discussion forum organized by several minority associations.

#### **B.5.1.6.4 Bodies at *Land* level**

05038 For the length of each legislative period, **Saxony's parliament (*Landtag*)** elects a **Council for Sorbian Affairs**, and **Brandenburg's parliament** a **Council for Sorbian (*Wendish*) Affairs**. Each of these councils has five members; in Brandenburg, council members must be Sorbs. In Brandenburg, council members are nominated by the Sorbian associations, and in Saxony by Sorbian associations and the German/Sorbian local communities. In Saxony, the council's tasks are specified in Section 6 (2) of the Act on the Sorbs' Rights in the Free State of Saxony: "The Saxon *Landtag* and the state government shall consult the Council for Sorbian Affairs on matters affecting the rights of the Sorbian population."

05039 The **Schleswig-Holstein parliament** has a **panel dealing with matters concerning the Frisian ethnic group in Schleswig-Holstein**. It is composed of members of the Schleswig-Holstein parliament and Bundestag members from Schleswig-Holstein, the Minister-President's Commissioner for Minorities, and prominent elected representatives and officials of this ethnic group. The panel's activities ensure a continuous exchange of information and support regarding pertinent issues.

#### **B.5.1.7 Support policy**

05040 The groups protected in Germany under the Framework Convention differ in terms of their regional distribution, the level of (minority) language proficiency, the infrastructure established and maintained by these groups to support cultural institutions and associations, and their respective strategies for preserving their cultural and linguistic identity. In some cases, such differences also exist within a given minority when it is represented by various organizations with different aims. Also, the respective situation,

together with the historic development, the varying financial capacities of the *Länder*, and the number of persons belonging to the national minorities and ethnic groups in a *Land* have all had an influence on government support policies. Consequently, the information provided here on the various groups differs in length and detail.

05041 Regarding most of the groups receiving funding in Schleswig-Holstein (the Danish minority, the North Frisian ethnic group, and German Sinti and Roma) and in Lower Saxony (East Frisians and Sater Frisians), please see nos. 183 – 185 of the Second State Report for further details.

05042 In nos. 19 and 51 of its Second Opinion, the Advisory Committee stated that subsidies for the national minorities had in general either been reduced, stayed the same or increased only slightly since the first monitoring cycle, and that authorities should ensure that budgetary cuts and other reductions of state support do not affect minorities more severely than the population at large.

05043 In response, the federal and *Länder* governments noted that it was inaccurate to speak of general reductions, as support had even been increased in some cases and, wherever cuts in support for the national minorities had been necessary, these remained within the overall framework. For the federal level, the Federal Government Commissioner for Culture and the Media stated, “In general it must be said that because of the efforts to consolidate the federal budget (among other things to comply with the Maastricht criteria; Article 115 (1) of the Basic Law) and the solidarity contribution to fund pensions, all subsidies have been reduced by 3%. In individual cases, the national minorities have been exempt from these reductions - at least in part. Hence, the statement that ‘subsidies for minorities have in general been reduced in recent years’ is not correct. On the contrary, funding for the Frisian ethnic group and the Danish minority has been fully adjusted in accordance with the relevant requirements. In 2006 the reduction in the funding for the Sinti and Roma was only 50% of the originally planned reduction. The allocation of funds to the Foundation for the Sorbian People was based on the expert opinion of the Federal Office of Administration. This expert opinion assumes annual effects of synergies and cost savings.”

05044 Further, in nos. 19, 51 and 56 of its Second Opinion, the Advisory Committee again referred to the “uncertainty over medium- and long-term financing” hampering “the preparation of projects which would require a longer-term commitment.” The Advisory Committee believes that the federal authorities and those of the *Länder* concerned should ensure that allocating funds to minorities allows for activities over a longer term.

05045 On this point, the following clarification is again necessary: The federal and *Länder* governments do their best to offer a long-term funding perspective to institutions of the national minorities, which always manage their financial affairs with effectiveness and economy in mind. According to constitutional budgetary law of the federal and *Länder* parliaments, support in general is subject to annual budget negotiations and can be granted for multiple years only in exceptional cases with parliamentary approval. Because this budgetary law may be weakened by multi-year institutional support, the Budget Committee of the German Bundestag has decreed that there will no longer be any new institutional funding at federal level, but only funding for individual projects.

05046 Further, the German authorities believe that, for reasons of administrative economy and to avoid unproductive infighting among national minorities, it is necessary to continue the separate allocation of resources to the different minorities noted by the Advisory Committee in no. 53 and criticized in no. 58 of its Second Opinion, because each group has different needs and the federal and *Länder* governments' obligations differ accordingly.

05047 Apart from this issue, federal and *Länder* budgets for national minorities are related to general budgetary trends.

05048 Against this background, current federal and *Länder* support for the associations and institutions of national minorities in Germany and their activities (projects) is as follows:

#### **B.5.1.7.1 Support policy for the Danish minority**

05049 The Danish minority is divided into a large number of strong and independent organizations covering almost all aspects of daily life. These organizations work together and coordinate their joint activities in the Joint Council for the Danish Minority (Det Sydslesvigske Samråd). The Joint Council is an advisory body with no authority to issue binding directives. The Danish Secretariat General (Dansk Generalsekretariat) in Flensburg is the central point of contact for general cultural issues. The Danish minority finance their work with funds provided by the Kingdom of Denmark, the *Land* Schleswig-Holstein and the districts and municipalities in the settlement area. The Danish minority also receives funding from the Danish Border Association (Graenseforeningen) and donations from foundations and private individuals; it also has its own resources. Investments by the Sydslesvigsk Forening (SSF) have received federal support since 2000.

Thanks to these resources and allocations, the diversified cultural work of the Danish minority can be carried out on an extensive scale.

05050 The **SSF** is the **chief organization** of the Danish minority **for cultural work** and thus, in particular, for the cultivation of the Danish language, with the Dansk Generalsekretariat in Flensburg. The SSF's current membership is about 15,000. Another 24 associations with total membership of about 12,000 are affiliated with the SSF and carry out a wide variety of activities. The SSF is committed to promoting Danish efforts in South Schleswig, the Danish language and Danish folk culture. In addition, the SSF maintains active contacts with Denmark and the other Nordic countries, and its aim is to keep the Danish culture and way of life alive within the minority. It organizes Danish theatrical performances and concerts, maintains buildings as meeting places and assembly rooms, a museum, a school hostel in the country and residences for the elderly, and operates senior citizens' clubs with a wide range of recreational facilities and activities in the Danish language.

05051 The programme of cultural events throughout the region also includes lectures, movies, slide lectures, discussions and general social gatherings. The **yearly meetings of the Danish minority**, with large open-air gatherings at various locations within the settlement area and including parades with musical accompaniment, have long since developed into large public festivals. The minority and the majority populations have become more accommodating towards each other and take part in each other's activities.

05052 The Danish minority also runs the **Danevirke Museum** near Schleswig. The Danevirke, or Danewerk, an earthen defence rampart over a total length of 30 km, is the largest archaeological monument in Northern Europe. The Danevirke Museum documents the history of this fortification from the Iron Age and the early Middle Ages up to the recent past.

05053 **Sydslesvigs danske Ungdomsforeniger, SdU**, the **Danish Youth Association for Southern Schleswig**, organizes a wide range of youth work activities. It supports recreational centres and sports facilities. Its affiliates include the Danish-language amateur theatre Det lille Teater in Flensburg. Associations with very different structures cooperate within the Youth Association. Besides sports clubs, these include freely organized groups and church youth groups as well as the Danish Boy Scouts Corps in South Schleswig. For the various fields of interests, there are numerous recreational activities also apart from group activities.

05054 The Danish minority also has its own library system, the **Dansk Centralbibliotek for Sydslesvig e.V.** (Danish central library for South Schleswig, reg'd society). This system includes a main library in Flensburg, branches in Husum and Schleswig, two libraries at the Danish schools in Bredstedt and Eckernförde and two mobile libraries serving Danish schools, kindergartens and individuals. The libraries provide books, audiovisual media, magazines, music and Internet access free of charge for adults and children, on the same model as libraries in Denmark. Dansk Centralbibliotek for Sydslesvig is the main facility for libraries at the Danish schools. The library has a large collection of local historical literature on the Schleswig region, as well as a research department and an archive responsible for collecting and registering archival materials and providing them to Danish organizations and private individuals in accordance with current archive law.

05055 Their fully developed system of private schools is especially important for the Danish minority and the preservation of their language. The providing body for activities related to schools and nursery schools is **Dansk Skoleforening for Sydslesvig** (Danish Schools Association for South Schleswig), with some 8,000 members. It currently runs 55 child day-care centres and 48 schools and is the point of contact for all issues of educational policy. The schools association restructured the system for the 2008/09 school year: Now there are 39 primary schools and nine comprehensive schools in Flensburg (four schools), Leck, Süderbrarup, Husum, Schleswig and Eckernförde. Seven of these comprehensive schools each have their own primary school. The schools Duborg-Skolen in Flensburg and A.P. Møller Skolen in Schleswig, which started operations for the 2008/09 school year, will each have an upper secondary level leading to the *Abitur* school-leaving certificate. **Jaruplund Højskole**, the **residential adult education college** of the Danish minority in the Schleswig-Flensburg administrative district, was built in 1950. It follows the tradition of the Danish educationalist Grundtvig and pays special attention to the cultural activities of the Danish minority in the Schleswig region.

05056 **Dansk Sundhedstjeneste for Sydslesvig / Dänischer Gesundheitsdienst für Südschleswig**, the Danish health service for South Schleswig, serves all members of the Danish and Frisian minorities. It carries out a wide variety of health-related tasks, most of them in the Danish language. The Danish health service offers out-patient services throughout the entire South Schleswig region. It is also responsible for school health services, including dental check-ups at Danish schools and kindergartens. Additional services include social work, foot care for pensioners and offerings for mothers with small children. The Danish health service runs a nursing home in Flensburg with 72 beds following renovations. In cooperation with Danmarks Lungeforening / Dänemarks Lungenverein (the Danish Lung Association), it also offers minority children with health

problems stays at a health spa near Esbjerg, Denmark. And 14-day rehab stays at Bennetgard in Københoved, Denmark, are available to pensioners.

05057 The evangelical Lutheran **Dansk Kirke i Sydslesvig** / Dänische Kirche in Südschleswig (Danish Church in South Schleswig) organizes and supports church activities of the Danish minority. As a registered society under German law, it is a Free Church comprising 35 parishes with 22 pastorates. Overall, church services are held in about 70 parishes. With its nearly 6,500 members (including individuals and households), the Danish Church in South Schleswig works closely with the private-law organization Dansk Sømands- og Udlandskirke (Danish Church Abroad / Danish Seamen's Church) in Odense, Denmark.

#### **B.5.1.7.2 Support policy for the Sorbian people**

##### **B.5.1.7.2.1 Institutional infrastructure for support for the Sorbian people**

05058 For the length of each legislative period, **Saxony's parliament (*Landtag*)** elects a **Council for Sorbian Affairs**, and **Brandenburg's parliament** a **Council for Sorbian (*Wendish*) Affairs**. Each of these councils has five members; in Brandenburg, council members must be Sorbs. In Brandenburg, council members are nominated by the Sorbian associations, and in Saxony by Sorbian associations and the communities in the Sorbian settlement area. The council deals with all parliamentary matters of importance to the Sorbian people, including legislative proposals, and submits comments/opinions from the Sorbian point of view. In Saxony, the state government is obligated to consult the council on these matters.

05059 In addition, the Sorbs have founded a large number of associations with widely varying objectives. (For more information, cf. B.7.2.2 below referring to Article 7, no. 07014.)

05060 The ancestral settlement area of the Sorbs is in the *Länder* of Saxony and Brandenburg. The two *Länder* and the *Bund* have agreed on a common support policy. This policy is expressed in the **Foundation for the Sorbian People**. It was established in 1991 as an unincorporated foundation of the Free State of Saxony, with the *Bund* and the *Länder* of Brandenburg and Saxony as the providing bodies. This unincorporated foundation has always been understood by the interested parties as a mere interim solution. The aim was to establish a legally autonomous foundation which would enable the Sorbian people to organize its interests and concerns with a large degree of self-determination. After

the structures required to this end were developed, the foundation was established with the conclusion of an Inter-State Treaty signed by the *Länder* of Brandenburg and Saxony on 28 August 1998 in Schleife, Saxony. The Treaty was ratified on 18 December 1998 and entered into force on 1 January 1999. The institutors of the Foundation, and Contracting Parties to the State Treaty are the *Länder* of Brandenburg and Saxony. The *Bund* is represented on the Foundation bodies and contributes to the Foundation's support.

05061 The agreement between the *Bund* and the *Länder* of Brandenburg and Saxony of 28 August 1998 on funding for the Foundation for the Sorbian People, which ended 31 December 2007, provided for gradually reducing federal funding from €8,181,000 in 1998 to €4,100,000 in 2007, but this reduction has not been fully achieved. Federal funding for the Foundation was €7,600,000 from 2006 to 2008. The Foundation also took in administrative income and interest from its capital investments.

Following a decision by the Budget Committee of the German Bundestag of 20 November 2008, federal funding in 2009 will increase by €600,000 to €8,200,000. The amount of €600,000 is currently frozen; the Budget Committee of the German Bundestag must agree to release the amount. Its agreement depends among other things on the participating *Länder* also increasing their portion of the funding. In 2008, Brandenburg provided the Foundation for the Sorbian People with funding of €2,575,000, while Saxony provided €5,453,000. If the *Länder* increased their funding as demanded by the German Bundestag, the Foundation would receive about €16,828,000 for 2009, an increase of roughly €1,200,000 over 2008. The *Bund* is willing to conclude a financing agreement to this effect in 2009.

Germany's Supreme Audit Institution has told the *Bund* to respect the constitutional limits on its expenditures. In response, the *Bund* has drawn up a funding strategy for its future contribution to funding for the Foundation for the Sorbian People and had it examined for compliance with the constitution. The results of this examination confirmed the *Bund's* position that support for the Sorbian minority is primarily the responsibility of Saxony and Brandenburg. The *Bund* can therefore only supplement the *Länder* contributions rather than providing the lion's share of funding. The *Bund* will continue to designate areas on which support is to be concentrated.

05062 The principal tasks of the Foundation are in particular

- supporting institutions to preserve the Sorbian culture, arts and homeland;
- supporting and participating in projects concerning the documentation, publication and presentation of Sorbian art and culture;

- supporting the preservation and further development of the Sorbian language and cultural identity, also in Sorbian education and research institutions and those that serve these objectives;
- supporting the preservation of the Sorbian identity among the general public, in professional life and in the relations and shared life of the Sorbian and non-Sorbian populations;
- supporting projects aimed at furthering international understanding and cooperation with other ethnic groups and national minorities in Europe, and promoting the historical relations of Sorbs with their Slav neighbours in order to build bridges between Germany and Eastern Europe; and
- participating in the design of governmental and other programmes affecting Sorbian interests.

05063 The main parameters of the Foundation's activities and its annual budget are decided by its board of trustees. The board is comprised of 15 members, of whom six are representatives of the Sorbian people. The Foundation's Parliamentary Consultative Council supports and advises the board of trustees. The Consultative Council has an extensive right of access to information. It is composed of two members each of the German Bundestag and of the Saxon and the Brandenburg parliaments.

05064 The Foundation has its headquarters in the city of Bautzen, a branch office in Cottbus, and regional offices in Schleife, Hoyerswerda and Crostwitz. Its affairs are managed by its director. The Sorbian cultural information office in Bautzen and the Sorbian cultural information office Lodka in Cottbus are also part of the Foundation's administration.

05065

05066 The following receive support from the endowment funds:

- Sorbisches National-Ensemble GmbH, Bautzen;
- Domowina, the umbrella organization of Sorbian organizations, which also operates the WITAJ Language Centre;
- the Domowina-Verlag GmbH publishing house, Bautzen;
- the Sorbian Museum in Bautzen;
- the Sorbian/Wendish Museum in Cottbus;
- the Sorbian Institute, reg'd assoc. in Bautzen, as a research institution;
- the School for Low Sorbian/Wendish Language and Culture in Cottbus.

05067 The German-Sorbian Folk Theatre in Bautzen and the Sorbian Schools Association receive subsidies as part of project support by the Foundation. Apart from institutional support, project-based support by the Foundation covers a wide range of subjects, e.g. production of movies and sound recordings, projects related to the cultivation of culture, traditions and folklore, and competitions for various age groups and fields of interest.

#### **B.5.1.7.2.2 Fields of support for the Sorbian people**

05068 Promoting the **Sorbian language in higher education** is possible only on a limited scale: There is neither a Sorbian university nor any other higher education institution in the German-Sorbian settlement area. **Teacher training** in Sorbian as a school subject and courses for students of the Sorbian language and culture are offered by the Institute of Sorbian Language and Culture at **Leipzig University**.

05069 In order to enable Sorbian students to stay in touch with the Sorbian language and culture also outside their settlement area, there are three Sorbian student dormitories in Leipzig (separate building), Dresden and Berlin (each part of a larger dormitory). This community is very important for Sorbian language use, cultural activity and creating and preserving a sense of Sorbian identity.

05070 The **Sorbian College for Social Pedagogy** at the Vocational Training Schools Centre for Economics in Bautzen has established a Sorbian course for certified child-care workers. This is the only vocational facility with a special Sorbian orientation. Graduates are able to take on educational and care-giving tasks in all areas of social pedagogy. During the course, they also learn more about the Sorbian language, history and culture, which they can then pass on to their charges.

05071 The *Länder* concerned give high priority to **promoting acquisition of the Sorbian language** because passing language proficiency on to the next generations is seen as a prerequisite for preserving and developing a national identity. Therefore, learning the language in school ranks particularly high among these priorities. In Brandenburg, the WITAJ project has helped increase the number of pupils learning the Sorbian language even as the overall number of pupils has fallen. In Saxony, the number has mostly remained constant over the same period; fortunately, the WITAJ project and subsequent bilingual schooling have partly offset the negative demographic development. Mirroring the demographic development, there was a marked drop in the number of pupils

who are native Sorbian speakers, though this drop was less than that of the German majority population.

05072 In addition, the WITAJ project aims to teach Sorbian language skills through play already in **preschool education**, mainly to children from German-speaking families attending day-care centres. The project is currently being expanded.

05073 The state-run **school system** and preschool institutions do a great deal to boost Sorbian language acquisition, particularly in those regions where Sorbian is not spoken at home or in public. Language acquisition is supported by the state-run school system and the relevant preschool facilities.

05074 Education is another priority of cultural support at the local government level. In particular, the **museums** run by regional and local authorities collect items of Sorbian cultural heritage, make them accessible to the public, and present and explain them in lectures, guided tours, etc. Also, many heritage centres showing displays of local customs and traditions, which receive project support from the local authorities, preserve the Sorbian cultural heritage and make others familiar with it.

05075 But support for the Sorbian language and culture is provided not only by the Foundation or the *Länder* but also by the local authorities and rural administrative districts in the traditional settlement area. This applies especially to support for **traditional festivals and customs** carried out and observed by Sorbian associations. Local authorities work to actively maintain and support cultural groups and associations.

A large number of such clubs and associations were newly founded after German reunification in 1989; young people are much involved in these activities and often even organize such events. Apart from locally organized activities, larger festivals drawing attention from beyond the region are especially important and for many people are highlights in the yearly cycle of seasons and festivals. As a rule, such festivals depend on financial support from local authorities and the Foundation for the Sorbian People. Preserving and cultivating Sorbian customs is thus an integral part of almost all local large-scale events in the traditional settlement area of the Sorbian people. In most cases, the majority population also helps keep these customs alive.

05076 See B.8.2.2 below (“Religious affiliation of the Sorbs”) regarding support provided by the Foundation for the Sorbian People for projects related to the Sorbian practice of religion.

05077 The Sorbian cultural tourism association, **Verband “Sorbischer Kulturtourismus e.V.”**, was formed in 1996 with the aim of authentically conveying Sorbian cultural values and

traditions and the Sorbian way of life. With its projects, including the development of a Sorbian cultural route, the association hopes to increase tourism to Sorbian institutions, museums and local heritage centres, without however aiming at commercialization principally for tourism purposes. This requires close cooperation with many individuals and institutions.

05078 The association cooperates closely with the working group on Sorbian architectural monuments, Serbske pomniki - Sorbische Denkmale, which also aims at preserving Sorbian cultural monuments.

#### **B.5.1.7.2.3 The tension between maintaining and preserving Sorbian culture and identity, and open-cast lignite quarrying**

05079 In no. 77 of their First Opinion, the Advisory Committee on the Framework Convention found that the plans to dissolve a municipality with Sorbian character in order to allow lignite quarrying was likely to make maintaining the Sorbian culture and preserving the Sorbian minority identity more difficult. In its Second Opinion (nos. 63, 64, 162 and 163), the committee explained that such relocations might further undermine possibilities for members of the Sorbian minority to maintain their culture and identity and could raise concerns under Article 5 and Article 10. (For further details, cf. the comments below on Article 16 as regards the specific obligation it imposes on the Parties to refrain from territorial reorganization affecting (the areas inhabited by) persons belonging to national minorities.)

#### **B.5.1.7.3 Support policy for the Frisian ethnic group**

05080 Under the Council of Europe Framework Convention for the Protection of National Minorities, the Frisian ethnic group is accorded the same status as a national minority. Most of the activities of the Frisian movement are organized by associations. These include the Nordfriesischer Verein (North Frisian Association), Friisk Foriining (Frisian Association), Nordfriisk Instituut (North Frisian Institute), Öömrang Feriin (Öömrang Association), ffnr (Ferien för en nuurd fresk radio (Association for a North Frisian Radio Station) and the private foundation Fering Stiftung (Fering Association). All of these associations promote different priority aspects of the preservation of the language, culture and landscape of Nordfriesland. The Verein Nordfriesisches Institut (Association for the North Frisian Institute) is the providing body of the scholarly institution Nordfriisk Instituut.

05081 In Saterland, the association Seelter Buund works to preserve the Saterland Frisian language and culture.

#### **B.5.1.7.3.1 Institutional infrastructure for support for the Frisian ethnic group**

05082 The **umbrella organization** of the Frisians is the **Interfrasche Rädj** (Inter-Frisian Council) which comprises three Frisian councils: the North Section (in Schleswig-Holstein), East Section (in Lower Saxony), and West Section (in the Netherlands). Membership of the Frisian Council North Section includes four representatives of the Nordfriesischer Verein, two representatives of Friisk Foriining, one representative of the Eiderstedter Heimatbund (Eiderstedt Union for Local and Regional Traditions), one representative of the Gemeinde of Helgoland, and one representative of Nordfriisk Instituut. The East Section brings together the associations of East Frisians and Saterland Frisians. Current members of the East Section are the Friesisches Forum, the Friesischer Klootschiesserverband, Jeverländischer Altertums- und Heimatverband, Landesstube des Alten Landes Wursten, Oldenburgische Landschaft, Ostfriesische Landjugend, Ostfriesischen Landfrauen, Ostfriesische Landschaft, Rüstringer Heimatbund and Seelter Buund. The interests of the Saterland Frisians within this section are represented by Seelter Buund, an association dedicated in particular to cultivating the Saterland Frisian culture and language. (Cf. also no. 07016.)

05083 In addition, there are many local clubs across the **entire East Frisian region** dedicated to the cultivation and preservation of Frisian customs and folklore.

The local and interregional Frisian associations **in Nordfriesland** engage in a wide range of cultural activities, including folksongs and dancing. They offer language courses and language study trips as well as children's holiday camps, engage in sports activities where Frisian is spoken, champion Frisian stage productions, carry out work in the fields of nature conservation and conservation of the architectural heritage, and operate their own museums of local history and culture. Some of these projects are supported with public funds.

05084 The parliament of **Schleswig-Holstein** has a **body dealing with matters concerning the Frisian ethnic group in Schleswig-Holstein**, chaired by the president of the parliament. Usually twice per year, this body discusses matters concerning the Frisian residents of the *Land*, with the aim of cultivating and fostering the Frisian language and culture. Its members are the Commissioner responsible for Minority and Cultural Issues, the Bundestag MPs from Nordfriesland, representatives of the *Land* Government and of

the Frisian ethnic group. North Frisians are also represented on local councils. Some of these local councils also hold their meetings in the Frisian language.

#### **B.5.1.7.3.2 Fields of support for the Frisian ethnic group**

05085 **Instruction in the Frisian language** - although restricted by the general situation of the school system and by the existing level of language proficiency - is provided **by state-run schools** and in some cases by nursery schools run by the local authority or private organizations. In this respect, the Frisian ethnic group is working to expand Frisian language instruction and improve staff and teaching resources. Frisian is taught also at some schools of the Danish minority.

05086 **Kiel University** has had the **Nordfriesische Wörterbuchstelle** (North Frisian Dictionary Institute) since 1950 and a **professorial chair of Frisian philology** since 1978.

05087 The **Nordfriisk Instituut** in Bredstedt is a central scholarly institution in Nordfriesland of great importance to the cultivation of the Frisian language, culture and history. The institute sees its role as a bridge between theory and practice, and between scholarly work and non-specialist research. It is especially active in research and publications on the languages, history, and study of the geography and civilization of Nordfriesland. It has a specialized library and archives, and organizes seminars, courses, workshops and lectures. The institute is operated by the association Verein Nordfriesisches Institut, with a membership of about 850. Subsidies provided by Schleswig-Holstein account for about 50% of the institute's funding. Funding is also provided by local authorities (approx. 10%) and by Friisk Foriining for the Danish minority (approx. 5%). In addition, the institute has its own resources in the form of membership dues, donations and sales revenues (more than 20%).

05088 In addition to Nordfriisk Instituut, the private foundation **Fering Stiftung**, in Alkersum on the island of **Föhr**, pursues scholarly linguistic and cultural activities especially, but not exclusively, for the island of Föhr.

05089 Research work on the Frisian culture of Ostfriesland is undertaken sporadically by various institutions, including corporations under public law.

05090 A special measure worth mentioning is the **Andersen House** in Risum-Lindholm, which was renovated, with substantial *Land* funding, to serve as a **Frisian cultural centre**; the Nordfriesland administrative district provides substantial funding support.

05091 So far, it has not been possible to set up a federally subsidized foundation for the Frisian ethnic group along the lines of the Foundation for the Sorbian People. Since 2000, however, the Frisians' linguistic and cultural activities have also been supported by considerable federal project-related funding (2008: €280,000).

05092 Research on the **history, culture and language of the Saterland Frisians** is more recent. Saterland Frisian has not been handed down as a written language. One known work is a collection of Saterland Frisian proverbs, dating from the year 1901. It was only after World War II that the first spelling rules were laid down for this language. A dictionary of Saterland Frisian was published in 1980. Research for a second edition of the dictionary has been completed. The dictionary uses a different system of spelling (the same used in a translation of the New Testament already published) and will be much larger than the 1980 edition. The manuscript is to be completed in 2010.

Further publications are compilations of texts, such as *Saterfriesisches Volksleben* (Saterland Frisian Folkways) and *Saterfriesische Stimmen* (Saterland Frisian Voices).

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05094 Starting in winter semester 2009/10, the University of Oldenburg plans to offer one or two lectureships in Saterland Frisian each year. Language courses are also being considered; due to the age of the potential teaching staff, however, these would have to be offered as block courses in Saterland. Preliminary discussions have already been held. Starting in winter semester 2009/10, Professor Peters at the University of Oldenburg will offer classes on Saterland Frisian, in particular as part of the MA Language Sciences course offered in cooperation with the University of Bremen. In the area of academic research, the study "Intonation of Saterfrisian: An analysis of historical recordings" is forthcoming (submitted to academic journals). A grant application has been made for the project *Variation und Sprachkontakt im Saterland: Prosodie des Saterfriesischen, Niederdeutschen und Hochdeutschen* (Variation and linguistic contact in Saterland: Prosody of Saterfrisian, Low German and High German), which aims to lay the groundwork for long-term research on Saterfrisian at the University of Oldenburg.

The department of Frisian philology at the Christian Albrechts University in Kiel also deals with Saterfrisian as a subject of research and teaching.

05095 Lower Saxony has had an **education specialist for Saterfrisian** since November 2000; before that time, the specialist was employed by the local government of Weser-

Ems, which has since been dissolved. The specialist is currently assigned to the *Land* schools authority based in Osnabrück.

05096 Lower Saxony provides support for Seelter Buund, the Saterfrisian association, as part of regional cultural support, via adult education and through direct project funding. In this way, Lower Saxony is supporting the preservation of the Saterfrisian language and culture.

#### **B.5.1.7.4 Support policy for the German Sinti and Roma**

05097 Because the settlement area of the German Sinti and Roma covers most of the *Länder* of the Federal Republic of Germany, federal and *Länder* support is described in a condensed form, on the basis of pertinent examples.

##### **B.5.1.7.4.1 Institutional infrastructure for support for the German Sinti and Roma**

05098 To represent their interests, members of the German Sinti and Roma have formed associations at local and *Land* level, in line with Germany's federal structure.

05099 With the Bundestag Resolution of 26 June 1986, all parliamentary groups of the German Bundestag confirmed the need to improve the living conditions of the German Sinti and Roma and to promote their integration into society.

05100 Since 1991, the Central Council of German Sinti and Roma and the Documentation and Cultural Centre of German Sinti and Roma have received public institution-based funding.

05101 The **Central Council of German Sinti and Roma** is the umbrella organization of nine *Land* associations of German Sinti and Roma and of a number of regional or local associations and institutions. One priority of the Central Council is representing the interests of this national minority with regard to equal political status, which includes legislative proposals and political initiatives for protection against right-wing extremist violence; the initiative for a memorial to the victims of the Nazi genocide of Sinti and Roma (currently being built near the Reichstag building in Berlin, with federal funding and support from the *Land* of Berlin); enforcement of minority rights and compensation claims of Holocaust survivors; commemoration of the genocide victims; and support for prosecution of Nazi crimes at the national and international levels. Other priorities are cooperation with

the *Land* associations of German Sinti and Roma and with international minority and human rights organizations, and support for Sinti and Roma in other countries.

05102 Priority activities of the **Documentation and Cultural Centre** are documenting and researching the history, culture and present situation of this national minority; cultural work, education and further education; social work and counselling; and public information/education with the aim of integrating the German Sinti and Roma into society while preserving their cultural identity. The Centre publishes a series of papers in several volumes on subjects such as “Sinti/Roma Story-Telling in the Context of European Folk-Tale Traditions”, “Portrayal of Gypsies in German-Language Literature”, and “Children and Adolescents as Victims of the Holocaust”. In addition, several comprehensive works have been published, such as the documentation entitled “Sinti and Roma under the Third Reich: The Programme of Extermination Through Labour”. The Documentation and Cultural Centre also organizes cultural projects and, in a large permanent exhibition, shows the history and the extent of the National Socialist genocide of 500,000 Roma and Sinti in Europe. A travelling exhibition on the same subject will tour several German cities.

05103 In 1989, substantial public funding was provided to buy and remodel a building in Heidelberg for use by the aforementioned institutions. These premises house the Central Council of German Sinti and Roma, the Documentation and Cultural Centre of German Sinti and Roma, and the permanent exhibition on the genocide of Sinti and Roma during the Nazi era.

05104 The Central Council’s budget is fully funded by the *Bund*, while 90% of the Documentation and Cultural Centre’s budget is federally funded and 10% from Baden-Württemberg. The Central Council has six staff posts (mainly academic positions), while the Documentation and Cultural Centre has 18.5 posts.

05105 The Lower Saxony *Land* Association of German Sinti, one Sinti and Roma association in Hamburg and **a number of smaller regional organizations** of German Sinti, of German Sinti and Roma, or of German and foreign Roma are **independent** organizations. The Schleswig-Holstein *Land* association ended its affiliation with the Central Council in 2006.

05106 A number of organizations not affiliated with the Central Council and some elders of family clans of German Sinti formed the **Sinti Allianz Deutschland e.V.** (Sinti Alliance of Germany, reg’d). According to the Alliance, it was founded in 1999/2000 by twenty representatives of tribes and is the umbrella organization of nine independent Sinti organizations and one Lowara tribe. The Sinti Alliance sees itself as representing those Sinti

who feel committed to the Sinti's traditional way of life with its historical precepts and prohibitions governing the conduct of their lives, and who wish to preserve this social and cultural system. The Alliance's work concentrates on developing political strategies and supporting these strategies vis-à-vis governments, parliaments and public authorities. This included the central memorial in Berlin to the Sinti, Roma and members of similar groups persecuted by the Nazis and the fight against discrimination. According to the Alliance, it also seeks to strengthen Sinti culture by means of cultural projects, such as the history workshop project, in which children and young people can learn about Sinti history and culture from older Sinti in the traditional way. The Alliance says that its support for Sinti families in social matters, including advising and aid for criminal offenders and their families, is also important, and that it looks after seniors and provides advice and support for Nazi victims pursuing compensation claims. According to the Alliance, it also informs staff of government agencies (as far as Sinti cultural taboos allow) about traditional restrictions on Sinti with regard to work and living conditions so that special Sinti needs can be taken into account if possible. Doing so allows Sinti to avoid conflicts of conscience as well as conflict with the majority population. The Alliance seeks administrative action which allows the Sinti to live their daily lives in compliance with the taboo system traditional to their culture.

05107 There are no specific governmental bodies or institutions dealing with the protection and promotion of the Romany language. This conforms with the wishes of the majority of this language group. Related to this is the objection raised by the Sinti Alliance and the Central Council of German Sinti and Roma and other associations of German Sinti to the introduction of the Romany language in public schools or to making it the subject of scholarly research. On the one hand, this objection is based on the negative experience with Nazi language researchers. Therefore, the Central Council and other associations take the view that, also out of consideration for the experience undergone by Holocaust survivors, Romany should neither be taught by non-Gypsies nor be learnt within the public educational system. On the other hand, the Sinti Alliance also argues that the Sinti's millennia-old taboo system forbids giving anyone outside the Sinti community access to this language. The opposite position is taken by Roma associations which favour of the inclusion of Romany in school education and wish to support measures, like those taken in European neighbouring countries, to develop a written form of this language. Judging by the German Sinti and Roma affiliated with organizations, the vast majority of German Sinti and Roma oppose including their Romany language in the state-run education system, and emphasize their right to cultivate their language and to pass it on to future generations exclusively within the family and family clans.

05108 With regard to no. 16 in the Second Opinion expressing the Advisory Committee's concern over the "negligible participation" of German Sinti and Roma in public affairs: This

lack of participation may be related not only to educational deficits still affecting some of this minority, but also to the fact that, unlike Germany's other national minorities, German Sinti and Roma do not appear interested in having their special minority culture and language become the focus of public attention.

05109 The German authorities do not understand the Committee's remark in no. 16 of the Second Opinion referring to a "scarcity of appropriate communication channels with the authorities". In the experience of the German authorities, communication channels can only function via the associations of those affected, as in the past. These associations have always been able to bring their wishes and suggestions to the authorities. The German authorities are therefore grateful to these associations for their collaboration in the past. They would also be grateful to the Advisory Committee if, in addition to its request for a strategy, it could provide specific recommendations for implementation which take into account Germany's federal structure and the fact that there are at least two competing national associations representing this minority, and that one of these associations is not willing to cooperate with the other within the kind of consultative council at the Federal Ministry of the Interior that exists for the other national minorities.

#### **B.5.1.7.4.2 Fields of support for the German Sinti and Roma**

05110 Federal support specifically for the German Sinti and Roma refers to the above-mentioned support for the Central Council of German Sinti and Roma and for its Documentation and Cultural Centre in Heidelberg.

05111 In nos. 59 and 60 of its Second Opinion, in explicit agreement with the Sinti Alliance of Germany, which has never received any government support, the Advisory Committee expresses the view that "the authorities should take fully into account the diversity of the Roma/Sinti communities" because "a more flexible attitude with regard to the distribution of funds would help develop a variety of projects and activities, reflecting existing diversity among Roma/Sinti communities". The Federal Government Commissioner for Culture and the Media with federal responsibility for this area has responded as follows:

05112 "Concerning the unwritten federal administrative competences (including national minorities), federal budget law provides for special responsibility for central institutions by virtue of the nature of a matter. Hence, also for reasons of administrative efficiency, the Federal Government Commissioner for Culture and the Media provides funding to the national minorities' umbrella organizations, which then distribute these funds. This ensures

that public funds are directed only to those projects which constitute a priority for the minorities.”

05113 Further, in no. 54 of its Second Opinion, the Advisory Committee states that “Roma/Sinti groups receive proportionally less support than other groups, particularly as the federal funds are not supplemented by regular funding from the *Länder*” as is the case for other national minorities.

In response, it should be noted that support in general is not provided according to the population size of the minority, but according to its needs, for example as expressed in suitable projects.

05114 In the meantime, Sinti families have addressed a large number of **individual requests** and initiatives to the *Land* associations of German Sinti and Roma for supplementary **lessons for Sinti and Roma schoolchildren** with a view to improving the children’s language skills. One project for this purpose has already been launched in Kiel, for example (cf. no. 12192). Outside of regular class time, children are offered tutoring and help with homework using the minority language; the project also helps minority children do better in school.

05115 **Adult education** groups have already been set up; in Mainz, for example, young fathers of Sinti families discuss job-related, family and other subjects in regular meetings of a working panel and go on educational trips in order to improve and keep up their proficiency in the minority language. In the field of adult education, the *Land* associations of the Central Council - e.g. those of Baden-Württemberg, Bremen, Schleswig-Holstein, Rhineland-Palatinate and Bavaria - organize educational trips every year with members of the Sinti and Roma to the concentration camp memorial sites of Neuengamme, Bergen-Belsen, Natzweiler-Struthof, Flossenbürg and Dachau. The Central Council and the Documentation and Cultural Centre of German Sinti and Roma organize educational trips several times a year, mainly for Holocaust survivors among the Sinti and Roma, to the concentration camp memorial sites of Auschwitz, Sachsenhausen, Buchenwald and Mauthausen; they also organize annual trips to educational centres of the German Protestant Church or other educational institutions. These educational trips also serve the purpose of communicating in the minority language and reinforcing the language skills of the participating adults.

**Specific support provided by the *Länder* for the Sinti and Roma**

05116 The respective *Land* associations of German Sinti and Roma and other Sinti organizations make financial contributions to a large number of cultural events of regional and interregional importance, such as “Schleswig-Holstein Day”. Public exhibitions organized at federal and *Länder* level now also include the history of the German Sinti and Roma, as do most concentration camp memorials in Germany. For example, in Schleswig-Holstein, the 16<sup>th</sup> of May has been commemorated every year since 1997 as the anniversary of the deportation of German Sinti and Roma by the Nazi regime. In Bremen, the *Land* association organizes and/or takes part in public events aimed at reducing discrimination, prejudices and exclusion and remembering the persecution and murder of Sinti and Roma under the Nazis. For example, this association was involved in organizing an exhibition shown at the city hall on the Nazi genocide of Sinti and Roma, in the annual youth event at the city hall to remember victims of National Socialism, and in memorial and anti-racist events in Bremerhaven.

05117 In addition to support for the *Land* association of German Sinti and Roma, **Baden-Württemberg** provides funding for the Documentation and Cultural Centre of the German Sinti and Roma in Heidelberg.

05118 The Free State of Bavaria provides funding for the secretariat and counselling bureau of the Bavaria *Land* Association of Sinti and Roma, reg'd society. One of the objectives of this association is to facilitate and promote cultural events of German Sinti and Roma.

05119 The Free Hanseatic City of **Bremen** funds projects to promote the cultural identity of Sinti and Roma, which are designed to strengthen their self-assurance and sense of personal identity. For example, the *Land* Bremen paid the way for four young delegates from the *Land* association to attend the opening of the exhibition “The Holocaust against the Sinti and Roma and present-day racism in Europe” as part of a trip organized by the Documentation and Cultural Centre of German Sinti and Roma. The event took place at the United Nations headquarters in New York in January 2007 on the occasion of the International Day of Commemoration for Holocaust victims.

05120 Through its cultural department, the Free and Hanseatic City of **Hamburg** supports cultural initiatives and minority artists, including Sinti and Roma, in carrying out cultural projects and events. The aim is to help minorities preserve and further develop their culture. Priority is given to promoting intercultural projects, i.e. projects involving, or reaching out to, people from different backgrounds.

05121 The *Länder* of **Schleswig-Holstein** and **Hesse** provide financial support for the work of their respective *Land* associations of German Sinti and Roma. In addition, Schleswig-Holstein funded a feasibility study on founding a residential building cooperative as a housing association for Sinti as well as the first residential project, Maro Temm e.G., as part of public housing assistance. The model is intended to promote integration, neighbourliness and social stability as well as the acquisition of skills and autonomy.

05122 As part of its overall support for culture, **Lower Saxony** provided project funding for the Hildesheim Sinti music festival from 2005 to 2008. A project run by the foundation of memorial sites in Lower Saxony, Stiftung Niedersächsischer Gedenkstätten, focuses on the experience of being deprived of one's rights in order to teach schoolchildren and young people about human rights. Teaching modules are being developed with the aim of reducing prejudices against Sinti and Roma, increasing their sense of self-esteem, thus enabling participation. Lower Saxony is funding this project. In 2006, a long-term project providing a firm footing for work with Sinti and Roma youth was carried out with *Land* funding as part of a supplementary project by the Pro-Aktiv Centre in Hildesheim.

05123 **North Rhine-Westphalia** had provided financial support for the theatre Pralipe in Mühlheim an der Ruhr continuously since 1993 but discontinued its funding in 2004 when the theatre went bankrupt. The *Land* is currently funding intercultural projects in which artists of various backgrounds, including Sinti and Roma, are involved. Worth mentioning is the exhibition "The forgotten Europeans: Art by Roma/Roma in art" on view at the Cologne City Museum in 2008/09. From 2004 to 2009, North Rhine-Westphalia has also supported a model project offering socio-pedagogical and school assistance for Roma refugee families in Cologne, by providing funding and teaching posts. The project is aimed at improving the integration of Roma refugee families and keeping their children in school.

05124 As part of overall activities to foster and maintain culture, **Rhineland-Palatinate** supports the Sinti and Roma "Aven" festival, which is regularly held in Landau, with funds from the registered association Kultursommer e.V. In addition, the *Land* has subsidized various local events, such as the music festival "Horizonte" in Koblenz and the photo exhibition "Schnuckennack-Reinhardt" in Landau (Palatinate). Local authorities also support cultural projects.

For years, Rhineland-Palatinate has provided subsidies for important educational and cultural efforts of the *Land* association of German Sinti and Roma, including support for the minority language Romany, as part of its **institutional funding** for the association's office and with separate **project funding** for volunteer activities by association members.

This association has presented a grant application for an additional draft project intended to help preserve the Romany culture and language. The association plans to offer seminars in Romany focusing on the minority's specific culture, history and problems of discrimination; the seminars will be offered in communities in Rhineland-Palatinate where there is interest among local members of the minority. The registered Sinti Union of Rhineland-Palatinate e.V. has applied for funding for a project to improve the effectiveness and professionalism of existing advising and support services and to expand additional innovative services for Sinti in Rhineland-Palatinate. Support depends among other things on whether the necessary funds have been set aside in the budget. The parliament responsible for passing the budget decides on how the budget funds will be spent.

05125 For additional information, see the support measures described above on Article 4 (2) no. 2 taken by the *Länder* of Baden-Württemberg, Bavaria, Berlin, Bremen, Hamburg, Lower Saxony, Rhineland-Palatinate and Schleswig-Holstein.

**B.5.2 Article 5 (2)**  
**(Protecting persons belonging to national minorities from assimilation against their will)**

05126 Germany does not have an official state culture regulated by law. Article 2 (1) of the Basic Law guarantees every individual the right to free development of his/her personality. Among other things, this protects the individual's self-realization according to his/her own ideas. The right to free development within a spiritual and cultural core sphere of the individual as a mental/spiritual and ethical being is legally protected, as is the general freedom of action in the broadest sense without reference to any specific values. This right, however, is only guaranteed to the extent that the rights of others or the constitutional order or the moral law are not violated.

05127 Independent of the fundamental social policy objective of integrating all groups in society, Germany regards the cultural diversity of its regions and population as an enriching asset. Consequently, the policies concerning the national minorities are not oriented towards assimilation, but are aimed at preserving and further developing their respective identity. The measures taken by the *Bund*, the *Länder* and local authorities mentioned in the present Report vigorously promote the initiatives of the organizations of national minorities and ethnic groups to preserve their languages and cultures.

05128 We are not aware of any complaints by members of minorities concerning assimilation efforts or any measures aimed in this direction.

**B.6 Article 6**

**(1) The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and cooperation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.**

**(2) The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.**

**B.6.1 Paragraph 1**

**(Encouraging a spirit of tolerance and promoting understanding among all groups of the population)**

**B.6.1.1 General conditions and institutional infrastructure as regards the promotion of tolerance and understanding among all groups of the population**

06001 Tolerance, intercultural dialogue, and mutual acceptance are indispensable elements of the peaceful coexistence based on mutual respect and understanding of people from different cultural backgrounds. This objective is one of the most important tasks of domestic policy in Germany. It is only in this way that a positive social climate can be created, which also benefits the situation of national minorities and ethnic groups.

06002 Against this background and given the **recommendation in the First Opinion on Germany** (no. 81) to **pursue and even strengthen the strategy against crimes of an extremist, xenophobic and anti-Semitic nature**, the Federal Government informed the Advisory Committee about activities for foreigners who mostly do not fall under the Framework Convention which may, however, benefit also German Sinti and Roma, the only national minority in Germany subject to racist assaults. Therefore, we will report on the progress of relevant programmes without intending to extend the Framework Convention to other minorities, e.g. immigrants.

The Federal Government still perceives fighting violence of a right-wing extremist, xenophobic and anti-Semitic nature and improving the social conditions causing such violence as a major priority and is actively pursuing its policy in this field. The Federal Government's prevention strategy is based on the following four pillars:

06003 Pursuing a **consistent human rights policy (first pillar)** is the Federal Government's starting point and the basis for its entire political work. The peaceful coexistence of people regardless of their origin or religion is the crucial political and social basis for an open and democratic society. Against this backdrop, it is a matter of vigorously and resolutely taking measures to prevent racist, anti-Semitic and xenophobic attitudes and actions.

06004 In order to achieve this goal, **civil society** needs to be greatly **strengthened**, and civil courage must be supported (**second pillar**), as is manifested by the *Bündnis für Demokratie und Toleranz – gegen Extremismus und Gewalt* (Alliance for Democracy and Tolerance - Against Extremism and Violence) initiated by the Federal Government or by the action programme "*Jugend für Toleranz und Demokratie - gegen Rechtsextremismus, Fremdenfeindlichkeit und Antisemitismus*" (Young People for Tolerance and Democracy – against Right-Wing Extremism, Xenophobia and Anti-Semitism).

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06007 Since 2001 a priority of the Federal Government's youth policy has been to prevent and fight right-wing extremist, xenophobic and anti-Semitic phenomena by initiating the action programme "*Jugend für Toleranz und Demokratie - gegen Rechtsextremismus, Fremdenfeindlichkeit und Antisemitismus*". In the framework of the *Bündnis für Demokratie und Toleranz – gegen Extremismus und Gewalt* formed by the Federal Government in May 2000, a total of 4,470 preventive and educational pilot measures and projects for youths were promoted thorough the action programme between 2001 and 2006, in particular in the fields of awareness-raising, education and networking. Until 2006 the Federal Government provided funding of 192.44 million euros. The action programme consisted of three sub-programmes: ENTIMON, CIVITAS and XENOS.

The Federal Government is strengthening the fight against right-wing extremism, xenophobia and anti-Semitism. On 1 January 2007 it initiated the federal programme "*VIelfALT TUT GUT. Jugend für Vielfalt, Toleranz und Demokratie*" (Diversity will do us good. Young people for diversity, tolerance and democracy) for which it provides annual funding of 19 million euros. The programme aims at establishing diversity, tolerance and democracy as central values of the entire society, and at encouraging children and youths at an early stage to live these basic principles of a peaceful and democratic coexistence. Hence, the federal programme promotes in particular civic education and preventive educational work. The programme has two major objectives: developing local action plans to establish sustainable local democratic structures and initiating pilot projects which implement new ideas and methods to strengthen diversity, tolerance and democracy.

At the same time, the Federal Government provides help at local level to support people facing conflicts, threats or violence of a right-wing extremist, xenophobic and anti-Semitic nature. The Federal Government programme “*kompetent. für Demokratie – Beratungsnetzwerke gegen Rechtsextremismus*” (competent. for democracy – advisory networks against right-wing extremism) promotes the creation of *Länder* advisory networks which may form mobile teams to intervene in dangerous situations of a right-wing extremist, xenophobic or anti-Semitic nature. These teams provide prompt and reliable advice on how local authorities and the local population can cope with such situations. The Federal Government will provide annual funding of 5 million euros until 2010.

In addition, the Federal Government initiated a new XENOS programme in 2007. The XENOS Programme for Integration and Diversity aims at strengthening democratic awareness and tolerance and at preventing discrimination, xenophobia and right-wing extremism. Within the XENOS framework, practical approaches to solving local and regional problems are to be developed using tried and tested strategies and methods and are to help implement best practices. To complement previous XENOS activities, the programme also aims to facilitate greater transnational cooperation. An international, European context of mutual information-sharing, learning with and from others and taking joint action is intended to promote intercultural understanding and tolerance while preventing racism and xenophobia. Further, the “ESF Federal Programme of labour market support for foreigners with the right to remain and refugees with work permits” is being implemented within the XENOS framework to improve labour market opportunities for refugees and foreigners with the right to remain. The more than 300 selected projects of the two programmes receiving funding of 120 million euros by the European Social Fund (ESF) and 20 million euros by the Federal Government started in late 2008 and will be funded until early 2012. A second funding cycle will follow.

06008 In no. 263 of the Second State Report, the Federal Government pointed out that it has drawn up a comprehensive concept for managing immigration (**third pillar**) and for the very first time incorporated a minimum framework of integration policies in the Immigration Act, being aware that successful **integration of foreigners** is crucial for the peaceful coexistence of immigrants and the German population and thus also helps prevent xenophobia, racism and discrimination in everyday life. This statement was correct insofar as the described measures also promote tolerance. However, it was also inappropriate since these measures are applicable only to foreigners whereas the Framework Convention and its Article 6, which provides for the protection of members of national minorities against prejudices and hostilities, is applicable only to groups of German nationals who have traditionally settled in Germany. These statements might have prompted the Advisory Committee to call for enhanced efforts regarding the integration of

foreigners, the Immigration Act and even the Nationality Act in nos. 13, 64 and 66-69 of its Second Opinion. Therefore, it must be clarified that Germany is not willing to subject large parts of its legal order applicable only to foreigners to monitoring under the Framework Convention, regardless of the conclusions the Committee might draw in individual cases. The Committee's recommendations show that it attempts to significantly extend the Convention's scope of application and monitoring to areas subject to framework conditions which are completely different from those for autochthonous minorities as well as to areas subject to special coordination mechanisms, e.g. within the EU. This confirms Germany's view expressed in nos. 006-0011 of the Second State Report that it would be better to refrain from any extension of the Convention's scope of application.

06009 In fighting right-wing extremist violence, it is also essential to implement **measures which focus on offenders and their environment (fourth pillar)**. However, in addition to the consistent work performed by security authorities (police and intelligence services), it is also important to strengthen the rights of victims and to adopt crime-preventing strategies.

06010 The preventive measures taken by the Federal Government have been designed as long-term and sustained measures, and their stated aim is to fight the causes of this problem. It is not possible to instantly change right-wing extremist attitudes and patterns of behaviour. Therefore, it is not so much a matter of reporting short-term success; rather, it is a task which needs to be shared by the entire society and all democratic forces. Politicians and society need to adopt a proactive stance to foster respect, acceptance and recognition of different cultures and lifestyles. The Federal Government is indeed fulfilling this ongoing political task. The success of this policy is also reflected by the fact that dealing with the phenomenon of right-wing extremism has not been made a taboo but has triggered widespread social and political debate which is accompanying the various measures implemented by the Federal Government.

06011 Furthermore, the steps taken by the Federal Government met with a resounding echo abroad. They not only concur with the views of the international community; in essence they already meet the international standard agreed at the UN Anti-Racism Conference held in Durban/South Africa in autumn 2001.

06012 The Federal Government also supports the Decision taken by the Council of European Ministers for Justice and Home Affairs of 25 April 2002, which underlines the need to intensify cooperation between police forces, and in this context to take forward judicial cooperation and the harmonization of criminal law in Europe. Moreover, it acknowledges the enormous importance of the European Monitoring Centre on Racism

and Xenophobia. The Federal Government considers this Decision to be a major contribution towards the fight against right-wing extremism, xenophobia and anti-Semitism and will implement it as a top priority.

06013 Under the auspices of OSCE, the Federal Government organized a high-level Conference on Anti-Semitism in Berlin on 28 and 29 April 2004. In its "Berlin Declaration", the Conference condemned all manifestations of anti-Semitism and racism and incorporated extensive commitments to monitor and fight anti-Semitic hostilities in the OSCE area. While **activities to fight anti-Semitism do not directly relate to national minorities** in Germany, they meet the objective of **Article 6 of the Framework Convention**, i.e. they **promote** a spirit of tolerance and intercultural dialogue and are measures promoting mutual respect and understanding and cooperation among all people living in Germany.

06013a On 24 September 2008, the Bundestag Round Table on National Minorities held an expert meeting on combating racism on the Internet. The meeting headed by the Chair of the Bundestag Committee on Internal Affairs was attended by members of parliament, representatives of the Federal Government Commissioner for Culture and the Media, representatives of the Federal Ministry of the Interior, representatives of the Federal Criminal Police Office, representatives of the minority organizations, the director of the Central Council of Jews in Germany and representatives of an Internet provider. The Bundestag Round Table on National Minorities will follow-up on this issue.

06014 The **Federal Government Commissioner for Matters Related to Repatriates and National Minorities** seeks to further improve relations between the majority population and the members of national minorities.

06015 In no. 270 of the Second State Report it was explained that Germany has a **Federal Government Commissioner for Migration, Refugees and Integration** (previously Federal Government Commissioner for Foreigners' Issues) whose mandate is based on the Foreigners Act of the Federal Republic of Germany and whose status is strengthened by the Immigration Act effective since 1 January 2005. The Integration Commissioner has, among others, the task to create conditions favourable to unstrained relations between foreigners and Germans as well as among various groups of foreigners, to promote their mutual understanding, and to prevent and counteract xenophobia. Hence, this information was also provided only to give a full account of institutions promoting tolerance. For also the Integration Commissioner is not relevant for the Framework Convention's scope of application, implementation and monitoring. The same holds true for the **Land commissioners for foreigners issues**.

06016 In Germany, **education in tolerance and solidarity** is also part of the **educational mandate of schools providing general education** and of **civic education**, and ranks high in these fields. In addition, many non-governmental organizations and private initiatives are dedicated to this goal, which is supported also by the political parties, and to the practical implementation of intercultural dialogue.

06016a On 28 May 2008, Mr Stanislaw Tillich, a member of the Sorbian ethnic group, was elected Minister-President of the Free State of Saxony by the Saxon parliament.

### **B.6.1.2 Areas for encouraging a spirit of tolerance and promoting understanding among all groups of the population**

06017 In the areas of education, culture and the media, the aforementioned principles are embodied in laws and implementing statutes. The Federal Government and the *Länder* implement these regulations by means of many and various measures. Such measures are aimed at teaching tolerance and promoting understanding for other cultures and languages as well as acceptance of people with a different language and culture who live in the neighbourhood or belong to the local community or to society at large. Other measures are aimed at increasing the general public's knowledge concerning the existence of national minorities and ethnic groups and at familiarizing the majority population with the culture of those groups and the related traditions.

06018 In March 2004 the Federal Ministry of the Interior published the brochure *Nationale Minderheiten in Deutschland* (National Minorities in Germany) against the background of the obligation under Article 6 (1) of the Framework Convention to encourage a "spirit of tolerance and intercultural dialogue" between the majority population and the national minorities, to bring about and deepen mutual understanding between the majority population and the national minorities, and to inform the persons living in Germany about the ethnic and cultural identity of the national minorities in this country. It covers the history and traditional settlement areas, the languages and specific cultural features, and the very active civic life of national minority interest groups. The minorities' associations contributed texts to the description of their respective ethnic group, as well as literary extracts and photos.

The brochure gives only a brief overview. An annex lists the addresses of associations and relevant public authorities and institutions from which more detailed information may be obtained. The brochure is available to the general public free of charge.

06019 In the Free State of Saxony the Sorbs' association Domowina e.V. will be permanently represented in two working groups and the board of the *Land* Prevention Council (*Landespräventionsrat*). This body is currently being set up and will address crime prevention, traffic safety, social work, the prevention of extremism, domestic violence and crime in the context of sport events. It is intended to coordinate measures to prevent violence, extremism and xenophobia in the Free State of Saxony. Domowina e.V. was involved in the Council's work because of attacks (desecration, theft and destruction) against Christian symbols and places of worship and commemoration in the Sorbian Upper Lusatia, and the ensuing police investigations.

06020 Referring to the present section of Germany's report (Areas for encouraging a spirit of tolerance and promoting understanding among all groups of the population), the Central Council of German Sinti and Roma reiterated its request for a ban on discrimination in public service and media law, with the aim of prohibiting references to the ethnicity of suspects and accused persons belonging to a minority. However, the present report follows the pattern of the previous State Report by addressing this subject in the comments on Article 4 (1) (section B.4.1.2 – Safeguards in the legal system to protect the prohibition of discrimination).

06021 In no. 71 of its Second Opinion the Advisory Committee criticizes that foreign Roma – who are subject to the foreigners law and not to the Framework Convention for the Protection of National Minorities – are treated differently from German Sinti and Roma who are a national minority protected under the Convention and enjoy all rights of German nationals. In this respect, we would like to point out that these two groups cannot be compared in legal terms. Therefore, Roma asylum seekers must not be privileged on the grounds of Article 6 of the Framework Convention as requested in nos. 72 and 75 of the Second Opinion. This group is subject to the same provisions as other foreigners in a similar situation.

#### **B.6.1.2.1 Encouraging tolerance and promoting understanding among all groups of the population under the programmes of the Agencies for Civic Education**

06022 The **Federal Agency for Civic Education** (*Bundeszentrale für politische Bildung*, BpP) has the task to promote the understanding of political facts and processes, to strengthen democratic consciousness, and to encourage greater readiness for political involvement by publishing printed materials, providing information on the Internet and through multimedia tools, organizing events and conducting projects. The Agency provides

tailored services for youths, young adults and interested citizens as well as teaching materials and scientific information for civic education multipliers such as teachers, lecturers in further training and journalists. In particular the Agency's wide range of services including information on learning history, dealing with prejudices, human rights and the basic principles of democracy encourages tolerance and promotes understanding among the different groups of the population. The following services directly refer to the national minority of Sinti and Roma:

06023 A detailed dossier on Sinti and Roma is available in German on the website [www.eurotopics.net/de/magazin/gesellschaft-verteilerseite/roma\\_in\\_europa\\_2007\\_09/](http://www.eurotopics.net/de/magazin/gesellschaft-verteilerseite/roma_in_europa_2007_09/) which is maintained by the Federal Agency for Civic Education. In addition to articles on the life of Sinti and Roma in the past and today, the website contains a comprehensive list of links to articles on the situation of Sinti and Roma in Europe, to background information and to institutions campaigning for the equal treatment of Sinti and Roma.

06024 A detailed report on the negative image of Sinti and Roma can be found at [http://www.bpb.de/publikationen/QKCP5E,0,Sinti\\_und\\_Roma\\_als\\_Feindbilder.html](http://www.bpb.de/publikationen/QKCP5E,0,Sinti_und_Roma_als_Feindbilder.html) (in German).

06025 Printed materials:

In numerous publications the Agency addresses the issues of minority protection and human rights. For example, the civic education series *Informationen zur politischen Bildung* includes an issue on prejudices (*Vorurteile*) of which more than 900,000 copies have been published and which dedicates one chapter to Sinti and Roma.

06026 Projects "School without Racism – School with Courage" (*Schule ohne Rassismus – Schule mit Courage*, SOR-SMC). As part of "School without Racism" students independently plan various projects against racism, right-wing extremism and xenophobia together with different partners. Also the Sinti and Roma *Land* associations participate in these projects. SOR-SMC has a website providing information on minorities and victims of racism and discrimination, thus also on Sinti and Roma. However, the quantity of available information on various groups is not intended to establish a ranking of these groups. It is more important that the SOR-SMC projects encourage action against discrimination, in particular racism, and contribute to a peaceful, democratic society.<sup>5</sup>

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<sup>5</sup> This objective should be taken into account regarding the comment provided by the Documentation Centre of German Sinti and Roma in Part C of this report that the project's website provides relatively little information specifically on Sinti and Roma and on antiziganism.

06033 The **Documentation Centre of German Sinti and Roma** and the *Land* Associations of Sinti and Roma launched **initiatives** in various *Länder* and developed **materials for schools** and educational institutions. These materials help discuss and analyse racism and the existing stereotypes and prejudices regarding Sinti and Roma. They also serve to come to terms with the history of the Sinti and Roma genocide perpetrated by National Socialism. Both on its own initiative and in cooperation with schools and other institutions, the Baden-Württemberg *Land* Association of German Sinti and Roma carried out projects for analysing and assessing antiziganism, along the lines of projects dealing with anti-Semitism.

06034 The majority of the *Länder* of the Federal Republic of Germany have established *Land* Agencies for Civic Education which carry out similar tasks in their respective *Land*.

06035 The **Hamburg Land** Agency for Civic Education, for instance, regularly sponsors events and projects of associations dealing with the coexistence of and mutual understanding between different religions and nationalities. In 2005 and 2006 the Hamburg *Land* Agency for Civic Education funded the second and third Conference on Antiziganism organized by the European Centre for Antiziganism Research (*Europäisches Zentrum für Antiziganismusforschung*). Partner and beneficiary was the Roma and Sinti Union.

06036

06037 The **Hesse Land Agency for Civic Education** offers a wide range of publications and educational services on

- racism,
- interreligious dialogue,
- migration, and
- integration.

Although the following events on these issues mainly deal with foreign Roma or Roma in other countries (who in Germany are not covered by the Framework Convention), Hesse listed these activities because they might provide insight into the reasons for antiziganism which affects also the national minority of German Sinti and Roma (who are covered by the Framework Convention):

2004

In the series of lectures *Forum unter den Eichen* (forum under the oaks) conducted in cooperation with the Wiesbaden archives on 27 January 2004, Dr Udo Engring-Romang

spoke about the reasons for dealing with antiziganims (*Warum sich mit dem Antiziganismus beschäftigen?*; Wiesbaden town hall, public event).

2005

Panel discussion on the future of the Balkans in the EU (*Die Zukunft des Balkans liegt in der EU*) during the goEast film festival in Wiesbaden on 7 April 2005. (During the discussion, the minority issue was also addressed.)

2006

Conference on minorities in Europe (*Minderheiten in Europa*) in Fulda on 27/28 November 2006. (It was a kick-off conference for the book published in 2007. The issue of Roma in Romania was addressed to illustrate the situation of Sinti and Roma in Eastern European countries).

2007

Book *Minderheiten in Europa. Ansprüche, Rechte, Konflikte* (Minorities in Europe. Aspirations, Rights, Conflicts), osteuropa 11/2007, individual topic "Roma in Romania". (The issue of Roma in Romania was addressed to illustrate the situation of Sinti and Roma in Eastern European countries.)

2008

- Funding an event on the "image of gypsies" in school education organized by the Sinti and Roma *Land* Association in Darmstadt on 6 June 2008
- Presenting the book in the framework of the series *Im Gespräch mit ...* (Talking with ...) under the title *Minderheiten in Europa* (minorities in Europe) in Frankfurt/Main on 13 February 2008. (During the event a discussion ensued following the speeches of Professor Egbert Jahn and Dr Manfred Sapper.)
- Panel discussion on Roma in Eastern Europe (*Aus dem Abseits. Roma im östlichen Europa*) during the goEast film festival in Wiesbaden on 14 April 2008.

06037a Since 1992 the **Rhineland-Palatinate** *Land* Agency for Civic Education has been working together with the Rhineland-Palatinate *Land* Association of German Sinti and Roma regarding commemoration at the concentration camp memorial sites Osthofen and Hinzert. Together, the *Land* Agency for Civic Education, the aforementioned *Land* Association and the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg conducted and will conduct numerous events including workshops for multipliers of history and civic education. In 2009 jointly organized study trips to the French concentration camp memorial Natzweiler-Struthof (*Centre Européen du Résistant Déporté*) will be included in the programme. These measures address both the Nazi genocide

against Sinti and Roma and the fight against racism, violence against minorities and xenophobia.

On the occasion of the Commemoration Day for the Victims of National Socialism on 27 January 2007, the former Rhineland-Palatinate Ministry for Science, Further Training, Research and Culture and the Rhineland-Palatinate *Land* Agency for Civic Education funded a trip of a Rhineland-Palatinate delegation of Sinti and Roma to the United Nations commemoration event in New York.

#### **B.6.1.2.2 Encouraging tolerance and promoting understanding among all groups of the population in schools, early childhood care and education**

06038 On account of the federal structure of Germany, the *Länder* have jurisdiction over educational matters and – notwithstanding the Federal Government’s responsibility for children and youth services – are responsible for education, instruction and care in day-care centres and by childminders. Many *Land* laws contain provisions on education in tolerance.

06039 For example, Section 4 of the Brandenburg Schools Act lays down as an objective of school education to enhance the ability and readiness of pupils “to understand their own culture as well as other cultures, also within their own region and in their own personal environment, to help achieve the peaceful coexistence of cultures and peoples, and to stand up for the dignity and equality of all human beings”.

06040 Additional objectives as stipulated in Sections 5 of the Brandenburg Schools Act and Section 3(2), no. 5, of the Children’s Day-Care Centres Act (*Kindertagesstättengesetz*, KitaG) are to make in particular children and youngsters take an interest in Sorbian culture, to enhance their readiness to accept the special cultural features of their personal environment, and to encourage their interest in experiencing the full spectrum of Sorbian culture.

06041 Section 5 of the Children’s Day-Care Centres Act of Schleswig-Holstein lays down, e.g. in paragraph 8, that the work of day-care centres shall “bring together children of different national or cultural origin”. Similar provisions are contained in the respective laws of the other *Länder*.

06042 For implementing these provisions, many measures have been taken in schools, including pre-schools. On 25 October 1996, the Standing Conference of Ministers of

Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany (KMK) endorsed the recommendation on “Intercultural Education in Schools” which states: “The decision ‘Europe in School Education’ taken in 1978 and reconfirmed in 1990 aims at promoting the European dimension in education by means of fostering readiness and openness for understanding, for reducing prejudices, and for cross-cultural open-mindedness.” In this context, the following aspects are considered particularly significant: familiarization with human rights as universally valid values; the issue of the given cultural environment being a determinant of human rights; and the possibilities for the coexistence of minorities and majorities in a multicultural society. Accordingly, the existing directives and school curricula provide for the introduction of intercultural aspects in school education.

06043 In nos. 33 and 78 (knowledge of minority cultures) of its First Opinion the Advisory Committee requested that, in view of reports about attitudes of rejection or hostility towards minorities, also on the part of certain authorities, intensified efforts should be made to enhance awareness of minority cultures in numerous areas, particularly in education. This prompted Germany to clarify that no information was available on such incidents; rather, the members of national minorities had the same rights and duties as all other nationals did. Also, the following (additional) measures taken in the schools sector were pointed out:

06044 In the Free and Hanseatic City of **Hamburg** the task of intercultural education is shared by all schools throughout all subjects and in school life. Students learn to look beyond their own cultural environment and to put themselves in and understand the position of minorities. This is in line with the educational goal set forth by the Hamburg Schools Act which requires schools to enable their students to seek and build relationships to other people based on the principles of respect and tolerance, and to strive for a peaceful coexistence of cultures. In addition, the framework curricula for social studies at comprehensive, secondary modern and secondary technical schools expressly provide for students to acquire knowledge on Roma and Sinti and their culture.

06045 In **Baden-Württemberg**, for example, the *Land* Institute for Education and Instruction (*Landesinstitut für Erziehung und Unterricht*, LEU) set up a working group on “Sinti and Roma in Germany” at the beginning of the 1997/98 school year. The working group developed teachers’ support material on how to address the history of the Sinti and Roma in classroom instruction. The Baden-Württemberg *Land* Association of Sinti and Roma participated in this working group.

06046 A centrally organized further training course for teachers took place at the Academy in Calw from 29 November 1999 to 1 December 1999 on the subject “Sinti and Roma; the Fate of a Minority in Germany”. Members of the Baden-Württemberg *Land* Association of Sinti and Roma participated as speakers. The Ministry of Education and Culture contributed to a meeting organized by the Protestant Academy Bad Boll on “Sinti and Roma – a subject for classroom instruction?” in Wiesensteig from 12 to 13 April 2002.

06046a Coping with individual differences and socio-cultural diversity is a strong focus of **Hesse**’s new education plan for children of 0 to 10 years, which in cooperation with families should serve as a guideline for day-care centres, primary school, childminders and family education. This education plan should also be applied when working with children from Roma and Sinti families. Objectives of the education plan include: developing curiosity for other cultures and religions, accepting differences in culture and language as an asset and a chance to learn, arousing enthusiasm for discovering similarities and differences, stimulating interest in the biographies and family history of other children, and juxtaposing culturally influenced conceptions with new experiences.

06047 Within the framework of the **revision of the Schleswig-Holstein curricula** for general and vocational schools the “efforts to expand multi-cultural and multi-ethnic contents” have been continued and intensified. This applies both to the curricula of primary schools and lower secondary schools which entered into force in 1997, and to higher secondary schools as well as to special classes for under-achievers, which were introduced in the autumn of 2002. Out of the five main problems of our time which were taken as a basis for these curricula, one deals exclusively with the basic values governing coexistence, while focusing in particular on the ability to live together in the One World with its different cultures, religions, social systems, peoples and nations. All specialized curricula reflect their contribution to handling these problems. Furthermore, “intercultural learning” has been highlighted in the curricula as an area of general educational importance. In this respect, the individual schools are called upon also to develop and implement forms of work and organizational systems which integrate all subjects and focus on certain topics and which reflect the importance of this educational task. Various instruction materials and teaching aids have been developed in recent years in connection with the work on curricula in order to ensure that these principles are actually implemented. For example, the Ministry of Education, Science, Research and Cultural Affairs compiled a wide range of suggestions and aids in a file on “including intercultural learning in curricula” which it distributed to schools (in 1997).

06047a Section 13 (2) of the **North-Rhine/Westphalia Act on Early Childhood Education and Assistance** (*Kinderbildungsgesetz*, KiBiz) describes the principles of education in day-

care centres. The main objectives are to teach children responsibility, solidarity and tolerance, strengthen their intercultural competences, and enable them to develop cultural skills. Pursuant to Section 17 (1) of the act, this applies also to childminders.

06048 With reference to Article 6 on tolerance towards minorities and protection against hostilities, in no. 80 of its First Opinion the Advisory Committee called for **better school education for German Sinti and Roma to improve their standing in society**. The Committee repeated this request in its Second Opinion in nos. 15, 16, 65 and 70 also regarding Article 6, and nos. 109, 111, 112, 122 and 127 regarding Article 12 (3) on equal opportunities for access to education at all levels. Equal opportunities in education for German Sinti and Roma will be discussed in the section regarding Article 12 (3) on equal opportunities for access to education at all levels.

#### **B.6.1.2.3 Encouraging tolerance and promoting understanding among all groups of the population in culture**

06049 The *Länder* – which, on account of the federal structure of Germany, are responsible for cultural and educational affairs – and local authorities include the culture of groups other than the German majority population in supraregional, regional and local cultural events and activities. This is also exemplified by large-scale *Land* festivals such as *Schleswig-Holstein-Tag*, *Tag der Sachsen* and *Brandenburg-Tag*.

#### **B.6.1.2.4 Encouraging tolerance and promoting understanding among all groups of the population in broadcasting**

06050 Also jurisdiction over broadcasting lies with the *Länder*. Under constitutional law, the State may not exert an influence on the contents of broadcasting programmes.

06051 The **broadcasting principles embodied in the various *Land* broadcasting acts and inter-state treaties** explicitly lay down that international understanding should be promoted and programmes should help reduce xenophobia and protect and promote minorities (for example Section 7 of the Inter-State Treaty on the Broadcasting Corporation NDR, Section 14 of the Lower Saxony Media Act, or Section 4 of the Inter-State Treaty on Media Law in Hamburg and Schleswig-Holstein).

06052 For public service broadcasting, compliance with the programming principles is monitored by the supervisory bodies (Sound Broadcasting Board, Television Board) which

have a pluralistic membership, and for private broadcasters by the independent *Land Supervisory Authorities (Landesmedienanstalten)*. Further specific measures which also refer to the obligations under Article 6 (1), are described in the comments on Article 6 (2).

06053 Under Section 4 (2)(2) of the Inter-State Treaty on the Establishment of a Joint Broadcasting Corporation for the *Länder* of **Berlin and Brandenburg** (RBB Treaty) of 25 June 2002, the programmes take account of the regional diversity in Berlin and Brandenburg, and of the language and culture of the Sorbian people. Under Section 14 (1), no. 20, of the RBB Inter-State Treaty, a member of the associations of the Sorbs in Brandenburg is represented in the Broadcasting Board of the RBB so that the Sorbs' interests are safeguarded within this body. In this respect, the Treaty includes the pertinent provisions of the Act on *Ostdeutscher Rundfunk Brandenburg (ORB)*, which ceased to have effect in 2003, and ensures that account is taken of Sorbian interests and concerns in broadcasting.

06054 In the **Free State of Saxony**, under Section 6 (3) of the Inter-State Treaty on *Mitteldeutscher Rundfunk (mdr)* of 30 May 1991, broadcasts of the *mdr* must take account of the interests of all segments of the population, including minorities. In accordance with Section 19 (1), no. 16, and Section 19 (2), no. 3, of this Inter-State Treaty, socially relevant groups, including the Sorbs' umbrella organization Domowina, delegate their representatives to the Broadcasting Board of *Mitteldeutscher Rundfunk*.

06055 As regards the role of national minorities in broadcasting, see also sections B.9.1.2.1 (Participation of representatives of national minorities in media supervising bodies) and B.9.3.3 (Broadcasting media for the national minorities).

#### **B.6.1.2.5 Encouraging tolerance and promoting understanding among all groups of the population in print media<sup>6</sup>**

06056 In no. 79 of its First Opinion “the Advisory Committee finds that self-regulation in the German media does not seem to prevent certain newspapers, when reporting on

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<sup>6</sup> In Part C of this report, the Central Council of German Sinti and Roma refers to the proceedings against the Federal Republic of Germany at UN-CERD on 3 March 2008 regarding statements made by a police officer in the magazine of the Federation of German criminal police officers (*Bund deutscher Kriminalbeamter*). For the Federal Government and the *Länder* this is evidence neither for general prejudices against Sinti and Roma among the police nor for a lack of self-regulation by the media. It should also be pointed out that the Federal Republic of Germany was not found guilty in the proceedings. The Committee confirmed that the Federal Government and the *Länder* are not responsible for statements made in publications under private law. Moreover, ministers at federal and *Länder* levels distanced themselves from the statements.

criminal offences, from mentioning suspects' ethnic origin when they belong to the Roma/Sinti community, this information coming in some cases directly from police sources" and recommends "that Germany should make sure the existing rules in this field are applied in practice by the competent authorities and encourage the media to follow their own rules of professional ethics and to review the effectiveness of complaints procedures they have established". In this respect the following comments were made already in the Second State Report:

06057 Government agencies have very limited influence on the media by virtue of Article 5 of the Basic Law which guarantees the freedom of the press and freedom of broadcasting (radio and television). Therefore, in view of German constitutional law, the comments made by the Advisory Committee primarily concern the media themselves.

06058 The *Land* authorities have already issued instructions according to which press releases by their subordinate authorities must not include information on ethnic origin or affiliation. This does not apply if the information on the given case cannot be fully understood by the general public unless such ethnic reference is included.

06059 For press releases, the German Press Council laid down the following rule: "No person shall be discriminated against because he or she belongs to a specific ethnic, religious, social or national group." (no. 12 of the Press Codex)

06060 To make its regulations even more precise, the German Press Council, as early as on 21 September 1994, decided to amend the previous Directive on Protection from Discrimination. The new Directive 12.1 on Journalistic Work now recommends the following:

"In reports on criminal offences, the fact that a suspect or offender belongs to a religious, ethnic or other minority shall be mentioned only if there is a reasonable need for such information to properly understand the reported incident. Special attention should be paid to the fact that such mention might foment prejudices against groups requiring protection."

06061 In the Federal Government's view, the practices of the German Press Council with regard to the observation of the basic rules of free and responsible journalism are adequate in their present form.

06062 The proposal made by the Advisory Committee in no. 86 of its Second Opinion to encourage further support for journalists' training programmes and other measures aimed at promoting accurate and balanced reporting on minorities is not considered useful by the *Länder* in terms of costs and benefits, as explained in the German comment on the

Opinion by Baden-Württemberg. Moreover, the prohibition of discrimination is enshrined in the pertinent framework conditions and thus part of journalist training, which is, however, not mandatory for working as a journalist.

06063 In nos. 14, 17, 41-46, 82-84 and 87 of its Second Opinion the Advisory Committee repeats its criticism regarding the storage of data on the ethnicity of offenders and suspects by German police authorities and the disclosure of such data to the media, and encourages the authorities to review the use of data on the ethnicity of offenders in order to ensure that it is in full compliance with the principles set out in the Framework Convention. In this respect, we would like to refer to the German comments on the Second Opinion which object to the Committee's opinion as well as to the aforementioned sample ordinance for police authorities (no. 04009 et seqq. in section B.4.1.2).

## **B.6.2 Article 6 (2)** **(Protection of persons belonging to national minorities against threats or acts of hostility or violence)**

### **B.6.2.1 Present state of affairs**

06064 For several years, xenophobia on the part of a small segment of the German population, including younger members of fringe groups, has been a problem in society. This problem is particularly pronounced in the eastern German *Länder* and ranges from verbal attacks to assaults against foreigners of non-European origin who live in Germany.

06065 On 1 January 2001 a new system for collecting information on politically motivated crime (*Definitionssystem "Politisch motivierte Kriminalität"*) was introduced. For example, it is used to gather information on offences classified as hate crime. This shows the importance attached to offences against persons, institutions, causes or objects based on nationality, ethnicity, race, colour, religion, parentage, physical appearance, disability, sexuality or social status. Annual statistics compiled on the basis of this system are presented to the public in spring of the following year.

Through the system, hate crime can be differentiated in even more detail, i.e. it can be divided into racist, xenophobic and anti-Semitic offences. In the subcategories "xenophobic", "anti-Semitic" and "racist" an offence may be counted several times if it fulfils the criteria of each subcategory.

As the following table illustrates, by far the largest number of politically motivated offences can be attributed to right-wing crime (each year between 90% and 96% of all politically motivated offences).

	Anti-Semitic offences		Xenophobic offences	
	2006	2007	2006	2007
Right-wing	1,662	1,561	3,294	2,866
Left-wing	4	1	5	6
Foreigners	88	59	42	39
Others	44	36	83	78

Therefore, the following description focuses on the development of right-wing politically motivated crime.

Of all xenophobic, anti-Semitic and racist offences, 70% are incitement to hatred and violence (Section 130 of the Criminal Code) and propaganda (Sections 86 and 86a of the Criminal Code). The following table shows the development of hate crime over the last years:

Year	Right-wing total	Xenophobic (proportion of all right-wing offences in %)	Anti-Semitic (proportion of all right-wing offences in %)	Racist (proportion of right-wing offences in %)
2003	20,477	2,431 (11.9)	1,226 (6.0)	355 (1.7)
2004	21,178	2,553 (12.0)	1,346 (6.4)	355 (1.7)
2005	26,401	2,493 (9.4)	1,682 (6.4)	336 (1.3)
2006	29,050	3,294 (11.3)	1,662 (5.7)	525 (1.8)
2007	28,538	2,866 (10.0)	1,561 (5.5)	501 (1.7)

Since the introduction of the reporting system, the number of right-wing politically motivated crime has increased and decreased in successive waves. Like in the subcategories, the number of right-wing politically motivated offences (18,142) peaked in 2006. Although the number slightly decreased to 17,607 offences in 2007, this is still the second-highest number. Unfortunately, a decrease can also not be observed for 2008.

06066 So far, members of national minorities have, as a rule, not been targeted by xenophobic aggression. However, there have been some attacks against German Sinti and Roma.

06067 During talks held in January 2001, the Central Council of German Sinti and Roma presented the Federal Minister of the Interior with documents on concentration camp memorial sites in Germany desecrated and attacked by right-wing groups. Already on this occasion, the Central Council requested a special “Protection Zone Act” for these memorial sites (reiterated in its comments on the present Report in Part C), which – like similar legislation in Poland – the Central Council considers a possible instrument to fight such assaults effectively and as a grave crime.

06068 Moreover, the Advisory Committee encouraged the authorities to pursue and step up their efforts to fight all forms of racism, including anti-Semitism and Islamophobia (nos. 76, 77 and 79 of its Second Opinion), and to pay particular attention to hostility against Roma and Sinti and to ways of tackling it (no. 80 of the Second Opinion).

06069 The documentation presented by the Central Council of German Sinti and Roma on 110 cases of provocative vandalism perpetrated from 1991 to 2001 by right-wing extremists against institutions of the Jewish community and sites commemorating the victims of the National-Socialist reign of terror failed to underpin the Council’s call for a “regulation on protective zones” because this documentation listed offences (damage to property, defamation, disturbing the peace of the dead, incitement to hatred and violence) committed outside “assemblies” as defined in the Assemblies Act .

06070 - 06071

The measures taken in this respect will be described in the following:

06072 The Act of 1 April 2005 amending the Assemblies Act and the Criminal Code addresses the requests of the Central Council of German Sinti and Roma in two provisions. On the one hand, assemblies may be prohibited in places which are of great historical and supraregional significance for commemorating the victims of the horrid National Socialist dictatorship if it is found that the assembly could affect the victims’ dignity. On the other hand, the *Länder* are entitled to determine further memorial sites in need of protection in addition to the Memorial to the Murdered Jews of Europe in Berlin. Some of the *Länder* have already exercised this right by selecting in particular former concentration camps, where also Sinti and Roma were imprisoned during the Nazi regime, as sites in need of protection.

06073 At federal level, further legislative measures on the basis of the Assemblies Act cannot be taken. Since the first stage of the reform of Germany’s federal structure became effective, assemblies law has no longer been a shared competence of the Federal

Government and the *Länder*. The Federal Government remains responsible only for security zones around federal constitutional agencies. The *Länder* are now entitled to adopt *Land* assemblies acts if they consider that assemblies law needs to be improved. As long as a *Land* does not exercise this power, the federal assemblies law continues to apply.

06074 For example, the federal assemblies law continues to apply in Schleswig-Holstein. To support local public order and police authorities, the Interior Ministry adopted an administrative regulation governing action to be taken during right-wing extremist events.

06075 Generally, the fight against right-wing extremism is based on an overall concept of the Federal Government. Apart from repressive measures, the focus is on preventive approaches, as documented in detail by the Report on the Federal Government's Current and Planned Measures and Activities to Combat Right-Wing Extremism, Xenophobia, Anti-Semitism and Violence presented to the German Bundestag on 14 May 2002 (for details regarding this "four pillars model" see B.6.1.1).

06076 Regarding nos. 78 and 79 of the Second Opinion Hesse informed the Advisory Committee that the fight against racist, xenophobic and anti-Semitic offences is promoted by the interministerial working groups *Netzwerk gegen Gewalt* (network against violence) and *Ausstiegshilfen Rechtsextremismus in Hessen* (exit strategies for right-wing extremists in Hesse) which are composed of representatives from the ministries of justice, culture, social affairs and the interior.

06077 Rhineland-Palatinate reports on trusting and fruitful cooperation between the *Land* Government and the Rhineland-Palatinate *Land* Association of German Sinti and Roma. The Association was one of the first to sign the Joint Declaration against Right-Wing Extremism adopted on 28 May 2008 by the *Land* Government together with numerous democratic stakeholders. The Declaration sets the common goal to effectively and permanently fight right-wing extremism. In addition, the Rhineland-Palatinate *Land* Government has intensified the fight against right-wing extremism by setting up an agency to prevent right-wing extremism (*Präventionsagentur gegen Rechtsextremismus*). The agency coordinates all measures taken by the *Land* against right-wing extremism and thus ensures an efficient use of resources.

The Rhineland-Palatinate *Land* Agency for Civic Education organizes numerous events on preventing racism, xenophobia and right-wing extremism including a conference on xenophobia and right-wing extremism (*Fremdenfeindlichkeit und Rechtsextremismus? Wir tun was! Eine Initiative für Rheinland-Pfalz*) which already took place in numerous cities,

as well as speeches and discussions on various aspects of this issue, e.g. on European or migration perspectives. Further, the *Land* Agency for Civic Education coordinates the project “School without Racism – School with Courage” and participates in various networks, e.g. the advisory network against right-wing extremism in Rhineland-Palatinate (*Beratungsnetzwerk gegen Rechtsextremismus in Rheinland-Pfalz*).

In Rhineland-Palatinate, the *Land* Association of German Sinti and Roma participates in the *Land* Board for Migration and Integration (*Landesbeirat für Migration und Integration*) which is under the supervision of the Ministry of Labour, Social Affairs, Health, Family and Women responsible for integration. The *Land* Association says that although German Sinti and Roma are not immigrants, they share with them the experience of exclusion, discrimination and racism by the majority population. Hence, the *Land* Association intends to serve as a point of contact for immigrant Sinti and Roma, contribute its expertise in integration policy and act as an expert on racism and discrimination.

### **B.6.2.2 Protective regulations**

06078 In Germany, the general legal order ensures protection from discrimination also for the members of national minorities and ethnic groups. As everyone, they are entitled to the protection of legal rights under the Criminal Code. Criminal law attaches particular importance to the following offences: incitement to hatred and violence, public incitement to criminal acts, and insult.

06079 In **Section 130 (1) (incitement to hatred and violence)**, the **Criminal Code** provides that whosoever, in a manner capable of disturbing the public peace incites hatred against segments of the population or calls for violent or arbitrary measures against them or assaults the human dignity of others by insulting, maliciously maligning, or defaming segments of the population, shall be liable to imprisonment from three months to five years.

06080 Under Section 130 (2), no. 1, of the Criminal Code whosoever disseminates written materials which incite hatred against segments of the population or a national, racial or religious group, or one characterized by its ethnic customs, which call for violent or arbitrary measures against them, or which assault the human dignity of others by insulting, maliciously maligning or defaming segments of the population or a previously indicated group shall be liable to imprisonment of not more than three years or a fine. Under Section 130 (2), no. 2, of the Criminal Code such penalties are also imposed on

whosoever disseminates a presentation of the content indicated in no. 1 by radio, media services, or telecommunication services.

06081 Under **Section 111 of the Criminal Code (Public incitement to crime)** whosoever publicly, in a meeting or through the dissemination of written materials incites the commission of an unlawful act, shall be held liable as an abettor (section 26). Under Section 26 (Abetting) of the Criminal Code, any person who intentionally induces another to intentionally commit an unlawful act (abettor) shall be liable to be sentenced as if he were a principal. If the incitement is unsuccessful, the penalty shall be imprisonment of not more than five years or a fine (Section 111 (2), first sentence, of the Criminal Code). Section 11 (3) of the Criminal Code provides that audiovisual media, data storage media, illustrations and other depictions are equivalent to written material in the meaning of Sections 111 and 130 of the Criminal Code. Illegal acts within the meaning of Section 111 of the Criminal Code may be, for example: incitement to hatred and violence (Section 130, Criminal Code), insult (Sections 185 et seqq.), offences against life (Sections 211 et seqq.) or against the person (Sections 223 et seqq.).

06082 In addition, since 2001 the German Bundestag has allocated funds under the yearly budget acts to finance **hardship compensation payments to the victims** of such crimes with the aim of proscribing and preventing right-wing extremist assaults.

06083 Under German law, racist and other base motives for offences must be considered an aggravating circumstance when sentencing, depending on the individual case. According to Section 46 (2) of the Criminal Code when sentencing, the court shall weigh the circumstances in favour of and against the offender. Consideration shall in particular be given to the motives and aims of the offender and the attitude reflected in the offence. This means that the judge must take xenophobic or racist motives of an offence into account when sentencing.

Moreover, as early as 1962 the Federal Court of Justice decided that racism may be considered a base motive within the meaning of Section 211 (murder) of the German Criminal Code.

06084 In the Federal Government's view, applying the provisions of Section 46 (2) of the Criminal Code on racist and xenophobic motives as aggravating circumstances adequately provides for effective prosecution of such offences. Contrary to the **request of the Central Council of German Sinti and Roma** (cf. its Comments in Part D of the Second State Report), the Federal Government does not see a need for a legal definition of an

**additional specific offence constituted by “racially motivated acts of violence committed by individuals or groups”.**

06085 The Federal Government does not see the need for including additional specific acts constituting an offence – e.g. in the category of bodily injury – because an adequate statutory range of punishment has been provided, especially after tightening punitive provisions in recent years.

06086 For dangerous bodily harm under Section 224 of the Criminal Code, which may be committed by means of a weapon or another dangerous instrument or through acting by stealth, by acting jointly with another or by methods that pose a danger to life, the sentence is imprisonment from six months to ten years. For grievous bodily harm defined in Section 226 of the Criminal Code as bodily injury with grave results, the penalty shall be imprisonment from one to ten years or from three to fifteen years. In the case of bodily harm as defined by Section 223 of the Criminal Code racist motives are already included in the provisions on the principles of sentencing under Section 46 (2) of the Criminal Code.

06087 Moreover, specifying a particular offence would contradict the concept of the Criminal Code since the classification of bodily injury offences – as well as of other criminal offences – does not provide for any specific motives.

06088 It would also contradict the Criminal Code’s concept to include only one motive for a specific offence since other motives (e.g. offences against disabled or elderly people) would no longer be adequately taken into account given the prohibition of analogy.

06089 Finally, contrary to what is claimed by the Central Council of German Sinti and Roma, “followers” and “co-agitators” involved in racially motivated offences can be effectively prosecuted in Germany. On the one hand, an offender’s criminal liability can be based on the provisions on co-perpetrators (Section 25, Criminal Code), abetting (Section 26, Criminal Code) and aiding (Section 27, Criminal Code). On the other hand, prosecution can be based on Section 130 of the Criminal Code which provides that whosoever, in a manner capable of disturbing the public peace incites hatred against segments of the population or calls for violent or arbitrary measures against them shall be liable to prosecution for incitement to hatred and violence.

06090 In nos. 13, 78 and 79 of its Second Opinion, the Advisory Committee has not followed the suggestions of the Central Council of German Sinti and Roma to introduce a special offence of racially motivated violence. However, it recommended designating racist motives expressly as an aggravating circumstance in criminal law, as had also been

recommended by the European Commission against Racism and Intolerance (ECRI) in its third Report on Germany of 5 December 2003, because this could help intensify the efforts undertaken to combat racism and discrimination.

06091 In response to the Second Opinion, German authorities pointed out that in sentencing, racist and other base motives are already considered an aggravating circumstance under applicable law, depending on the individual case. The same reasons were given as for rejecting a special offence of “racially motivated violence of individuals or groups” (cf. no. 06085 et seqq.). Therefore, the Federal Government critically commented on a relevant Bundesrat bill of 4 July 2008 (Bundesrat document 458/08). The Bundesrat draft (Bundesrat document 16/10123) has not yet been discussed in the Bundstag. The Federal Government’s comment is included in the Bundesrat document.

It has also been pointed out that the fight against racism and racist discrimination is high on the agenda in the further training programmes provided for judges, public prosecutors and other legal professions. This ensures that current provisions in criminal law are also applied in practice.

06092 In its comments on nos. 13 and 79 of the Advisory Committee’s Second Opinion referring to a draft submitted to the Federal Minister of Justice on 30 March 2006, the Central Council of German Sinti and Roma called for more effective legal instruments against incitement to hatred and violence on the Internet in the framework of the bill on improving the fight against racist and right-wing extremist propaganda and racially motivated violence, which the Council had proposed earlier.

06093 In this respect, the following information can be provided:

Websites containing right-wing extremist or racist content regularly violate the Criminal Code, in particular Section 86 (Dissemination of propaganda material of unconstitutional organizations), Section 86a (Using symbols of unconstitutional organizations) and Section 130 (Incitement to hatred).

In addition to disseminating criminal content on the Internet, linking websites (via hyperlinks) containing criminal content pursuant to Sections 86, 86a and 130 (2) of the Criminal Code is also considered to be dissemination and use of criminal content and thus liable to prosecution (cf. Stuttgart Higher Regional Court, CR 2006, 542-545).

The Federal Government has improved the fight against cybercrime and thus criminal prosecution of Internet propaganda inciting to hatred and violence by adopting the revised

Section 100g of the Code of Criminal Procedure (Article 1 of the Act Reforming Telecommunications Surveillance and Other Covert Investigative Measures and Transposing Directive 2006/24/EC of 31 December 2007, Federal Gazette I, p. 3198) which implements the Council of Europe Convention on Cybercrime.

06094 However, offenders do not always operate from Germany but disseminate relevant content on the Internet from abroad, which poses a problem for prosecution because it is not clear whether German law applies in such cases.

In a case where a foreigner used a foreign server available to German Internet users to post statements liable to prosecution under Section 130 (1) and 130 (3) of the Criminal Code ("Auschwitz Lie"), the Federal Court of Justice confirmed that German criminal law is applicable pursuant to Section 9 (1) of the Criminal Code (BGHSt 46, 212, 221).

However, it is also important to harmonize pertinent provisions at international level to avoid gaps in criminal prosecution.

On 19 April 2007 under the German EU Presidency, EU Member States agreed on the Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law to ensure that by approximating relevant provisions racist offences, including racist propaganda (also on the Internet), are sanctioned in all Member States by at least a minimum level of criminal penalties. The Council adopted the Framework Decision on 28 November 2008. In addition, Germany signed the 2003 Additional Protocol to the Convention on cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems, which criminalizes the distribution of racist and xenophobic material through a computer system, including racist and xenophobic motivated threats and insults as well as denial, gross minimization, approval or justification of genocide or crimes against humanity. The Additional Protocol aims at creating a minimum level of criminal penalties to harmonize criminal law.

06095 In addition to criminal liability, Internet providers may be held liable pursuant to Section 7 et seqq. of the Telemedia Act (*Telemediengesetz*, TMG) which allows authorities to request that illegal content be deleted or blocked. At the same time, Section 59 of the Inter-State Agreement on Broadcasting creates the legal basis for interventions by the responsible supervisory authorities. On the grounds of this provision, which previously had been included in the Inter-State Treaty on Media Services, for example the Düsseldorf district government instructed Internet providers in North-Rhine/Westphalia to block certain

websites which were hosted on servers abroad (2002) and disseminated right-wing extremist content. This decision taken in 2002 was confirmed by the courts.

In addition to these legal instruments, preventive measures are taken against propaganda inciting to hatred and violence on the Internet, e.g. Internet monitoring. An important and permanent aspect of preventive work is the regular monitoring of right-wing extremist activities on the Internet to be able to take counter-measures at an early stage. For example, host providers are informed about relevant content, also in the framework of international cooperation. Many host providers, also abroad, do not tolerate hate crime on their servers and are willing to block relevant sites when informed about them. Several organizations, such as INHOPE (International Association of Internet Hotlines) supported by the EU to improve cooperation among European Internet hotlines and INACH (International Network Against Cyberhate) help intensify international cooperation by effectively combining expertise and taking coordinated measures against right-wing extremist Internet propaganda with an international dimension. At national level, the *Länder* ministers responsible for youths founded *jugendschutz.net* in 1997 to monitor the Internet and expose hate propaganda.

06096 In its aforementioned comment, the Central Council of German Sinti and Roma also requests that in cases of incitement to hatred and violence, representative organizations of minorities (“segments of the population” within the meaning of Section 130 of the Criminal Code) are given the right to apply for proceedings to compel public charges (in accordance with Section 172 (2) of the Code of Criminal Procedure).

The following has to be noted regarding this request:

Section 172 of the Code of Criminal Procedure stipulates that an aggrieved party may lodge a complaint against the termination of proceedings by the public prosecutor with the Department of Public Prosecution and – if the complaint is not successful – against the notification that investigations will not be resumed, and thus apply for a court decision. An aggrieved party is a person whose rights or legally protected interests are affected by the alleged offence (cf. Schmid, in: *Karlsruher Kommentar*, Section 172, no. 19 with further references). In case of incitement to hatred and violence, the members of the targeted segment of population within the meaning of Section 130 of the Criminal Code are aggrieved parties and thus entitled to lodge a complaint (Schmid, l.c.). There is no factual reason for introducing an additional *actio popularis*, which is not in the nature of the Code of Criminal Procedure, regardless of whether the applicant is an aggrieved party. Other associations do also not have the right to apply for proceedings to compel public charges

when offences have been committed against their members (for religious communities: Stuttgart Higher Regional Court, NJW 2002, 2893).

### **B.6.2.3 Protection of persons belonging to national minorities against threats or acts of hostility or violence by means of civic education and promotion of intellectual engagement**

06097 The fight against racism and xenophobia is an important concern of German politics attaching particular importance to the aspect of prevention through intellectual and political engagement.

During the third World Conference on Racism in 2001, UN Member States were asked to develop national action plans against racism to be presented to the High Commissioner for Human Rights. The National Action Plan to Fight Racism, Xenophobia, Anti-Semitism and Related Intolerance (NAP) adopted by the Federal Government on 7 October 2008 is taking a differentiated approach. The NAP is intended as an instrument to prevent and protect from violence and discrimination. It clearly demonstrates that neither politics and society nor the judiciary are willing to accept or even tolerate racism, racial discrimination, xenophobia or anti-Semitism. The NAP describes the efforts and measures to promote and strengthen social cohesion and thus to reduce support for xenophobic and discriminatory attitudes. It presents numerous ongoing and constantly pursued initiatives and measures in various fields. The NAP created a basis for planning further activities. It is therefore not static but requires evaluation and follow-up.

06098 In addition to the protection provided under the Criminal Code, civic education and intellectual and political engagement on extremism, xenophobia and violence are of major significance with a view to reducing the appeal of extremist ideology and thus helping to prevent politically motivated acts of violence. Civic education, school education and preventive awareness-raising help convey the values of our free democratic order, and people are made to understand that violence never can, and never must, be a means of settling political differences.

06099 On account of the federal structure of Germany, primary responsibility for these aspects lies with the *Länder* in the fields of culture and education.

06100 A central instrument of intellectual and political engagement are extensive **awareness-raising activities of the Federal Government and the *Länder***, which in terms of their form and contents are **geared to specific target groups**. This includes

brochures on the subjects of extremism and xenophobia; seminars for teachers, contributors to school magazines, journalists and multipliers in adult education; specialist conferences on socio-political issues; awareness-raising campaigns against extremism, xenophobia and violence; and also the initiation, monitoring and support of sociologic research activities in the field of internal security; and evaluation and application of analyses and research findings by means of publications.

#### **B.6.2.3.1 Educational measures taken by the Federal Government for the protection of persons belonging to national minorities against threats or acts of hostility or violence**

06101 Various publicity measures which proved successful already in the past are being continued. Examples are the brochures in the series *Texte zur Inneren Sicherheit* (Texts on Internal Security) and the annual edition of the **Report on the Protection of the Constitution** which helps assess the threats posed to the democratic constitutional state by racism, xenophobia and other factors. Although these publications do not specifically address the protection of national minorities from racist assaults but focus on persons of immigrant background, including those threatened on account of their religion, they also benefit the minority of German Sinti and Roma which is still subject to racist assaults.

06102 Academic research into the reasons and motives for racism and xenophobia helps further develop and optimize **concepts for sustainable preventive measures**. For this reason, the Federal Ministry of the Interior analyses **current studies** about these phenomena and initiates its own research projects such as the **project regarding right-wing extremist suspects and offenders** carried out and completed **in cooperation with the foundation Volkswagen-Stiftung**. The project's results were published in December 2001 in the issue entitled *Fremdenfeindlichkeit, Antisemitismus, Rechtsextremismus* (Xenophobia, Anti-Semitism, Right-Wing Extremism) of the series *Texte zur inneren Sicherheit*. The brochure *Extremismus in Deutschland – Erscheinungsformen und aktuelle Bestandsaufnahme* (Extremism in Germany – manifestations and status quo) also published in the series *Texte zur inneren Sicherheit* contributes to clarifying the debate and raise public awareness. This holds true also for the brochure *Muslimen in Deutschland. Integration, Integrationsbarrieren, Religion und Einstellungen zu Demokratie, Rechtsstaat und politisch-religiös motivierter Gewalt* (Muslims in Germany. Integration, obstacles to integration, religion and attitudes towards democracy, the rule of law, and politically and religiously motivated violence) published in 2007. The Federal Ministry of the Interior is continuing this series as a forum for dialogue based on scientific facts and for gaining new insights.

06103 Preventing racism, xenophobia and anti-Semitism requires the commitment of the society at large. To this end, the Federal Government continues the **dialogue** taken up in the context of the European Year against Racism and Xenophobia (1997) **between the government and non-governmental organizations**. The *Forum gegen Rassismus* (Forum against Racism, FgR) was constituted in 1998 in the wake of the European Year against Racism. It has by now become an established platform for discussion between state agencies and civil society on all issues concerning the fight against racism, xenophobia and anti-Semitism.

At present, the *Forum* has 90 members, including 60 NGOs operating across Germany or at a supraregional level. The chairmanship and the secretariat are assigned to the Federal Ministry of the Interior.

06104 However, for long-term success in fighting extremism, xenophobia and violence, **participation of social institutions** (families, schools, churches, sports associations, trade unions, employers, etc.) should be substantially increased. This is the aim of the *Bündnis für Demokratie und Toleranz – gegen Extremismus und Gewalt* (Alliance for Democracy and Tolerance – against Extremism and Violence, BfDT) initiated by the Federal Government and set up on 23 May 2000, the same day the Basic Law was promulgated in 1949.

The Alliance's aim is that all people live together in Germany in a spirit of mutual respect. Its guiding principle is that efforts to promote democracy and tolerance will have a lasting impact only in cooperation with a strong civil society. Hence, the Alliance acts as a central point of contact which brings together and mobilizes those social institutions which commit themselves to these goals and contribute their ideas.

The Alliance's traditional core activities are an annual youth congress on Basic Law Day, with more than 400 participants from all over Germany; the Victor Klemperer Competition for young people; and the competition "Active for Democracy and Tolerance". In addition, the Alliance works in various fields for the practical promotion of democracy and tolerance. Since 2007 the Alliance has increasingly focused on the issue of tolerance in sport.

All Alliance activities are guided by the idea of best practices: Examples of successful practice are intended to encourage imitation and application in other regions and to other types of problems. Numerous exemplary projects are presented on the website [www.buendnis-toleranz.de](http://www.buendnis-toleranz.de) (in German).

### **B.6.2.3.2 Educational measures taken by the *Länder* for the protection of persons belonging to national minorities against threats or acts of hostility or violence**

06108 The specific concepts developed and implemented by the Federal Government to prevent xenophobia are matched by similar measures taken by the *Länder*. Such measures include programmes with a total budget of more than 1 million euros, e.g. projects carried out in **Brandenburg** to fight violence, right-wing extremism and xenophobia; the special programme *Pro Zivilcourage – gegen Rechtsextremismus* (For civil courage – against right-wing extremism) in **Mecklenburg-Western Pomerania**; the promotion of intercultural activities in **Hamburg** and **Saxony-Anhalt**; initiatives in **Lower Saxony** against the violation of human dignity; measures to prevent extremism and xenophobia in **Schleswig-Holstein**; and the promotion of the political and social integration of foreigners in **Thuringia**. **Lower Saxony** intends to adopt guidelines on the promotion of measures against discrimination, xenophobia, right-wing extremism and for democracy and tolerance with the aim of funding projects and events initiated by local authorities. **North-Rhine/Westphalia** is promoting measures and initiatives against racism, xenophobia and discrimination, e.g. it is funding the five anti-discrimination offices. They develop preventive measures and approaches to conflict resolution as a significant contribution to peaceful coexistence. Further, their work focuses on raising awareness among specialist staff in the fields of integration, education, public administration and police. In their media centre against racism and discrimination, numerous media, work materials and documentation on specific topics can be used free of charge for preventive work.

06109 The details of the project carried out in **Brandenburg**, one of the traditional settlement areas of the Sorbs (Wends), serve as an example:

In **1998**, the Brandenburg *Land* Government presented an **action strategy against violence, right-wing extremism and xenophobia**. Key elements include:

- an alliance for action against violence, right-wing extremism and xenophobia (this project, which is supported with substantial *Land* funds, is intended to mobilize society for tolerance, solidarity and internationality; the Alliance's projects are very heterogeneous);
- condemnation of violence, through intensified public discussion in the media and schools;
- establishing counselling bureaus for the victims of offences presumably motivated by right-wing extremism and xenophobia;
- support for counselling services by local authorities;
- support for the development of local structures for the integration of new inhabitants;

- qualification of professional educators for handling and managing violence and right-wing extremism;
- preventive work with young people and youth groups already having a record of offences;
- creation of suitable police mechanisms to respond to xenophobic violence (example: establishment of *Mobile Einsatztrupps gegen Gewalt und Ausländerfeindlichkeit* (Mobile Task Forces against Violence and Anti-Foreigner Hostility)).

06110 The above measures are designed to prevent or punish all forms of discrimination against persons belonging to other ethnic groups. This also applies to the Sorbian minority. There were reports about individual members of the Sorbian ethnic group who were attacked because they used the Sorbian language in public. Isolated cases of verbal attacks on representatives of the Sorbs, or posters containing insulting or hate-mongering statements, were acts committed by individual offenders.

**B.7 Article 7**

**The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.**

**B.7.1 Legal bases of freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of religion**

07001 In Germany, **freedom of assembly** and **freedom of association** are protected, and guaranteed for all Germans, by **Articles 8 and 9** of the **Basic Law**. This includes the members of national minorities and ethnic groups. In addition, the **Act concerning Assemblies and Processions** guarantees to everybody, including foreigners, the right to organize and participate in public assemblies and processions. Under Section 1 of the **Act on Associations** (*Vereinsgesetz*), *everybody* is free to form associations (freedom of association). Thus, going beyond Article 9 (1) of the Basic Law, this provision guarantees freedom of association also to foreigners.

07002 For the **Danish minority**, an additional legal basis for freedom of assembly and of association is the **Bonn Declaration** of 29 March 1955.

07003 Freedom of assembly and association is, in addition to the Basic Law, also embodied in the constitutions of various *Länder*. In Germany, it is also guaranteed by the European Convention on Human Rights (ECHR).

07004 Freedom of thought, conscience and religion is covered under the comments on Article 8 below; the right freely to express one's opinion (freedom of expression) is dealt with under our comments regarding Article 9.

**B.7.2 Extent to which members of national minorities make use of freedom of assembly and freedom of association**

07005 The groups protected under the Framework Convention have widely used the rights protected under Article 7 of the Convention with reference to freedom of association.

07006 These groups are united in various organizations and actively participate in the work of many non-governmental organizations (NGOs).

The organizations of the minorities and ethnic groups in Germany cooperate on an informal basis, and most are members of the Federal Union of European Nationalities (FUEN), an umbrella organization of national minorities and traditional (autochthonous) ethnic groups in Europe with headquarters in Flensburg. The youth associations of minorities in Germany are members of the umbrella organization Youth of European Nationalities (YEN). (For more information on the funding of these organizations, see the discussion of Art. 17 (2), nos. 17014 and 17015.)

07007 Most of the national minorities and ethnic groups in Germany are also members of the European Bureau for Lesser Used Languages (EBLUL). These organizations are represented on a committee for the Federal Republic of Germany. (On the funding of the German Committee's activities and the financial situation of the FUEN Office in Brussels, see also the comments in nos. 17016 -17019 regarding Article 17(2).) The very active life of the societies and associations of the groups protected under the Framework Convention - which often includes all aspects of life in society, but is primarily focused on activities and events concerning the language, culture and tradition of the minorities - is constant proof of the wide use being made of the freedoms guaranteed by the Constitution.

07007a Five minority organizations, Domowina, the Central Council of German Sinti and Roma, the South Schleswig Association, the South Schleswig Voters' Association and the Frisian Council (North and East sections), joined in 2002 to form an informal alliance, the **Minority Council of the four autochthonous national minorities**, in order to improve coordination and the representation of their interests at national level.

07008 The Federal Republic of Germany welcomes the cooperation pursued by the national minorities and ethnic groups in Germany as regards preservation of their respective language and culture.

In detail, the groups protected under the Framework Convention are organized as follows:

#### **B.7.2.1 Associations of the Danish minority**

07009 The **chief organization** of the Danish minority **for cultural work** is ***Sydslesvigsk Forening (SSF)***, or *Südschleswigscher Verein* (South Schleswig Association), with the *Dansk Generalsekretariat* in Flensburg and a membership of around 15,000. Another 24 separate associations pursuing a wide variety of activities and with a membership of around 12,000 are affiliated with the SSF. There are also independent organizations. The **political** organization of the Danish minority (and of the National Frisians) is

**Sydslesvigsk Vaelgerforening**, or **Südschleswigscher Wählerverband** (SSW; South Schleswig Voters' Association), with headquarters in Flensburg.

07010 The **providing body** for activities related to **schools and nursery schools** is **Dansk Skoleforening for Sydslesvig**, or **Dänischer Schulverein für Südschleswig** (Danish Schools Association for South Schleswig). The association's primary responsibilities include 48 schools and 55 nursery schools for the members of the Danish minority. In addition, it operates 18 primary schools offering after-school child care; one adult education institution offering courses throughout the Schleswig region; one dormitory for schoolchildren in Flensburg; one boarding school for secondary general school pupils grades 7 to 10; two outdoor school centres and one nursery-school camp in Denmark; and a residential adult education college (Jaruplund Højskole).

07011 The **church activities** of the Danish minority are organized and supported by the Evangelical Lutheran **Dansk Kirke i Sydslesvig**, or **Dänische Kirche in Südschleswig** (Danish Church in Southern Schleswig). (For further details, see also no. 05057.)

07012 The **Sydslesvigs Danske Ungdomsforeninger (SdU)**, or **Dänischer Jugendverband für Südschleswig** (Danish Youth Association for South Schleswig), is the umbrella organization for a wide range of youth work activities, and is composed of 69 associations. It also supports recreational centres and sports facilities.

07013 **Dansk Sundhedstjeneste for Sydslesvig / Der dänische Gesundheitsdienst für Südschleswig** (Danish Health Service for South Schleswig) is a service organization for all members of the Danish and Frisian minority. It offers a wide range of outpatient and school health services, most of which are offered in the Danish language. It also operates a nursing home in Flensburg with 72 beds.

#### **B.7.2.2 Sorb associations**

07014 The Sorbs also have founded a large number of associations with widely varying objectives. The **umbrella organization** of the Sorbian associations is **Domowina – Zwjazk Łužiskich Serbow**, or **Bund Lausitzer Sorben** (Federation of Lusatian Sorbs), with which 18 organizations of the Sorbs, with more than 7,341 members, are affiliated. In addition to the five regional federations with more than 5,000 members, these include the Sorbian Scientific Society/**Maćica Serbska z.t. Wědomostne towarstwo** and, for school and cultural matters, **Serbske šulske towarstwo z.t./Sorbischer Schulverein** (Sorbian Schools Association), **Bund der sorbischen Studierenden** (Union of Sorbian Students),

**Zwjazk serbskich Wumłcow/Sorbischer Künstlerbund** (Sorbian Artists' Union) and **Bund sorbischer Gesangvereine** (Union of Sorbian Choral Societies). In the field of youth work, particular mention must be made of the **Sorbian youth association Pawk**. In addition, there are many other associations and groups of supporters, some of them abroad, which are actively committed to cultivating and promoting Sorbian history, language and culture.

### B.7.2.3 Frisian associations

07015 The **umbrella organization** of the Frisians is **Interfrasche Rädj/Interfriesischer Rat** (Inter-Frisian Council), which comprises three Frisian councils: the North Section (in Schleswig-Holstein), East Section (in Lower Saxony), and West Section (in the Netherlands).

07015a Membership of the **Frisian Council North Section** includes four representatives of *Nordfriesischer Verein* (North Frisian Association), two representatives of *Friisk Foriining* (Frisian Association), one representative of *Eiderstedter Heimatbund* (Eiderstedt Union for Local and Regional Traditions), one representative of the *Gemeinde* of Helgoland, and one representative of *Nordfriisk Instituut* (North Frisian Institute).

07016 The **Frisian Council East Section** covers all Frisians living in the German state of Lower Saxony, specifically, the regions East Friesland, Oldenburger Friesland (the counties of Friesland and Wilhelmshaven), Saterland, the former Rüstingen (including Butjadingen) and Land Wursten. Since 1998, the Frisian Council has been a registered non-profit organization. The goal of the Frisian Council East Section is to preserve and promote Frisian culture and the regional languages in its territory. It also places a high priority on working with other Friesland regions. The Frisian Council East Section brings together the associations of East Frisians and Saterland Frisians. The following historical and heritage societies are members of the Frisian Council East Section: the **Friesisches Forum, Friesischer Klootschießerverband, Jeverländischer Altertums- und Heimatverein, Landesstube Alten Landes Wursten, Oldenburgische Landschaft, Ostfriesische Landjugend, Ostfriesische Landfrauen, Ostfriesische Landschaft, Rüstinger Heimatbund** and **Seelter Buund**. The interests of the Saterland Frisians are represented by **Seelter Buund** (Saterland Union), an association dedicated in particular to the cultivation of the Saterland Frisian culture and language.

07017 The **largest association** of the Frisian ethnic group is **Nordfriesischer Verein** (North Frisian Association), founded in 1902. It has about 5,000 members in its 25

**affiliated local** associations. **Other** North Frisians regard the Frisians as a separate ethnic entity. They are organized in the **Friisk Forining**, which has around 600 members and politically works together with the Danish minority. The academic institution **Nordfriisk Instituut** is run by the *Verein Nordfriesisches Institut* (Association for the North Frisian Institute). In addition, there are the **Öömrang Feriin** (Association for Öömrang, the dialect spoken on the island of Amrum), the **ffnr** (Association for a North Frisian Radio Station) and the private foundation **Fering Stiftung** (concerning Fering, the dialect spoken on the island of Föhr). Each of these associations has different priorities for promoting the preservation of the language, culture and landscape of Nordfriesland.

In addition, there are **many local clubs** across the entire East Frisian region dedicated to the cultivation and preservation of Frisian customs and folklore.

#### **B.7.2.4 Associations of the German Sinti and Roma**

07018 To represent their interests, members of the German Sinti and Roma have formed associations and - in line with the federal structure of Germany - *Land* associations. The **Central Council of German Sinti and Roma** is the **umbrella organization of nine Land associations** of German Sinti and Roma and of a number of regional or local associations and institutions. The Lower Saxony association of German Sinti, one Sinti and Roma association in Hamburg and a number of smaller organizations of German Sinti, German Sinti and Roma, and German and foreign Roma are independent organizations.

07019 **A number of organizations not affiliated with the Central Council** and some elders of family clans of German Sinti formed the **Sinti Allianz Deutschland e.V.** (Sinti Alliance Germany, reg'd society). As stated by the Alliance, it was founded in 1999/2000 by twenty representatives of tribes and is the umbrella organization of nine independent Sinti organizations and one Lowara tribe. The Sinti Alliance sees itself as representing those Sinti who feel committed to the Sinti's traditional way of life with its historically evolved precepts and prohibitions governing the conduct of their lives, and who wish to preserve this social and cultural system. The Alliance concentrates on developing political concepts and supporting these concepts *vis-à-vis* governments, parliaments and public authorities. According to the Alliance, its other areas of activity are strengthening the Sinti culture through cultural projects and supporting Sinti families in social matters. In addition, the Alliance provides care for elderly people and represents the interests of victims of the Nazi regime. The Alliance seeks to establish a legal basis to enable the Sinti to exercise their civil rights in keeping with the Sinti's taboo system.

**B.8 Article 8**

**The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.**

**B.8.1 Legal bases, freedom of faith, freedom of conscience, freedom to profess one's beliefs, and freedom of worship**

08001 In Germany, everyone has the right to profess his or her religion or belief and to establish religious institutions, organizations and associations. The freedom of faith and of conscience, freedom to profess one's beliefs, and freedom of worship are guaranteed under **Article 4 of the Basic Law** and also by **Article 9 of the European Convention on Human Rights (ECHR)**. See also the comments regarding Article 5 (1) above.

08002 The guaranteed practice of religion covers all ritual acts prescribed or customary in the respective religion, especially divine services, ceremonies, processions, prayers, administration of sacraments, ringing of bells and other expressions of religious life. Undisturbed practice of religion is ensured not only for the individual, but also for the individual in communion with others, and for religious communities and religious societies. Like all fundamental rights which, by their wording, are of unqualified validity, the practice of religion is limited by concurrent basic rights of others and by other constitutionally guaranteed legal rights. In case of conflicts, care must be taken to strike an optimum balance between freedom of religion and the other - conflicting - right protected under the Constitution.

08003 Germany does not have a state church, i.e. there is no official religion of the state, no unity of, or institutional/organizational linkage between, state and church, and particularly no state jurisdiction as regards church matters, and no specific governmental supervision. Like all other religious communities, the churches are autonomous organizations, independent of the state, with their own specific tasks.

08004 Article 3 (3) first sentence of the Basic Law provides that no one shall be disfavoured because of "faith, or religious or political opinions".

08005 There are no legal provisions referring to the creed of persons belonging to national minorities. In Saxony, however, Article 10 of the Treaty between the Holy See and the Free State of Saxony of 24 July 1996 explicitly states that the Catholic Church shall

preserve and protect the specifically Catholic Sorbian cultural heritage. In addition, the Free State of Saxony has agreed to do its utmost to support the Catholic Church in these endeavours.

## **B.8.2 Religious affiliation of persons belonging to national minorities**

08006 The large majority of those persons belonging to the national minorities and ethnic groups in Germany who are members of a religious community belong to the Catholic Church or to Protestant denominations.

### **B.8.2.1 Religious affiliation of the Danish minority**

08007 The church activities of the Danish minority are organized and supported by the Evangelical Lutheran ***Dansk Kirke i Sydslesvig/Dänische Kirche in Südschleswig*** (Danish Church in Southern Schleswig), which closely cooperates with the private-law organization *Dansk Sømands- og Udlandskirke* (Danish Church Abroad/Danish Seamen's Church, DSUK) with headquarters in Copenhagen. (For further details, see no. 05057 above.)

### **B.8.2.2 Religious affiliation of the Sorbs**

08008 The majority of the Sorbs in Saxony are members of the Christian churches, with about **half** belonging to the **Catholic Church** and half to **Protestant** denominations.

08009 The **Protestant Sorbs** in the Sorbian settlement area in Saxony are members either of the Protestant Church of Berlin-Brandenburg/Silesian Upper Lusatia (EKBO),<sup>7</sup> or of the Lutheran-Protestant Church of Saxony. Protestant Sorbs in Brandenburg typically belong to EKBO. It should be noted, however, that no data regarding the breakdown of religious affiliation by ethnicity are collected.

08010 On several occasions, the Foundation for the Sorbian People has supported **projects related to the Sorbian practice of religion**, such as producing a Lower Sorbian hymnbook and refurbishing/restoring the Lower Sorbian and German church in Vetschau/Witošow, Lower Lusatia. For example, from 1987 to 2008 144 Protestant church

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<sup>7</sup> Note: The Berlin-Brandenburg Protestant Church and the Protestant Church of Silesian Upper Lusatia merged in 2003.

services were held in Lower Sorbian, attended by 11,200 churchgoers. A Sorbian/Wendish-language hymnal was published in 2008. In 2005, EKBO passed a new statute on support for Sorbian church work.

08011 Within the Protestant Church of Saxony, congregations with Sorbian membership are represented by the Sorbian Association of Church Congregations. In 2005, EKBO created a Sorbian/Wendish advisory board to coordinate and assist with efforts to help Sorbian congregations. In both churches, three pastors (one of them the Sorbian superintendent) provide Sorbian-language assistance to Sorbs in Upper Lusatia. The Sorbian superintendent chairs the Sorbian Association of Church Congregations and acts as a consultant to the Sorbian/Wendish advisory board.

08012 In **Brandenburg**, too, an increasing number of church services and Bible classes are held in the Sorbian language by a number of Sorbian-speaking ministers and preachers in varying places; these activities are promoted, in particular, by the *Verein für sorbischen Gottesdienst* (Association for Sorbian-Language Church Service) and by the *Landeskirchliche Gemeinschaft* (Land Protestant Church Union). In Sielow, Lower Lusatia, the Protestant pastor is required to devote 25% of his time to holding Sorbian/Wendish church services and providing other pastoral care.

08013 The Sorbian Protestant Association and the Sorbian Association of Church Congregations put out the monthly publication *Pomhaj Bóh*, with significant support from the Foundation for the Sorbian People. Sorbian radio continues to broadcast the same amount of religious programming, and the *Herrnhuter Losungen*, compilations of Bible verses for every day of the year, have been published in Sorbian since 2001.

The Sorbian Protestant Association, with headquarters in Bautzen, works with both churches; it organizes the annual Protestant Church Congress and supports a “children’s week” for Sorbian children from Upper and Lower Lusatia.

08014 The **Catholic Sorbs** in the Sorbian settlement area of the Free State of Saxony belong to the dioceses of Dresden-Meissen and Görlitz. The area of the Catholic Sorbs lies between the cities of Bautzen, Kamenz and Hoyerswerda. The Sorbian-speaking residents are usually in the majority there, although they are a minority in the cities. The Church fosters the Catholic-influenced Sorbian cultural heritage. Daily church services use the Sorbian language for prayer and singing. On Sundays, attendance at Sorbian-language services (18 masses and six prayer services) is approx. 4,500. Ten Sorbian-speaking priests plus two retired Sorbian priests serve the bilingual Catholic congregations. In the Catholic Sorbian area, church activities preserve and promote the

Sorbian language. In addition to regularly scheduled church services, pilgrimages and parish activities for various age groups, especially children and youth, are very popular. Article 10 of the Treaty between the Holy See and the Free State of Saxony of 24 January 1994 states that the Catholic Church will preserve and protect the specifically Catholic Sorbian cultural heritage, as long as the Free State of Saxony does its utmost to help with its efforts.

At the executive level of the Diocese of Dresden-Meissen, there is a central division for Sorbian affairs headed by a Sorbian priest. The bilingual deanery of Bautzen has a special office devoted to working with Sorbian children and youth led by a Sorbian priest and employing two additional staff members.

08015 Based in Bautzen, the *Cyrril-Methodius-Verein* provides support for church activities in the Sorbian language. This association publishes the Catholic weekly newspaper *Katolski Posol*, with approximately 2,100 subscribers. A retired priest volunteers as editor-in-chief; two additional staff members also work in the editorial office. The weekly receives support from the Diocese of Dresden-Meissen and from the Foundation for the Sorbian People.

### **B.8.2.3 Religious affiliation of the Frisians**

08016 **North and East Frisians** who are members of a religious community are **mostly Protestant**, while the smaller group of **Saterland Frisians** is **largely Catholic**. Frisians usually attend services held in German. Occasionally, Frisian-language services are held in a number of churches in Nordfriesland. A *Nordfriisk Instituut* working group developed a Frisian hymnbook for church use, which has now been published. It is comparable in type and size to the German-language hymnbook and can be used for all religious occasions. Responding to requests by Saterland Frisians, the Catholic Church holds services in Saterland Frisian on certain occasions.

### **B.8.2.4 Religious affiliation of the German Sinti and Roma**

08017 Most German Sinti and Roma are Catholic. They attend services held in German.

**B.9 Article 9**

**(1) The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.**

**(2) Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.**

**(3) The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.**

**(4) In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.**

**B.9.1 Article 9 (1)  
(Obligation**

- to recognize freedom to hold opinions and to receive and impart information and ideas also in cross-border exchanges; and
- to ensure that national minorities are not discriminated against in their access to the media)

**B.9.1.1 General legal bases of freedom of expression and information**

09001 In Germany, **freedom of expression** is extensively guaranteed under **Article 5 (1), first sentence** of the **Basic Law** and under Article 10 of the European Convention on Human Rights (ECHR). The Basic Law safeguards the right freely to express and disseminate one's opinions in speech, writing, and images, as well as the right to withhold one's personal opinion (negative freedom of expression). Opinions thus protected are all types and forms of personal judgements and behaviour where these express an opinion;

the notion of “opinion” should be understood in its broadest sense and, in addition to value judgements, also covers allegations of fact where these are a prerequisite for forming opinions. In this respect, it does not matter whether a given opinion is objectively correct or false. However, deliberately false allegations are not protected under Article 5 (1) first sentence of the Basic Law. Within the limits prescribed by Article 5 (2) of the Basic Law (i.e. violation of the provisions of general laws; legal provisions on the protection of young persons; and the right to inviolability of personal honour), protection therefore also extends to polemic and exaggerated expressions of opinion as an input to, and basis for, analysis and discussion. Freedom of expression is accorded to all German nationals and thus, of course, to the groups protected under the Framework Convention, and to foreigners.

09002 The basic right to free speech primarily provides protection against government interference. But it also places the State under the obligation to safeguard this freedom. **Article 5 (1) first sentence of the Basic Law also guarantees freedom of information -** the right to inform oneself - as a separate basic right. Such protection extends both to active procurement of information and to merely receiving information. The Danish minority in Schleswig-Holstein in particular takes cross-border advantage of broadcasting and print media from the Kingdom of Denmark in their traditional settlement area.

#### **B.9.1.2 Specific legal bases of freedom of the press and freedom of broadcasting**

09003 **Article 5 (1) second and third sentences of the Basic Law** guarantees **freedom of the press and freedom of reporting by means of broadcasts and films**, without previous censorship. Freedom of the press and of broadcasting particularly implies the principle of governmental non-intervention, which prohibits any state interference incompatible with the freedom of the press and of broadcasting or not warranted by the limitations of such rights as provided under Article 5 (2) of the Basic Law.

09004 For the **press**, these constitutional guarantees have been **developed in detail** and confirmed by the decisions of the Federal Constitutional Court and by the various **Land press legislation**. These guarantees provide the basis for the free and financially autonomous development of the press in the Federal Republic of Germany.

09005 Freedom of broadcasting, like freedom of the press, is an essential factor in the public opinion-forming process and articulation of the political will. Like the press, broadcasting enjoys institutional autonomy. To do justice to the constitutional mandate of broadcasting, it is not enough for the State to refrain from interference and allow social forces an entirely free hand; rather, a certain amount of regulatory structure is necessary.

The Federal Republic of Germany has what is known as a **dual broadcasting system**, in which **public-service and private broadcasters co-exist**. Within this framework, the State guarantees that the sum of programming offered by all broadcasters meets the requirements stipulated in the Constitution for balanced diversity (including cultural diversity) as the necessary prerequisite for promoting individual freedom of expression and thereby ensuring participation in the democratic process of forming public opinion.

09006 The federal structure of Germany assigns **responsibility for broadcasting**, and thus for ensuring diversity of opinions, to the *Länder*. The legal basis for broadcasting is provided by the **broadcasting inter-state treaties**, which lay down the **minimum requirements** on which the *Länder*, within their respective jurisdictions, have based detailed regulations in their **Land media legislation**. These comprise the *Land*-specific programme requirements and provisions to ensure pluralism of opinions and freedom of expression (in this regard, cf. the specific examples given in nos. 09053, 09067, 09077 and 09078 below). The *Land* media legislation also regulates the licensing conditions for private broadcasting (cf. also the comments below, regarding Article 9 (2)).

09007 However, in connection with the obligation derived from the Framework Convention's Article 9 (1) to provide national minorities non-discriminatory access to the media, the Advisory Committee noted in nos. 91 and 179 of its Second Opinion, as already in the First Opinion, that minorities and their languages are generally underrepresented in the media, especially the public service media. The Committee also reiterated its position that implementing active policies in favour of using minority languages in the media, when properly implemented, do not interfere with the freedom of the media. As a result, in no. 180 of its Second Opinion, the Committee called among other things for improving media access for members of national minorities.

09008 In response, the responsible German authorities say one must recognize the fact that freedom of the media under Article 5 (1) of the Basic Law, which regularly rules out measures of state intervention, also refers to the choice of language used in broadcasts, because this choice largely determines the number of listeners or viewers. But media organizations are most likely to choose a certain broadcasting language only if it is spoken and demanded by larger numbers of people, thus state appeals can hardly have a significant influence. (On the chances of increasing the number of Danish- and Frisian-language broadcasts in the minority settlement areas, please see B.9.1.2.2, no. 09024.)

### **B.9.1.2.1 Participation of representatives of national minorities in media supervisory bodies**

09009 **Article 3 (1) and (3) of the Basic Law prohibits any unequal treatment with regard to media access which is not objectively justified, especially if such treatment is based on a person's origin, language or (social) background,** so that also the national minorities and ethnic groups protected under the Framework Convention may have access on the same conditions as the majority population. In this regard, particular mention must be made of the supervisory bodies responsible for safeguarding diversity of opinions and ensuring compliance with the established broadcasting programming principles. The **relevant major political, ideological and social groups** are granted adequate participation in the **supervisory bodies** of public-service broadcasters and of the *Land* supervisory authorities for private broadcasters, i.e. the Broadcasting Board and the Broadcasting Commission/Media Council. In addition to representing the interests of their associations or groups, the members of these bodies also contribute comprehensive and multi-faceted views on socially important issues to the deliberations of these bodies.

09010 However, as regards the efforts of the Central Council of German Sinti and Roma to obtain representation of their national minority on the media supervisory boards, the *Länder* point out that compliance with this request, especially in view of the small number of Sinti and Roma living in a given *Land*, raises legal and practical problems. In its decision of 25 August 1998, the Federal Constitutional Court ruled that the Central Council does not have a claim to a seat on the supervisory bodies of Deutschlandradio or Hessischer Rundfunk, neither under Article 3 (1) (principle of equality), nor under Article 5 (1) second sentence (freedom of the press), of the Basic Law. In its constitutional complaint, the Central Council had, among others, presented the argument that the Central Council of Jews in Germany was represented on the supervisory bodies, but that the Central Council of German Sinti and Roma was not. In its decision, the Federal Constitutional Court took account of the fact that, like other religious denominations, the Central Council of Jews in Germany was represented in the supervisory bodies, while the German Sinti and Roma regard themselves as a national minority with their own language and cultural identity.

09011 Overseeing the public-service broadcasters is primarily the broadcasters' internal responsibility and is incumbent on the supervisory bodies, i.e. the Broadcasting Board and the Board of Administration. Responsibility for controlling private broadcasters lies with the *Land* supervisory authorities.

09012 However, the **task of these supervisory bodies** is **not** to represent the interests of the **groups/organizations** which its members represent, but rather to act as a trustee for the public interest, preventing any biased interference and biased programming and ensuring that the totality of programming takes appropriate and fair account of all major political actors and groups. **Accordingly**, the Federal Constitutional Court **did not grant any socially relevant group** – such as a **national minority** - **the right to be included in the membership of supervisory bodies**, and consequently did not regard a group's failure to be included as an act of discrimination.

09013 The Central Council plans to appeal to the European Court of Human Rights in Strasbourg in order to gain representation on the broadcasting boards of broadcasting institutions. In the Council's view, the above-mentioned court decision violates European law.

**09014 Some representatives or members of national minorities have been elected to broadcasting bodies.**

Alt the suggestion of Schleswig-Holstein, a member of the Danish minority served on the Television Board of Zweites Deutsches Fernsehen (ZDF) for twelve years until she decided to step down.

09015 In accordance with the Act on Private Broadcasting in Saxony of 18 January 1996, a Sorbian representative nominated by the Sorbs' associations is a member of the Assembly of Saxony's supervisory authority for private broadcasting and new media. The Saxon *Landtag* delegated a representative of the Sorbian umbrella organization Domowina to the Broadcasting Board of Mitteldeutscher Rundfunk (MDR).

09016 In Brandenburg, too, a representative of Domowina is a member of the Broadcasting Board of Rundfunk Berlin-Brandenburg (RBB, previously ORB) and of the Media Council of the Berlin-Brandenburg supervisory authority for private broadcasters/media.

09017 Any socially relevant organization - including organizations of the national minorities - is entitled to nominate candidates for election (carried out by the *Land* parliaments of Hamburg and Schleswig-Holstein) to the Media Council of the MA HSH, the supervisory authority for private broadcasters in Hamburg and Schleswig-Holstein.

09018 Without prejudice to the framework conditions described above, in no. 180 of its Second Opinion, the Advisory Committee also called for improving the representation of national minorities in the media, especially the public service media.

09019 The *Land* Rhineland-Palatinate was able to bring about such improvement due to the legal and actual circumstances there:

The *Land* Media Act, which includes a provision providing for the appointment of a representative of the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association, entered into force on 1 April 2005. Since that time the association has had a seat on the board of the *Landeszentrale für Medien und Kommunikation*, the *Land* supervisory authority for private media. This helps the German Sinti and Roma make their interests known, and any possible discrimination can be counteracted. The fact that the German Sinti and Roma are represented in the supervisory authority for private media led to intensive educational efforts directed at one national commercial broadcaster as a result of programmes it had aired which stigmatized Sinti and Roma. The head of the *Land* supervisory authority for private media and representatives of the broadcaster went with the *Land* Association of German Sinti and Roma to visit the Documentation and Cultural Centre of German Sinti and Roma; they also met for talks with representatives of the Central Council of German Sinti and Roma, with positive results: They were able to agree on supplementary information for broadcast programming.

09020 **Due to** the actual framework conditions regarding the constitutionally guaranteed **freedom of the press**, which allows for a large number of independent print media competing with each other in terms of political orientation and worldview/ideology, **no comparable legally regulated supervisory bodies** exist in the **print media** sector.

09021 The national minorities also have the right to exercise the freedoms mentioned above in their respective minority language (as regards use of minority languages in general, cf. also the comments under Article 10 below). For the extent to which minority languages are included in the media, cf. the comments below, regarding paras. 3 and 4 of Article 9.

#### **B.9.1.2.2 Calls to expand access to broadcasting for Danes and Frisians**

09022 In no. 171 of its Second Opinion, the Advisory Committee noted with approval the provision of radio programmes for the Frisians of Saterland (Lower Saxony). (See also the comments by the Saterland Frisians in Part C.)

09023 But as already in the First Opinion (nos. 83 and 84), in its Second Opinion, with regard to the obligation to ensure national minorities non-discriminatory access to media, the Committee found that the Frisian language (in Schleswig-Holstein) was “virtually

absent from the media” (no. 20) and in particular that public service broadcasters offered no programming in Frisian (no. 93). The Advisory Committee argued that the competent authorities should better accommodate the needs of the Danish and Frisian minorities as regards broadcasting in their respective languages, particularly on public television (no. 94). In no. 89 of the Second Opinion, the Advisory Committee wrote that the German authorities should “contemplate increasing the presence of Frisian in the media” and in no. 95 invited the authorities “to take steps to ensure that public service media reflect more fully the cultural diversity of society”.

09024 In no. 88 of its Second Opinion, the Advisory Committee also recommended that the competent authorities “examine the possibility of supporting the creation of programmes aimed especially at the Danish minority.” (On the possibility of taking advantage of Danish programming, compare section B.9.3.3.1.)

09025 Germany’s Second State Report already made clear that such recommendations by the Advisory Committee regularly run counter to German law:

1. The rule of governmental non-intervention in broadcasting means that broadcasting organizations themselves, not the government, decide what programmes to offer. Article 11 of the European Charter for Regional or Minority Languages therefore obligates the Contracting Parties only to the extent that “the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media”.

Thus, on account of the broadcasting corporations’ freedom of programming, the *Land* of Schleswig-Holstein is limited in the extent to which it can become involved in the development of broadcasting programmes. Thus, also in respect of issues regarding the protection of minorities, the legislator is limited to making appeals to the addressees of legislation. For this reason, German broadcasting laws only contain programming principles worded as requests that are addressed to those responsible for making programmes and to the autonomous media bodies. The latter are then responsible for actually implementing these principles.

Accordingly, already before the Second State Report was submitted, the NDR Inter-State Treaty (*NDR-Staatsvertrag*), for example, provided that the Norddeutscher Rundfunk broadcasting corporation (NDR) shall “support the protection of minorities” in the programmes it broadcasts (Section 7 (2)). According to its programming mandate, “regions in northern Germany, their culture and language are to be taken adequately into consideration in the programmes it broadcasts.” (Section 5 (2)). Further examples

can be found in Section 22 (1) of the *Land* Broadcasting Act (LRG) for private broadcasting stations, in Section 15 (2) of the LRG for full radio programmes and, with regard to the priority admission of private broadcasting companies, in Section 17 (2) of the LRG.

2. In addition to the general legal conditions mentioned above, attention can be drawn to the numerous existing facilities and programmes, whose forerunners were not sufficiently taken into consideration in the Committee's First Opinion.
- In the field of films and radio productions, audiovisual works are funded by the Filmförderung Hamburg Schleswig-Holstein (FFHSH). Eligible for funding are above all works referring to Schleswig-Holstein and, of course, works by minorities.
  - Minorities are still able to receive radio and TV programmes directly from neighbouring countries in their own language without interference. (This issue is discussed in greater detail in section B.9.3.3.1 - Broadcasting media for the Danish minority in Schleswig-Holstein.)
  - Schleswig-Holstein has four public-access stations, known as Open Channels (in Kiel, Lübeck, Flensburg, and Husum). They give citizens the possibility to air their own television and radio programmes. The Open Channels give minorities, in particular, a platform for airing programmes in Frisian or Danish. (Residents of Sønderjyllands Amt in Denmark also have the right to broadcast on these channels, which could be viewed as a measure to promote cross-border exchange as defined in Article 17 (1)). Production assistance is also available.
  - From 1 April 2005 to the end of 2007, Nordfriisk Radio (NFR) broadcast a programme of local music and news in the North Frisian language which was produced by *Friisk Foriining* for the west coast Open Channel. This Frisian radio programme was broadcast mainly via the Internet ([www.nfradio.de](http://www.nfradio.de)). But after it went on the air, the NFR programme was also broadcast in FM on the Open Channel serving the west coast. Starting in 2005, NFR broadcast live on weekday evenings from 20:00 to 22:00. In mid-April 2006, NFR cut back its radio transmissions on the west coast Open Channel to Sunday mornings from 9:00 to 11:00. The Frisian Council (*Frasche Rädj*) pointed out that there was no reception in northern and central Nordfriesland. According to the 2007 Report on Minorities of Schleswig-Holstein (no. 462), no further FM frequencies are available to cover this gap in reception, because all technically conceivable and reasonable frequencies in the *Land* are already being used by the public service and private broadcasters as well as the Open Channel, and there is simply no more capacity.
  - For the public service media, NDR 1 Welle Nord offers Frisian-language programming: The series "Frasch for enarken" (Frisian for all) is broadcast once a

week for three minutes, covering both political issues and entertainment. NDR also has extensive multimedia offerings on the Internet.

- With regard to the concerns of the Danish minority, the radio broadcasting programme of NDR 1 Welle Nord reports on events in the German-Danish border region, on books, stage productions and exhibitions, on regional cooperation and economic and political developments in both its current affairs reporting and in the programmes from the desk covering regional, cultural and science affairs as part of news features and magazine programmes.
- The private broadcasting station Radio Schleswig-Holstein offers a Danish-language news programme every weekday at 17:55 for the Schleswig region.
- NDR television is also conducting a pilot project in Danish, and the Danish regional TV stations offer programmes for Sønderjylland (South Jutland, or North Slesvig) on subjects concerning the Danish minority. (See also the comments by the Saterland Frisians in Part C.)

3. Six Frisian-language radio programmes from the islands of Sylt, Föhr and Amrum, produced as part of a Frisian language promotion project of the independent *Land* supervisory authority for broadcasting and new media (ULR), can be downloaded from the homepage of *ferian för en nuurdfresk radio* (ffnr; Association for a North Frisian Radio Station). Since the summer of 2003, the ULR - with its radio and public-access TV - has organized a total of eight workshops to train Frisians and Danes in working with a camera and in a cutting/editing room, or with a microphone and recorder. Since spring 2004, the works produced during these workshops have also been broadcast by the Flensburg (television) and the Heide/Husum (radio) Open Channels. This project was carried out by the production company Medienbüro Riecken, which regularly produces Frisian documentaries and Frisian radio broadcasts and helps people get their productions aired via the four ULR open channels.

09026 Although the German authorities have started asking themselves whether their efforts to provide information through the state reports have any influence on the conclusions of the Advisory Committee, the *Land* Schleswig-Holstein provided the following response to the renewed calls for media access for national minorities in the Second Opinion:

“The amended NDR Inter-State Treaty entered into force on 1 August 2005. As a result of this amendment, the NDR will strengthen its regional coverage. In addition to the regional news (15 minutes) and the Schleswig-Holstein magazine (30 minutes) there will be a 30-minute programme about issues in Northern Germany. The *Land* Government expects that the extended airtime will also benefit the minorities’ interests. However, programming responsibility lies with the NDR. Public authorities have no influence whatsoever. Together

with the *Land* Government, minority representatives should keep in touch with the *Land* Broadcasting Board and the director of the NDR *Land* broadcasting centre in order to constantly remind them of their wish to strengthen the presence of minorities in the programmes.”

### **B.9.2 Article 9 (2)**

**(Clarification: The non-discriminatory licensing procedure does not contravene the obligation to provide for non-discriminatory access to the media for persons belonging to national minorities)**

09027 Regulation of broadcasting falls within the jurisdiction of the *Länder*. Article 5 (1) second sentence of the Basic Law (freedom of broadcasting) does not require a *Land* to adopt a specific organizational form of broadcasting. However, the *Land* is obliged to make certain provisions to maintain freedom of broadcasting. As a matter of public interest, broadcasting must operate with full independence and free of any party influence and must be protected against any biased intervention. The public-service broadcasters in particular must furnish comprehensive information within their overall programme and allow full pluralism of opinions. Legislation must also ensure that private broadcasters meet the constitutional requirements and, in particular, that a maximum of balanced diversity is achieved. The existing regulations regarding licensing of broadcasters are based exclusively on objective criteria. The licensing conditions are laid down in the various *Land* media legislation.

09028 In all cases, the applicant must reside or have company headquarters in the area to which the Basic Law applies (in some of the *Länder*, this may also be a location in the EU Member States). Granting of a licence also depends on whether the applicant is qualified to lawfully provide broadcasting programmes, i.e. meets the financial and legal requirements with regard to programming. Moreover, programmes must fulfil the general programming principles as laid down in the Inter-State Agreement on Broadcasting; these include conformity with the constitutional order and respect for human dignity. In addition, the *Land* media laws set various requirements to be met by private broadcasters, which are also based exclusively on objective criteria.

09029 If an application for licensing is refused, an appeal may be filed or an action brought in accordance with the general legal provisions.

**B.9.3 Article 9 (3)  
(Obligation**

- not to interfere with national minorities' creation of printed media, and
- to support the creation of their own broadcasting media)

**B.9.3.1 The possibility of creating and using broadcasting media**

09030 Regarding the legal scope for the creation and use of media, cf. the comments above on Article 9 (1). We would point out once more that the national minorities and the majority population enjoy the same rights and possibilities as regards freedom of the press and of broadcasting. Under current federal and *Länder* policies promoting national minorities (cf. the comments above on Article 5 (1)), among other things, the groups protected under the Framework Convention can make practical use of freedom of the press and broadcasting. In this respect, account must be taken of the fact that, given the different size and the resultant varying economic and practical capabilities of the protected groups, they use the media to differing extents.

**B.9.3.2 The possibility for national minorities to create and use printed media**

09031 The right to create and use print media is guaranteed by the freedom of information and freedom of the press anchored in Article 5 (1) of the Basic Law. There is no censorship so that, within the limits of the constitutional order, nobody is prevented from engaging in journalistic work and mass-media activities. Freedom of the press, as guaranteed by the Basic Law, is evidenced by a large number of publications of the groups protected under the Framework Convention; examples are given below.

**B.9.3.2.1 Printed media of the Danish minority**

09032 The newspaper *Flensburg Avis* is the oldest Danish institution in the Schleswig region; it was founded in 1869 and until 1920 played a major role for all Danish work in the then-Prussian province of Schleswig-Holstein. Following the referendum in 1920 and the reunification of northern Schleswig with Denmark, *Flensburg Avis* retained its headquarters in Flensburg, where it became an important actor on behalf of the Danish minority. Since then, the regional newspaper serves as an information medium and voice for the minority. *Flensburg Avis* is a public limited company, but as a newspaper for the entire Danish minority, it also receives subsidies from the Danish government. Under the

German-Danish funding arrangement, the German government does not provide subsidies for *Flensburg Avis*, which is subsidized by the Kingdom of Denmark, but does support the newspaper *Der Nordschleswiger*.

As a regional daily, *Flensburg Avis* is published on both sides of the border with a German and a Danish section; on Thursdays the newspaper includes the insert “Kontakt”, a publication sent to all members of the SSF.

Since 2001, the Danish Schools Association for South Schleswig sends its members the association’s newspaper “Fokus” ten times a year as a Sunday insert in the *Flensburg Avis*.

Through subscriptions and the periodical inserts, the newspaper reaches most members of the Danish minority who are affiliated with Danish organizations.

Based on a reader survey, it is estimated that the Thursday edition, with a total circulation of approx. 7,000, reaches approximately 20,000 readers.

*Sydslesvigsk Forening* (South Schleswig Association), the chief cultural organization of the Danish minority, is affiliated with a press service which supplies information about the Danish minority to the media in Germany and Denmark. The press service produces the insert “Kontakt”, distributed with the Thursday edition of *Flensburg Avis*. The Danish minority also takes advantage of the wide range of current Danish press products.

09033 In 1999 and again in 2003, the Minister-President of Schleswig-Holstein wrote to the *Zeitungsverlegerverband Schleswig-Holstein e.V.* (Schleswig-Holstein Association of Newspaper Publishers, reg'd soc.), among others, encouraging them to step up existing efforts to integrate “linguistic particularities which characterize our *Land*” in their publications.

#### **B.9.3.2.2 Printed media of the Sorbian people**

09034

The following **print publications** are available in Sorbian:

- *Serbske Nowiny* (“Sorbian Newspaper”; daily newspaper in Upper Sorbian);
- *Nowy Casnik* (“New Weekly”, a Lower Sorbian weekly published with a German-language section);

- *Rozhlad* (“Review”; monthly periodical for Sorbian culture, language, literature and art, with articles in the Upper and Lower Sorbian languages);
- *Serbska šula* (“Sorbian School”; quarterly journal for educators, with articles in the Upper and Lower Sorbian languages);
- *Płomjo/Płomje* (“Flame”, monthly magazine for children);
- *Katolski Posoł* (“Catholic Herald”; Upper Sorbian weekly of the Catholic Sorbs);
- *Pomhaj Bóh* (“Help us, God”; Protestant monthly in Upper Sorbian).

09035 The publishing house Domowina-Verlag, which is supported with state-provided funds by the foundation *Stiftung für das sorbische Volk*, is the most important medium for producing and distributing Sorbian publications. This publishing house offers a wide range of publications: school textbooks; fiction and poetry; newspapers, periodicals/journals, etc. In addition, there are other publishing houses which occasionally produce and distribute Sorbian-language publications without recourse to public subsidies. Many publications on Sorbian social and cultural history, language development, folklore and customs, and cultural and art studies are also published in German, e.g. by the Sorbian Institute, the Universitätsverlag Potsdam and *Maćica Serbska*, the Sorbian scientific society.

### B.9.3.2.3 Printed media for the Frisians

09036 Since 1993, the daily newspapers published by the Schleswig-Holsteinischer Zeitungsverlag distributed in Nordfriesland include a page in Frisian and Low German about once a month. The *Nordfriisk Instituut* produces and edits the Frisian articles using its own funds.

09037 In the area where North Frisian is spoken, the following **daily newspapers** carry journalistic **texts in the Frisian language once per month** (1/2 page): *Der Insel-Bote* (“Island Herald”), *Husumer Nachrichten* (“Husum News”), *Nordfriesland Tageblatt* (“Nordfriesland Daily Newspaper”) and *Sylter Rundschau* (“Sylt Review”).

**North Frisian articles** are also published at irregular intervals in *Nordfriesland* (a monthly journal put out by the NFI), “**Kontakt**” (weekly insert for SSF members distributed by *Flensburg Avis*), *Der Helgoländer* (a monthly for the island of Helgoland), and *Sylt Aktuell* (a weekly publication for the island of Sylt).

09038 The **following publications** are published entirely in the Frisian language: *En krumpen üt e Wiringhiird* (published by *Nordfriesischer Verein der Wiedingharde/Wiringhiird* three to four times a year at irregular intervals), *Nais aw frasch*

(published by *Friisk Foriining* two to three times a year at irregular intervals) and *Di Mooringer Krädjer* (published about twice a year at irregular intervals).

Of special importance for the Frisian language is the storytelling contest, “Ferteel iinjsen”, which the NFI and the radio station NDR 1 Welle Nord now run every two years.

09039 The local edition of the *General-Anzeiger* (“General Gazette”, Rhaudefehn, circulation approx. 10,380), which is published in the Saterland, among other places, has printed weekly articles in Saterfrisian for many decades.

#### **B.9.3.2.4 Printed media for the Sinti and Roma**

09040 Publication of print media in the Romany language runs counter to the fundamental view of the German Sinti that their language should be used within their families and family clans only, and that no written form should be developed. However, the Central Council of German Sinti and Roma regularly distributes German-language articles and comments to the press and also to its affiliated associations. Other German Sinti and Roma organizations also provide information through information services and/or circulars. Roma organizations also use their Romany language for this purpose. The Documentation and Cultural Centre of German Sinti and Roma produces a series of publications in German.

09041 On the basis of **state funding for the press activities** of the **Central Council of German Sinti and Roma** and the **Documentation and Cultural Centre of German Sinti and Roma** and in accordance with the principle of self-management, it is for the responsible representatives of this ethnic group in the two institutions to decide on the release of articles in Romany to the press and to edit such articles within the limits of the overall funds available.

#### **B.9.3.3 Broadcasting media for the national minorities**

09042 As in the case of press products, creation of a group’s own media in the field of broadcasting (radio and television broadcasting) depends on the size of the protected group and its economic resources. Where creation of own broadcasting media is not expedient or feasible, Open Channels are usually available. These are used for local and regional broadcasts of non-commercial programming. In this way, individuals, social groups/citizens groups, organizations, associations, unions and institutions can,

independently and on their own responsibility, produce and air programmes. These items must conform to the general programming principles, must not contain any commercial advertising, must be on a non-profit basis and must not be provided for remuneration. No definitive findings are available as regards the extent to which these “open channels” are used by the groups protected under the Framework Convention.

09043 The Danish minority uses the Open TV Channel at irregular intervals for local broadcasts of videos about this minority in the Danish or German language.

09044 Since summer 2003, Schleswig-Holstein’s radio and TV public access channels have organized a total of eight workshops to train members of the Danish minority and of the Frisian ethnic group in working with a camera and in a cutting/editing room, or with a microphone and recorder. The works produced during these workshops are now also broadcast by the Flensburg (television) and the Heide/Husum (radio) open channels. This project was carried out by the private production company Medienbüro Riecken, which regularly produces Frisian documentary films and Frisian radio items and helps members of the minorities get their productions aired on the four open channels. Providing the necessary assistance is part of the ongoing tasks. In the following, examples are given of the broadcasting media which are so far available to the groups protected under the Framework Convention:

#### **B.9.3.3.1 Broadcasting media for the Danish minority in Schleswig-Holstein**

09045 Broadcasting offerings to ensure non-discriminatory access for the Danish minority were discussed in section B.9.1.2.2. This section therefore deals with the possibility of receiving programmes broadcast from Denmark. Given the fact that the German minority in Denmark could otherwise demand support for its own broadcasting media, this possibility means that the Danish minority has not demanded any of its own broadcasting media.

09046 In no. 92 of its Second Opinion, the Advisory Committee noted concerns of the Danish minority that people living at some distance from the Danish border will no longer be able to receive Danish television broadcasts as a result of digitalization of the media.

09047 In no. 96 of the Second Opinion, the Advisory Committee also invited the competent authorities to ensure that the developments linked with digitalization of the media do not hamper access of persons belonging to the Danish minority to media in their

own language, although the Committee must be aware that German authorities have no jurisdiction over the Danish media.

09048 The current status of this issue was described as follows in the 2007 Minority Report of Schleswig-Holstein:

“In relation to the digitalization of the media, the Danish minority has noted that the technical development, the precise definitions in copyright agreements and the increasing liberalization of the media landscape entail some risks for the transmission of Danish TV programmes in the region of Schleswig. By 2009 Denmark will have replaced analogue terrestrial transmission with digital transmission (DVB-T), reducing the transmission range of Danish programmes to a maximum of 30 km south of the border. The Danish minority therefore believes that the priority should be maintaining the current extent of television broadcasts from Denmark in the German-Danish border area. This is the responsibility of Denmark’s public service broadcasting.

09049 In autumn 2006, there was a serious risk that both Danish broadcasters in Schleswig-Holstein, and thus in the territory of the Danish minority, would be discontinued due to disagreements over compensation for copyrights and feeds between the Danish public service broadcasters Danmarks Radio and TV 2 on the one hand and Kabel Deutschland GmbH on the other. Therefore, all parliamentary groups at the *Land* parliament called on the broadcasters and the cable provider to negotiate a contract so that the Danish programmes could continue to be received through the cable network. The German Minister-President asked his Danish counterpart for his help in the matter. These initiatives were ultimately successful, and Danmarks Radio reversed its decision to discontinue transmission to Germany after 15 October 2006, while TV 2 and Kabel Deutschland GmbH reached agreement on what each was to pay the other. The details of these financial issues are the concern of the aforementioned parties. In any case, the Danish Minister-President wrote to the Schleswig-Holstein Minister-President to say that he believed the agreement between the parties would ensure continued transmission of the Danish broadcasting signals.

09050 The following problems are associated with digitalization:

- Terrestrial: Replacing terrestrial transmission with digital (DVB-T) in Denmark reduces the signal range in Schleswig-Holstein. Discontinuing analogue terrestrial transmission in Schleswig-Holstein means that households will reduce the number of sets able to receive such transmission (antennae removal), so that fewer people in Schleswig-Holstein will in fact be able to receive analogue terrestrial transmissions, which Denmark plans to continue until October 2009 in parallel with DVB-T.

- **Satellite:** At the same time, direct satellite reception of Danish programmes is made more difficult due to the fact that Danish satellite broadcasts are encrypted, unlike German satellite broadcasts. Under the Danish fee system, smart cards are required to receive such programmes. These cards cost about €300 per year and can be bought only in Denmark.
- **Cable:** Although Danish programmes are given priority on Schleswig-Holstein cable broadcasting, in accordance with broadcasting regulations, Danish broadcasters no longer exempt cable operators from copyright claims, which creates difficulties for the transmission of Danish programmes.

09051 These developments on the Danish side have impacts on the cross-border reception of programmes which are beyond the reach of German regulatory or media policy options. German public service programmes are broadcast unencrypted via satellite and can thus be freely received in Denmark and throughout most of Europe. German media policy supports public service broadcasters in this procedure. The cost of acquiring rights is paid for from the broadcasting licence fee. The Internet is assuming increasing importance for the cross-border exchange of media offerings.

### **B.9.3.3.2 Broadcasting and new media for the Sorbian people**

09052 **In the traditional Sorbian settlement areas** in the Free State of Saxony and in Brandenburg, public-service broadcasting has developed an **extensive programme** in the two **Sorbian languages**. The programme is devoted, in particular, to the fields of information, culture and education. “Culture” is understood in the broadest sense of the word, including reports on traditions/folklore and on the activities of clubs and associations, book and theatre reviews and talks with Sorbian authors and other persons engaged in the cultural sector. In addition, there are news, commentaries, topical reports, especially on current affairs in the region, and religious contributions. The musical sector covers the range from Sorbian folk songs to modern Sorbian popular songs.

09053 Under Section 6 (3) of Saxony’s Act to implement the Agreement on Mitteldeutscher Rundfunk (MDR) of 27 June 1991, MDR **broadcasts** must **take account of the interests** of *all* segments of the population, **including the minorities**. With its Sorbian **studio in Bautzen**, MDR broadcasts a **daily radio programme in Upper Sorbian**. It also has access to the radio programme in Lower Sorbian produced in the Cottbus studio of the broadcaster Rundfunk Berlin-Brandenburg (RBB).

For the daily Sorbian radio programme SERBSKI ROZHŁÓŠ, MDR 1 Radio Sachsen currently airs 21.5 hours of programming per week in Upper Sorbian produced at the regional studio in Bautzen. The programme is broadcast from Hoyerswerda on a strong FM frequency. In addition to its FM broadcast, MDR also streams Sorbian radio live on the Internet. The MDR Sorbian-language programme “Radio Satkula” is aimed at young audiences: It covers news, reports, modern Sorbian and international music, and other features. The programme is developed and presented by Sorbian young people. This programme is also aired by RBB. Not counting special broadcasts, this amounts to airtime of 22.5 hours per week in the Upper Sorbian language.

09054 RBB’s daily midday programmes in the Lower Sorbian (Wendish) language are broadcast by MDR at the same time.

09055 MDR and RBB both offer **Sorbian-language television programmes**. Once a month, MDR’s broadcasting centre for Saxony produces the 30-minute magazine “Wuhladko” on Sorbian topics in Upper Sorbian. This programme is usually broadcast on the regional MDR channel on the first Saturday of the month at 12:25 p.m. and repeated the following Monday at 9:05 a.m. The programme also airs twice on RBB. Since 31 March 2007, it has also been available on the Internet in streaming video, allowing young Sorbs travelling in Germany – and anywhere else in the world – to keep up with current events at home with a single mouse click.

RBB’s half-hour Sorbian-language magazine “ŁUŽYCA” is repeated once a month (on Saturdays at 12:25 p.m.) on the MDR regional channel with German subtitles. The regional bureau in eastern Saxony ensures that the MDR programme “Sachspiegel” also has a presence in the Sorbian-speaking region of Upper Lusatia. A reporter for “Sachspiegel” covers eastern Saxony and reports on issues of interest in this region.

The programme “Unser Sandmännchen” airs every Sunday on all terrestrial MDR stations (analogue and digital) with a choice between Sorbian- and German-language broadcasts.

09056 Under Article 4 of the RBB Inter-State Treaty, **RBB**, like MDR, has to **take account**, in its programme, of the cultural diversity of Brandenburg and **of the Sorbian culture and language**.

09057 RBB’s Cottbus studio has a daily one-hour radio programme in Lower Sorbian on Mondays through Fridays. On Sundays, a 90-minute programme is aired. In addition, a half-hour youth magazine entitled “Bubak” is broadcast once a month. This brings the total of

sound broadcasting aired in the Lower Sorbian language to 7.5 hours per week. In addition, RBB also airs MDR's programming in Upper Sorbian. This brings the total of sound broadcasting aired in both Sorbian languages to 30 hours per week. RBB's Cottbus studio thus fulfils an important function not only in the electronic media sector in promoting Sorbian culture, ensuring a Sorbian presence in public life and increasing public awareness.

09058 Special attention is given to the **cultivation of Sorbian music** and the study and revival of the musical heritage. This is achieved in part by presenting a wide range of carefully selected music in the radio programming. In addition, MDR and RBB produce their own recordings since Sorbian music is scarcely offered on the market any more. About 80 to 100 titles are recorded per year. This production also comprises efforts to research the inventory of Sorbian folk songs, giving suggestions and assistance to interpreters, groups and vocal ensembles with regard to their musical arrangements, promoting talented Sorbian musicians, for instance by organizing a yearly concert of talented young artists, as well as recordings of musical events, and RBB support for the publication of sound recording media.

09059 **Sorbian TV programmes** are also aired throughout the *Land outside the traditional settlement area*. The TV programme "Łužyca", which was started by Ostdeutscher Rundfunk Brandenburg (ORB), was taken over by RBB and airs the third Saturday of every month. This is a 30-minute magazine programme in Lower Sorbian with German subtitles. This magazine programme aims at presenting the Sorbian language, culture, tradition, everyday life and problems. It hopes to foster the Sorbs' emotional ties with their homeland and their sense of identity. For example, the magazine reports on traditional folk arts and crafts which are at risk of dying out. It also seeks to improve the image of the Sorbian language among the younger generation.

09060 The Foundation for the Sorbian People and the joint Berlin/Brandenburg film promotion firm Medienboard Berlin-Brandenburg GmbH offer subsidies for **Sorbian film productions**.

09061 A number of **Sorbian** film productions are offered on **video cassettes**. Most of them are children's movies (largely adopted from Czech animated films), videos for schools, e.g. for history classes, and films about the Sorbs or Sorbian topics. Most of these videos are in Upper Sorbian; some are in Lower Sorbian. Most of the information films are provided as multilingual versions. About three to five videos are published per year.

09062 It should also be pointed out that **Sorbian**, as a Slavic language, is **related to Polish and Czech**. Because the Sorbs' settlement area is close to the borders with

Poland and the Czech Republic, reception of **Polish and Czech radio and television is** technically feasible. Transmission and direct reception of radio and television broadcasts in Lower Sorbian have been explicitly regulated, with due regard to the availability of technical capabilities, on the basis of the retransmission provisions of Sections 37 and 38 of the Inter-State Treaty between the *Länder* of Berlin and Brandenburg on Cooperation in the Field of Broadcasting (Inter-State Treaty on Media Services - MStV) as amended on 21 December 1998.

09063 **Information on the Sorbs** is also available on the Internet ([www.domowina.de](http://www.domowina.de)), provided or maintained by the Sorbisches Institut Bautzen or by Domowina. This information is published in German, Upper and Lower Sorbian, and English.

### **B.9.3.3.3 Broadcasting and new media for the Frisians in Germany**

09064 Please see section B.9.1.2.2 for information regarding the North Frisians. The following section discusses only the Saterland Frisians in Lower Saxony.

09065 In no. 90 of its Second Opinion, the Advisory Committee welcomed a radio broadcast in Sater Frisian. This broadcast, introduced in October 2004, is the project “Radio for the Saterland” run by Ems-Vechte-Welle (Open Channel) and the Seelter Buund, which is available world-wide via the Internet. One of the aims of the project is to directly address young people in order to increase their active language proficiency. The project was awarded a one-time grant of €25,000 from the Lower Saxony *Land* supervisory authority for private broadcasters.

09066 **The Lower Saxony *Land* supervisory authority for private broadcasters also supports non-commercial local broadcasters and the Open Channels.** These programmes in particular, which have a strong regional and local orientation, focus on specific cultural features and linguistic minorities. In the East Frisian area, this also applies to the Saterland Frisians.

09067 As only a relatively small segment of the population is the target group of television programmes in the Sater Frisian language, there have been no regularly scheduled broadcasts so far. In compliance with the programming mandate (Section 5 (2) in conjunction with Section 3 of the NDR Inter-State Treaty), the NDR regional programme (N3) **occasionally** airs **broadcasts about Sater Frisian.**

09068 Lower Saxony ensures that also **productions in the Sater Frisian language** are subsidized within the framework of cultural promotion. Three films in the Low German language received funding from nordmedia Fonds GmbH, which is operated jointly by the *Länder* of Lower Saxony and Bremen and other partners. On the other hand, no productions in Sater Frisian have received similar funding as no applications for project funding have yet been submitted. Lower Saxony will continue to draw attention to the availability of funding and will endeavour to encourage appropriate productions.

#### **B.9.3.3.4 Broadcasting and new media for the German Sinti and Roma**

09069 Since the German Sinti and Roma are dispersed more or less over the entire area of the Federal Republic of Germany, creation of their own broadcasting media or their participation in the Open Channels is difficult on account of the actual situation or for economic reasons. Therefore, the primary interest of associations of German Sinti and Roma continues to be maintaining a dialogue with broadcasters and the print media to help achieve unprejudiced reporting and to develop public awareness of the possibility that ill-considered reports and notices might foment prejudices that still exist in parts of society. The position taken by the German Sinti with regard to their language was already described above.

09070 In the *Land* of **Hesse**, **television programmes in Romany** can be broadcast over the **Open Channel**. At present, such facilities exist in the cities of Kassel, Giessen, Offenbach/ Frankfurt and Fulda.

09071 In **Rhineland-Palatinate**, individuals and groups **can, on their own responsibility, air television programmes** over the **Open Channel**. So far this possibility has not been used for programmes in Romany of the German Sinti and Roma.

09072 Because the Documentation and Cultural Centre of German Sinti and Roma receives public funding, and based on the principle of self-management, **it is up to the responsible representatives of the ethnic group** in this institution **to use the available public funds also for audiovisual productions**.

09072a Following talks between the Central Council of German Sinti and Roma and the editor-in-chief's office and television board of ZDF in early 2008, the public service broadcaster agreed to initiatives for film biographies of German Sinti and Roma. The first film biography was broadcast as part of the "Drehscheibe" series. According to the Central Council, the ZDF director also agreed to present the exhibition organized by the

Documentation and Cultural Centre of German Sinti and Roma on the Nazi genocide of Sinti and Roma; the presentation was to take place at the ZDF's studio in Berlin from 3 to 11 January 2009.

09072b "Latscho Dibes" (Good Afternoon) is the title of the only Sinti radio programme broadcast in Germany. It was created in 2000 by the *Verein Hildesheimer Sinti e.V.*, a regional association of the *Sinti Allianz Deutschland*, for Sinti and friends as well as members of similar groups. A German-language music and culture magazine, "Latscho Dibes" is one of 61 different programmes produced at Radio Flora by independent production teams. The programme airs every third Sunday from 14:00 to 15:00 on the station Radio Tonkuhle and other local non-commercial radio stations<sup>8</sup> in Lower Saxony, northern Hesse and Baden-Württemberg. Among other things, the programme is hosted by two schoolgirls aged ten to 15, is intended to reflect the views of a variety of elements in society, and ranges from interviews and news to book presentations, as well as gypsy music. This magazine programme strives to encourage young talent by focusing on topics such as compensation for forced labourers and treatment of the Sinti in the context of local and regional policies. A few years ago, the programme was honoured as an "Ambassador for Democracy and Tolerance", a prize awarded by the Federal Minister of the Interior and the Parliamentary State Secretary at the Federal Ministry of Justice.

#### **B.9.3.3.5 Aims pursued by the organizations of national minorities with regard to broadcasting and new media**

09073 Among their current media-related political aims, the umbrella organizations of the minorities in Germany want the broadcasting media to devote more attention to minorities and provide more intensive, unprejudiced reporting to supply Germany's residents with more information about this segment of the nation's population with its own unique identities. Together with this aim, the Danes, Sorbs and Frisians would like their languages to be included in additional audio-visual media offerings.

09074 With regard to this aim and to the Advisory Committee's invitation to the authorities (such as in no. 95 of its Second Opinion) to "take steps to ensure that public service media reflect more fully the cultural diversity of society", please refer once again to the description of the legal framework conditions for the freedom of broadcasting in section B.9.1.2, with the clarification that freedom of broadcasting also refers to the language in which broadcasts are transmitted. Section B.9.1.2.2 included a comment by the *Land*

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<sup>8</sup> Also known as "free radio", these are distinct from the Open Channel principle of public-access broadcasting (see the overview on the website of the Bundesverband Freier Radios (BFR)).

Schleswig-Holstein to the effect that specific programming is the responsibility of the broadcasting corporation, that public authorities have no influence whatsoever, and that the representatives of minorities should maintain constant dialogue with the *Land* broadcasting board and the director of the *Land* broadcasting centre in order, together with the *Land* Government, to keep up the pressure for a greater minority presence in programming. Although it was made with reference to NDR, this comment is important and generally applicable.

**B.9.4 Article 9 (4)**  
**(Obligation to take measures**  
**- facilitating media access by national minorities,**  
**- promoting tolerance, and**  
**- enabling cultural pluralism)**

09075 With regard to facilitating media access by national minorities and ethnic groups protected under the Framework Convention, **please see the comments above** on Article 9 (1) and (3). The issue of promoting tolerance and enabling cultural pluralism is largely covered in the comments above on Article 9 (1), where - in the context of defining freedom of broadcasting in terms of constitutional law - both elements are presented as a basis for freedom of broadcasting which the State must ensure. **Some of the *Land* media acts have explicitly included these elements, with particular reference to minorities, without confining them to the groups protected under the Framework Convention.**

09076 For instance, the following provision was included in the Inter-State Treaty on the Cooperation of **Berlin and Brandenburg** in the Field of Broadcasting of 29 February 1992 (this provision continues to apply also under the Treaty's amendment of 1 January 1999):

09077 “The private broadcasters licensed in the area to which this Inter-State Treaty applies shall reflect the essence of the plurality of opinions in the contents of their programmes. The relevant political, philosophical/ideological and social actors and groups shall be given adequate scope for expressing their opinions in generalist programmes and in specialist (thematic) programmes with a focus on information; opinions of minorities shall be taken account of.”

The Inter-State Treaty also explicitly provided for the obligation that the overall programme should promote the co-existence of foreigners and Germans in Berlin and Brandenburg.

09078 In **Hesse**, Section 13 (1) of the Act on Private Broadcasting stipulates that the programming shall contribute to “the protection of ethnic, cultural and linguistic minorities”.

**B.10 Article 10**

**(1) The Parties undertake to recognize that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.**

**(2) In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.**

**(3) The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.**

**B.10.1 Article 10 (1)****(Obligation to recognize the right to use minority languages)****B.10.1.1 Legal bases of the right to use minority languages**

10001 The obligation flowing from Article 10 (1), i.e. to promote the right to use minority languages, (also laid down as an aim in Article 7 (1) (d) of the European Charter for Regional or Minority Languages: “the facilitation and/or encouragement of the use of minority languages”) is fulfilled in Germany in the following way:

10002 The right of the members of national minorities to use their language in daily life is protected by Article 2 (1) of the Basic Law, which guarantees the right to free development of personality. This freedom is also ensured in the context of the freedoms of expression, of the press and of broadcasting as guaranteed under Article 5 (1) of the Basic Law. Accordingly, there are no legal restrictions in the Federal Republic of Germany as regards the use of a minority language in private or public life.

10003 In addition to the freedoms guaranteed by the Basic Law for the entire territory of Germany, Section 8 of the Act on the Specification of Rights of the Sorbs (Wends) in the Land of Brandenburg explicitly reaffirmed the right freely to use the Sorbian (Wendish)

language. Pursuant to the Saxon Constitution and Section 8 of the Act on the Sorbs' Rights in the Free State of Saxony and a number of other laws and ordinances, the Sorbs in the Free State of Saxony have the right to communicate, orally and in writing, in their language in private and in public.

10004 The Schleswig-Holstein Act on Promoting Frisian in the Public Sphere (Frisian Act) of 13 December 2004 commended by the Advisory Committee in no. 100 of its Second Opinion includes specific rules to promote the Frisian language in various areas. (For details, cf. section 5.1.4., no. 05012, above.)

### **B.10.1.2 Use of minority languages in general**

10005 The use of minority languages in public is generally accepted by the German population. (However, cf. no. 10012). Languages other than German are used to a far greater extent by the large numbers of foreigners living in Germany; such use does not meet with any problems within society, with the exception of a few right-wing extremists.

#### **B.10.1.2.1 Use of the Danish language**

10006 For the major part, members of the Danish minority use the Danish language in the private sphere. However the situation in mixed-nationality marriages must be taken into account where German usually prevails. Danish is spoken within the organizations of the Danish minority. Constant use and promotion of the Danish language provide the basis for all minority-related activities. The Danish private schools and children's day-care centres are of particular importance for proficiency in the Danish language, especially also for the children from mixed-nationality marriages.

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10008 Staff members speaking the Danish language are available in several specialized clinics of the *Land*.

It should be pointed out that direct nursing and other care of persons in need of nursing and care is not a public-sector responsibility, but rather is carried out mostly by private-sector and free non-profit institutions. None of these facilities is run directly by the *Land*. Therefore, it is not possible to lay down any requirements to be met by the various providing bodies as regards the use of the minority language Danish. However, the

Ministry with responsibility in this field has until now not been notified of any cases which might give reason to require certain institutions to provide permanently for staff with knowledge of this language.

10009 By far the majority of the speakers of Danish in the Schleswig region of the *Land* are members of the Danish minority. The **Danish Health Care Service for South Schleswig** (the registered association Dansk Sundhedstjeneste for Sydslesvig e.V.) attends to the social, health-related and charitable matters of the Danish minority. Dansk Sundhedstjeneste is a member of the Schleswig-Holstein *Land* Association of the Deutscher Paritätischer Wohlfahrtsverband, a non-denominational welfare association. As a partner of the public health service, its activities also include tasks laid down in the Health Services Act. Among others, a nursing home, several residential homes for the elderly, and a number of home health care services are affiliated to Dansk Sundhedstjeneste. The elderly are offered holiday stays at a resthome operated by Dansk Sundhedstjeneste in Denmark. In addition, services are offered by a social counselling bureau, voluntary services making home visits to elderly people, and 18 senior citizens' clubs. In the Schleswig region of the *Land*, Dansk Sundhedstjeneste for Sydslesvig e.V. works as a home health care service and therefore receives a subsidy as provided under Section 6 (2) of the Landespflegegesetz (*Land* Home Care/Nursing Act).

10010 At the four district hospitals of the district of Nordfriesland, especially in Niebüll, Danish-speaking patients can, at least to some extent, be received and treated in their own language. The website of the district hospitals is also available in Danish ([www.kh-nordfriesland.de](http://www.kh-nordfriesland.de)).

A number of the staff of the Psychiatric Clinic in the Schleswig region of the *Land* speak Danish.

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#### **B.10.1.2.2 Use of the Sorbian language (Sorbian and bilingualism)**

10012 Although many Sorbs are aware of the fact that the actual use of the Sorbian language is the essential characteristic of belonging to the Sorbian people and of Sorbian identity, this language nowadays is being replaced by German in public life (e.g. public events such as 'citizens' assemblies') and often even in family life. Speakers of Sorbian do not live by themselves, but in constant contact with speakers of the majority language, i.e. German. By now, all Sorbs are bilingual. Oddly enough, the advantage provided by the

Sorbs' bilingualism turns into a disadvantage when the bilingual speaker is compelled, more or less politely, by people around him/her to use the language that is not his/her mother tongue. This is tantamount to giving up one's mother tongue. Since nobody can be compelled to learn the Sorbian language, it is up to all those responsible for Sorbian matters to continue to enlist support for, and raise awareness of, esteem for the Sorbian language, the use and learning of this language and the advantages of bilingualism.

10013 Promotion of the Sorbian language is not aimed at preferential treatment of Sorbian. Promotion of minority languages is always an attempt to ensure the same conditions for the lesser used language as for a widely used language. At the invitation of the *Länder* Saxony and Brandenburg a conference on the experience of Sorbian (Wendish) life in municipalities attended by mayors and chief executive officials of the counties was held in Dissen near Cottbus in September 2006. Five years before, the first conference of this kind concentrated on the issue of bilingualism in Lusatia. Both conferences offered an opportunity to participants to share experience and information on these issues.

The aim is to have as many inhabitants of the Sorbian settlement area, especially children and youngsters, grow up as bilingual speakers or at least have a passive command of the Sorbian language. This is the prerequisite for use, on an equal footing, of both languages, e.g. on the occasion of public 'citizens' assemblies', family celebrations or sports events.

10014 In the Free State of Saxony, there are various regions of the Sorbian settlement area where the Sorbian language is part of everyday life to a varying extent. In a number of places of the area between Kamenz, Bautzen and Hoyerswerda, the Sorbian language is passed on as the native tongue to the younger generations. In this region, Sorbian is the preferred language of everyday communication, spoken by all generations in public life, child care institutions and schools; it lends a specific character to everyday life in villages, church-related activities and family life. Nevertheless, also in these areas, there is a risk of the Sorbian language being replaced by German. In these times, which are influenced and moulded by the media in so many and various ways, children from infancy are confronted with the German language, but seldom experience use of the Sorbian language.

10015 In Middle Lusatia (around Hoyerswerda and Schleife), the Sorbian language is only passed on within very few families. For most children in that region, Sorbian no longer is their mother tongue. Therefore, the efforts made by young parents to have their children take part in the *WITAJ* Project so that they can, from infancy, learn Sorbian as a secondary language are particularly commendable. They show that young people do take an interest in the language native to this region and that a growing desire is felt to

reanimate this language. For the second time, the intermediate secondary school in Schleife set up a class in grade five, in which some of the lessons are conducted in Sorbian. The efforts to revive the use of Sorbian have been successful.

10016 An optimistic outlook is also warranted by a comparison with the situation of other minority languages spoken in Europe, which shows that increased use of a language can indeed be achieved. Decreased use of a given language does not entail the inescapable consequence that development in this direction would continue and inevitably lead to definitive discontinuation of the active use of this language. There are regions in Europe where revived self-assurance and the re-awakened will to preserve one's own identity and culture have also resulted in increased use of the language. Therefore, a programme such as the *WITAJ* Project may be realistically expected to have good chances of success.

### **B.10.1.2.3 Use of the Frisian language**

North Frisian in Schleswig-Holstein:

10017 Of the total number of nine North Frisian local idioms, three - which are spoken by less than 150 persons - are acutely threatened by extinction. The other six local idioms are not only used orally but also exist in written form. Their orthography is based, for the major part, on uniform rules. The first book in the North Frisian language was published in 1809. Since then, a large body of Frisian-language literature has been created, which covers several hundreds of books and, in addition, several thousands of literary items in a variety of publications. This ensures that the Frisian language also fulfils the requirements expected to be met by a modern means of communication.

10018 The North Frisian language still is, to a major extent, the language spoken within the family and the language for communication in public, especially among the Frisians living on the islands and in the northern continental region (extending from the German-Danish border to the town of Bredstedt). In mixed-language marriages, German and Frisian are increasingly being used as languages of equal rank. Use of the Frisian language is not confined to specific institutions of the minority, but is part of normal social life in Nordfriesland and the island of Helgoland. The Frisian language is used both in everyday life and on official occasions. Frisian language proficiency, which is reflected in active use of the language, is found within the administrations of Nordfriesland and on Helgoland Island, in hospitals, nursing facilities, police departments, working life as well as many other places. Moreover, use of the Frisian language is also evidenced by the fact that Frisian-language street names and bilingual German-Frisian place-name signs can be

found in many North Frisian places. Everyday use of the Frisian language is also evidenced by a large number of Frisian names for restaurants and other catering businesses.

10019 In addition, Frisian language instruction at school is enormously important for developing Frisian language proficiency. During the 2006/2007 school year, 23 teachers at 24 schools of various types taught 159 hours of Frisian per week to 1,231 pupils. The Frisian language is also taught in nursery schools and courses offered by adult education and other educational institutions.

10020 The Frisian Council pointed out that the Frisian language had, over the past few years, experienced a certain revival in Nordfriesland and on Helgoland and is now much more present in the general public's awareness than it was even a few years ago.

Sater Frisian in Lower Saxony:

10021 Use of Sater Frisian by the Saterland Frisians is gradually increasing since school-children are taking a greater interest in learning this language and children and the grandparent generation have started to communicate in Sater Frisian again.

10022 The purchase and reconstruction, with public funds, of the Scharrel railway station for use as a cultural centre in the Saterland conveyed the clear message that cultivation of the Sater Frisian language is a matter of importance to the Lower Saxon *Land* Government. The cultural centre is open to all citizens, and its planned activities have an effect upon all spheres of daily life.

#### **B.10.1.2.4 Use of the Romany language**

10023 In the private sphere, the German Sinti and Roma, who grow up as bilingual speakers of Romany and German, use their traditional Romany and only occasionally the German language. However, German is their second mother tongue, or secondary language. For communication with other German Sinti and Roma, Romany is predominantly used. German is usually spoken in public, especially when members of the majority population, of other minorities or foreigners living in Germany are present.

**B.10.1.3 Government promotion of the use of the languages of national minorities**

10024 There are many and various ways in which the state promotes the learning and use of minority languages (cf. the comments on the various obligations). In particular, efforts are encouraged also among the general public to keep these languages alive by using them within the family and in extra-familiar everyday-life situations. In this regard, the cultural value of the minority languages for Germany's cultural life is particularly emphasized so that, on account of the resultant self-esteem and self-assurance, the younger generation will be more willing to adopt these languages and pass them on. The structures established for the administration of matters of their own concern provide the users of Danish, Frisian, Sorbian and Romany with the practical scope for using the given language also in an extra-familiar context.

10025 On 9 February 2006 a "Day of the Danish Language" took place in Schleswig-Holstein under the auspices of the *Land* parliament's president. On this day, the citizens of Flensburg, Husum, Leck and Schleswig could learn more about the Danish language in the framework of a variety of activities. The Danish Day was the highlight of a language campaign organized by the Regional Council for the Schleswig/Sønderjylland region in 2006.

**B.10.2 Article 10 (2)  
(Obligation to make efforts to ensure, on a scale in line with existing requirements, the conditions which would make it possible to use the minority languages in relations with the administrative authorities)****B.10.2.1 Present scope for using minority languages in relations with public authorities, and additional scope for such use as envisaged by minority organizations**

10026 Under German law, the official language is German. Thus, as regards the citizens' dealings with public administration, German is the official language under Section 23 of the Administrative Procedure Act. The *Länder's* Administrative Procedure Acts or Public Administration Acts also lay down German as the official language. German is also the official language in court.

10027 The obligation under paragraph 2 - i.e. to ensure the conditions required for using minority languages - specifically refers to areas inhabited, traditionally or in substantial

numbers, by members of national minorities, and in Germany applies especially to the settlement areas of the Danish minority, of the Sorbian people, and of the North Frisians and Saterland Frisians. The German Sinti and Roma are dispersed more or less throughout Germany, while no major number of them - in quantitative terms comparable to those of the aforementioned groups - is known to live in one particular place or region.

10028 On account of the mostly small number of members of minorities as a percentage of the given local population, it is not possible generally to use the minority language in relations with the administrative authorities; rather, such use is confined to cases provided for in special regulations. This does not, however, mean that the relations between persons belonging to groups protected under the Framework Convention and administrative authorities would be rendered difficult, because all members of those groups are bilingual and have no problems with using the German language. Where the legal and practical scope for using minority languages in relations with administrative authorities does exist, the major part of the members of the respective minorities do not avail themselves of this possibility. In December 2004 Schleswig-Holstein adopted the Act on Promoting Frisian in the Public Sphere (Frisian Act). The act is intended to promote the use of the Frisian language in the public sphere and thus strengthen the cultural awareness of Frisian. The act includes rules and provisions addressed to the *Land* authorities and municipalities in the district of Nordfriesland and on the island of Helgoland.

10029 The Danish minority, the Sorbs and the Frisians have repeatedly expressed their desire of further developing the existing practical scope for such use because this would increase public awareness as regards the existence of minority languages and would provide additional incentives to the subsequent generation to retain the minority language.

10030 Following the entry into force of the European Charter for Regional or Minority Languages the Schleswig-Holstein *Land* Government sought to reduce inhibitions regarding use of regional or minority languages through stickers attached to office doors advertising the language proficiency of its staff members.

10031 In Schleswig-Holstein, based on the ideas of national minorities and ethnic groups, but also on a parliamentary debate conducted in 2000, decisions on the recruitment of staff for *Land* public service positions should, as a matter of principle, include the applicants' knowledge of the regional or minority languages as a qualification criterion, if language proficiency is required for a specific task. This implements the recommendation of the Advisory Committee in no. 103 of its Second Opinion without restricting the constitutional obligation to ensure that every German is eligible for any public office according to his aptitude, qualifications, and professional achievements

without undue restrictions (Article 33 of the Basic Law). The Advisory Committee also commended this procedure in no. 98 of its Second Opinion.

### **B.10.2.2 The present scope for using minority languages in relations with public authorities - by language**

#### **B.10.2.2.1 The present scope for using the Sorbian language in relations with public authorities**

10032 In the **German-Sorbian areas**, both German **and the Sorbian language** are admitted in relations with the **authorities** and administrations **of the Land and local governments**. This right is expressly stipulated in Sections 9 and 11 of the Act on the Sorbs' Rights in the Free State of Saxony of 20 January 1999 and in Section 23 of the Administrative Procedure Act of *Land* Brandenburg. These provisions provide for the general possibility to submit applications, petitions, records, deeds or other documents in the Sorbian language. The translation of such applications etc. into the German language is taken care of by the authority concerned. No costs for translations are charged to the citizen. At the local authority level in the Sorbian settlement area in Brandenburg, however, only very few cases have become known where applications were submitted, or deeds drafted, in the Sorbian language.

10033 With regard to the use of the Sorbian language, the Free State of Saxony, in connection with Article 10, points out that public authorities, especially local administrations in the German-Sorbian settlement area, are fully aware of the obligation to allow use of both German and Sorbian as the official language. Therefore, appropriate considerations and efforts are already underway to achieve progress as regards use of the Sorbian language. In this context, reference is made to the letter of 20 November 2002 addressed by the State Minister of the Interior to the Federal Minister of the Interior:

10034 In the view of the Saxon State Ministry of the Interior, the constitutional provisions of Articles 33 (2) and 3 (3) of the Basic Law preclude general inclusion of **knowledge of the Sorbian language as a qualification criterion for employment with public authorities in the Sorbian settlement area**. The performance principle requires equal eligibility to public office on the basis of aptitude, qualifications and professional ability.

10035 An exception may be made if so required for the post to be filled. The requirement focuses on Sorbian language skills, which can be acquired by anyone regardless of his/her

origin or whether he/she is a Sorb. In the end it is a question of clearly describing the job requirements for the position to be filled (see below).

Accordingly, the State Ministry of the Interior considers it admissible to recognize knowledge of the Sorbian language as a proper qualification if the post of a contact person within the meaning of Section 11 of the Saxon Sorbs Act is to be filled, because command of the Sorbian language is part of the core competence required for such a post. Furthermore, to a certain extent, it is considered admissible to include command of the Sorbian language as a desirable additional qualification in job advertisements for a post where its holder will have contact with personal callers. However, in view of the fact that Sorbian is spoken as a foreign language by a very small part of the non-Sorbian population, this approach entails the risk that, in violation of the equality principle, non-Sorbian applicants would factually be placed at a disadvantage on account of their national origin. Therefore, command of the Sorbian language cannot be used throughout the *Land's* territory as an additional criterion in the selection-related decisions. In addition it is pointed out that even the designation of a Sorbian contact person is subject to feasibility, especially as regards the available number of Sorbian-speaking applicants who in all other respects have the required qualifications.

10036 *Domowina* took the view that the restrictions, as described in the preceding two paragraphs, regarding inclusion of the Sorbian language as a criterion for staff recruitment for public authorities in the Sorbian settlement area did not do justice to the actual situation.

10037 - 10038

10039 Hence the Advisory Committee's view in no. 103 of its Second Opinion was that taking account of proficiency in the language or languages of minorities as a criterion for recruiting civil servants in the areas of traditional settlement is an incentive to the use of these languages and therefore, this criterion should not be considered by the German authorities a discrimination against non-speakers of the minority language, but as an act that fosters the use of the language concerned in the area inhabited by the minority in question.

10040 In no. 99 of its Second Opinion the Advisory Committee was concerned about possible shortcomings in the implementation of the existing statutory provisions concerning the use of Sorbian in the *Länder* of Saxony and Brandenburg.

10041 This view was rejected by *Land* Brandenburg - where similar restrictions as in the Free State of Saxony apply - by pointing out that the argument given by *Domowina* in

support of unrestricted inclusion of knowledge of Sorbian as a recruitment criterion was not correct. A second official language did not exist; there was only the right of Sorbs to communicate in the Sorbian language with Saxon and Brandenburg administrative authorities in the traditional settlement area. This, in turn, did not imply that all staff members should be bilingual, but referred to the ability of the given authority to provide for assignments (for example, a relevant provision is Section 23 (5) of the Brandenburg Administrative Procedure Act (*VwVfG Bbg*)). Since requiring bilingualism as a criterion applying to all staff members was out of the question, it was not possible, either, to generally include bilingualism as an aptitude and qualifying factor for all posts and jobs; rather, this criterion could only be included for those posts which require proficiency in the Sorbian language.

10042 The authorities of *Land* Brandenburg also take the view that any further preferential treatment of applicants with Sorbian language skills is in opposition to the legal right of every German applicant for a public office to be equally eligible according to his aptitude, qualifications, and professional achievements (Article 33 of the Basic Law). It is not admissible to circumvent this right by an arbitrary job description of the vacancy to be filled.

10043 A number of the **subordinate agencies of the State Ministry of the Interior of the Free State of Saxony** - especially those in regular contact with personal callers - already have **Sorbian-speaking contact persons**. The State Ministry of the Interior will make sure that the authorities/agencies within its remit will once more be explicitly informed of the aforementioned - limited - possibility to include knowledge of the Sorbian language as a criterion for the selection of job applicants, and will be encouraged to make the widest use possible of this option. In addition, the State Ministry will pass on, to the authorities concerned, the request that they should, in an appropriate way, inform their citizens of the fact that Sorbian-speaking staff is available and can be contacted.

10044 The State Ministry of the Interior has followed up on the request for greater provision of **further education relating to Sorbian language acquisition**. Since 2003 the Akademie für öffentliche Verwaltung (AVS - Academy of Public Administration), which comes within the remit of this Ministry, has made a survey of the requirements for such further education within the *Land's* public administration. The Fachhochschule der Sächsischen Verwaltung [College of Saxony's Public Administration], which is responsible for training public officials of the higher intermediate service, was advised that - upon request, especially by the recruiting local authorities in the Sorbian settlement area - the Sorbian language should be included in the optional language courses offered to their staff. The Brandenburg Ministry of the Interior has also conducted a survey on the demand

for advanced training in the Sorbian language of public staff. However, the authorities are confident that even without advanced training to fulfil their statutory obligation they are in a position to enable citizens to use the Sorbian language before administrative authorities (cf. no. 10054).

10045 Recruitment and further training of the staff of local public service come within the organizational jurisdiction of local governments. By letter of January 2003, the State Ministry of the Interior wrote to the *Land's* local government associations to inform them of the desired approach in this respect and of the existing legal scope for meeting such wishes.

10046 In the Sorbian settlement area, **bilingual signs** have been provided for most **places**, towns, districts etc., and **public buildings**, institutions, **streets, lanes and roads, squares** and bridges. This is explicitly laid down in Section 10 of the Saxon Sorbs Act and in Section 11 of the Act on the Specification of the Rights of the Sorbs (Wends).

10047 The requirement for bilingual signposting, as laid down in Section 11 of the Act on the Specification of the Rights of the Sorbs (Wends) in the *Land* of Brandenburg, also covers the arrangement, design and posting of traffic signs/road signs pursuant to the German Road Traffic Regulations. Where local authorities, as public construction agencies, are responsible for putting up traffic signs/road signs, such responsibility refers to Sign 432 (indicating direction to destinations within built-up areas and to locations of considerable traffic importance) and to Sign 437 (indicating road or street names) as defined in the German Road Traffic Regulations.

10048 However, within the **area to which the Federal Administrative Procedure Act applies**, the **Sorbs must**, as a matter of principle, **use the German language**.

10049 Within **local administrations, the staff and directors of various sections speak the Sorbian language**. Some of them have direct responsibility for Sorbian matters. Within the local authorities of the traditional settlement area of the Sorbian (Wendish) people in *Land* Brandenburg, most public notices are bilingual; for official letters of these authorities, bilingual letterhead stationery is used.

10050 In the exclusively Sorbian communities, or communities with a Sorbian majority, in the Free State of Saxony, the Sorbian language prevails in public life. This also goes for administrative authorities and meetings of local/municipal councils. At the same time it is ensured, e.g. by bilingual notices on the bulletin board, that also citizens who only speak

German are included in community life. In these places, in particular, civil marriages are increasingly contracted in the Sorbian language.

10051 In all places where the Sorbs form the (mostly small) minority within the local population, only hesitant use is made of the legal and practical scope for using the Sorbian language in relations with the administration.

10052 Even where sufficient numbers of staff members of district and local authorities have proficiency in the Sorbian language, these capabilities are seldom relied on by the Sorbian population. As a rule, Sorbian citizens prefer to use the German language in their relations with administrative authorities because they thus want to preclude any misunderstanding in the administration's assessment of the matter put before it. To give some examples:

- In the city of Cottbus, the correspondence between the Commissioner for Sorbian (Wendish) Matters and the Sorbian institutions and associations as well as citizens belonging to the Sorbian people takes place, for the major part, in the Lower Sorbian language. Although this provides the basis for handling such petitions in Sorbian, no citizen has so far made a written submission in the Lower Sorbian language to the municipal authorities.
- In Oberspreewald-Lausitz district, the Lower Sorbian language is very seldom used in relations with administrative authorities although the actual conditions for such use exist, given that the staff of the authorities concerned usually have a command of the Lower Sorbian language. For the districts of Spree-Neisse and Dahme-Spreewald, no cases have been reported where citizens contacted administrative authorities in the Lower Sorbian language.

10053 Domowina, on the other hand, sees the reason for the limited extent to which Sorbian is used in the general overall conditions, which in instances are unfavourable, as regards use of this language under section B.10.1.2.2 (Use of the Sorbian language).

10054 Taking account of the aforementioned circumstances, the Brandenburg *Land* Ministry of the Interior, by letter of 11 November 2002, recommended to the *Land* Ministries that Sorbian-language proficiency be included as an additional qualification of applicants for vacancies if and where this skill might be of use for performing the envisaged job. (This recommendation is similar to the practice of Schleswig-Holstein, which was considered appropriate by the Advisory Committee in no. 98 of its Second Opinion.) At the same time, the addressees of this recommendation were requested to review, within their respective area of responsibility, the extent to which actual use is being

made of these possibilities, and the further training requirements as regards the Sorbian language. The same information was supplied, by a circular of 3 December 2002, to the local self-administration units specified in Section 3 (2) of the Sorbs/Wends Act (SWG); those local authorities were also asked for information on the extent to which it was ensured that citizens using the Sorbian language could submit oral or written applications in this language or validly submit a document in this language. The answers given by the Ministries showed that so far no problems had been encountered in connection with the Sorbian language, nor had any requests for further training been received, and that the recommendation to include knowledge of the Sorbian language as a factor in recruitment advertising had been complied with.

10055 To the extent that the Sorbian language is rarely used in dealings with public authorities, the experience gained so far suggests that this is due to the lack of demand among the population. People are actually given the opportunity to use this language.

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10057 Saxony and Brandenburg have included the Sorbian/Wendish language as an additional vocational qualification in the specialized computer-based placement system (coArb) and thus in the Employers' Information Service (AIS), which was positively noted by the Advisory Committee in no. 101 of its Second Opinion.

10058 In response to the Advisory Committee's reminder in nos. 102 and 104 of the Second Opinion that the perfect command of German possessed by persons belonging to minorities is not a reason to refrain from encouraging the use of minority languages in the public sphere and from introducing positive measures in accordance with Article 10 of the Framework Convention and that the authorities should continue their efforts to develop the use of languages of the minorities in dealings with the authorities, especially with regard to the Sorbian language, and to ensure that the existing legislation in this field be fully implemented, the Free State of Saxony commented as follows in Germany's reply to the Opinion:

"It must be pointed out once again that the Framework Convention does not require that parties involved in a trial are actively encouraged to use the Sorbian language in the courtroom."

10059 Nevertheless the following must be mentioned:

The "*Sächsischer Rechtswegweiser*" (as per November 2005), a brochure published by the Saxon State Ministry of Justice, explicitly mentions the possibility to use the Sorbian language in the Sorbian settlement area.

A specific measure taken in 2004 and 2005 under the lead of the Council for Sorbian Affairs and the patronage of the President of the Saxon Parliament was a competition on “language-friendly municipalities”. This competition focused on local activities to increase bilingualism. A city or municipality is “language-friendly” if it ensures that bilingualism as an intellectual and cultural heritage is made visible with the help of the Sorbian language and if the awareness of bilingualism is raised and language proficiency is promoted.

#### **B.10.2.2.2 The present scope for using the Danish language in relations with public authorities**

10060 It is only in the city of Flensburg and in a number of adjacent small communities that the Danish minority represents a larger percentage of the population, i.e. about 20 per cent. In all other places of the Danish settlement area, the share of the Danish population is much smaller. Under the Kiel Declaration by the *Land* Government of Schleswig-Holstein on the Status of the Danish Minority of 26 September 1949 and the Declaration by the Government of the Federal Republic of Germany of 29 March 1955 - the content of which is identical with that of the Copenhagen Declaration by the Government of the Kingdom of Denmark of 29 March 1955 - use of the Danish language in courts and in relations with administrative authorities is regulated by general legislation. Thus, under the general laws, only German is admitted for use in courts and administrative authorities. All members of the Danish minority, however, also speak German and use the German language in courts and in relations with administrative authorities.

10061 In dealings between Danish-speaking members of the administration and persons belonging to the Danish minority who are staff members of the administration or elected representatives of local government authorities, on the one hand, and Danish-speaking citizens seeking advice, on the other hand, the Danish language is also used in administrative relations. Staff members of authorities in the vicinity of the border participated in Danish crash courses, especially with the aim of having a command of that language when working within transfrontier Territorial/Working Communities or associations; such training will, in the long term, help to reinforce Danish language proficiency.

Documents may also be submitted in Danish to the Schleswig-Holstein administrative authorities in the Danish settlement area.

10062 In the **museums of the settlement area, signs** and general information are increasingly also inscribed, or given, **in Danish** - this is done, however, with the primary aim of providing better information to visitors from the Kingdom of Denmark.

10063 Use of German as the language to be used in court and in relations with administrative authorities has so far raised hardly any problems between the Danish minority and public authorities, but the organizations of the Danish minority speak up for increased use of their language also in relations with administrative authorities.

10064 Positive **examples of language promotion offered to public officials serving with the Schleswig-Holstein administration** are the following:

10065 Of the overall number of staff (around 800) of the regional police headquarters *Schleswig-Holstein Nord Polizeidirektion* - responsible for the districts of Nordfriesland and Schleswig-Flensburg and for the City of Flensburg - at least 200, i.e. around 25 per cent, have a basic knowledge of Danish, allowing them to answer questions and to read documents in that language. The larger agencies, at least, have staff members with a good command of the Danish language; it should be noted in this context that a number of police officers serving with *Schleswig-Holstein Nord* regional police headquarters are ethnic Danes of German nationality. Police forces in general endeavour to improve their staff's language proficiency. For example, two training programmes were funded through the EU promotional programme INTERREG; in the years 2001 - 2003, 350 staff members of the regional police headquarters *Schleswig-Holstein Nord* and *Schleswig-Holstein Süd* attended Danish language courses of several weeks' duration and of varying learning intensity levels.

10066 The Revenue Office of Flensburg stated that, in view of the geographic proximity to Denmark, particular care was being taken to accommodate the needs of resident taxpayers from the Danish-speaking area. Thus, the criteria for the selection of staff for the Preliminary Turnover Tax Return office include having a command of the Danish language. It is this unit of the Flensburg Revenue Office that has the most frequent contacts with Danish companies.

Since 2003 it has been possible in Flensburg to have civil marriages in Danish.

10067 Given its location in the border zone, Flensburg as the 'stronghold' of Danish in Schleswig-Holstein has for some time already sought to adjust its services to the fact that the staff's knowledge of Danish is of great importance to a client-oriented municipal administration. Danish courses are offered to beginners, and financial grants are available

for employees taking part in Danish courses outside the municipal further training facilities. For advanced learners, workshops in Danish have been on offer once a week for a number of years already. Danish is an integral part of the basic training of the Flensburg professional fire brigade. Finally, an EU project (INTERREG III A) for transborder qualification of prospective executive personnel (*Løver 2002*) is carried out with the districts of Nordfriesland and Schleswig-Flensburg and with Sønderjylland *Amt* with the aim of improving language proficiency on both sides of the border.

#### **B.10.2.2.3 The present scope for using the Frisian languages in relations with public authorities**

10068 It has been ensured that the Frisian language also fulfils the requirements expected to be met by a modern means of communication.

10069 Under Section 82a of the Schleswig-Holstein *Land* Administration Act, **the official language is German**. However, a large number of staff members of the **Ämter (local authority unions) and local authorities of Nordfriesland district** have a **good knowledge of the North Frisian language**. As a result, some public service employees, especially in the island communities, deal in Frisian with personal callers during office hours if the callers so wish. The spoken message in the wait loop of the telephone system of the Nordfriesland district administration is given in four languages (German, Frisian, Danish, and Low German).

10070 Furthermore, the use of the Frisian language with Schleswig-Holstein authorities is specifically governed by the Frisian Act, which was welcomed by the Advisory Committee in no. 100 of its Second Opinion:

Section 1 of the Frisian Act provides that citizens can address administrative authorities in Nordfriesland district and on the island of Helgoland in Frisian, as well as submit applications, records, deeds or other documents in this language. In oral communication with public authorities, use can be made, as a general rule, of the Frisian language as well. In addition, authorities can also prepare bilingual forms and issue bilingual notices to the public.

10071 The question of taking Frisian language skills into account when recruiting staff for the public service is dealt with by Section 2 of the Frisian Act:

“Schleswig-Holstein, the district of Nordfriesland and its local authorities as well as the island of Helgoland shall take Frisian language skills into account when recruiting

personnel for the public service, if such language skills are required for assuming a specific task.”

10072 Within the Husum Police Headquarters, which is responsible for the district of Nordfriesland, some 5 % of the staff speak the Frisian language at least so well that they are able to converse in this language with the citizens of their community.

10073 On the North Frisian islands, local council meetings are also held in the Frisian language provided that no local councillor or no visitor attending a meeting objects to such use.

10074 In relations with public authorities, the North Frisian and the Sater Frisian languages do not yet have the status due to them. As a rule, the members of this ethnic group use the German language in court and in relations with administrative authorities. One of the reasons is that the population segment that is proficient in the Frisian language generally constitutes the minority even in their Frisian settlement areas. The Frisian ethnic group expects that, following the entry into force of the Frisian Act, the situation regarding the status and use of the Frisian language in relations with public authorities in Schleswig-Holstein will improve. Some Civil Registry Offices in Nordfriesland, however, already provide for civil marriages in the Frisian language.

10075 In the local authority of **Saterland in Lower Saxony**, it is possible to have civil marriages and other **official acts performed in the Frisian language**. Public officials of that local authority indicate their proficiency in Saterland Frisian on their office doorplates. The local authority of Saterland has adapted its logo to the Sater Frisian language (“seelter lound”).

10076 In the local authority of Saterland, no problems exist as regards submission of legal documents drafted in Saterland Frisian. The administration has staff members who can process such documents. Citizens can state their case in Saterland Frisian. The replies will equally be furnished in this language. Applications may also be submitted in Saterland Frisian. In practice, however, no use has been made of this possibility.

10077 The facilities and staff that may be required for oral and written translation are available in the local authority of Saterland. It must be pointed out though that traditionally Sater Frisian was a spoken language and became a written language only in the course of time. Sater Frisian as a written language is still in its infancy. Writing in Sater Frisian is relatively difficult and requires a lot of work.

10078 The local authority of Saterland is prepared at any time to draft documents in the minority language. So far, however, no requests to this effect have been made.

10079 No official documents of the local authority of Saterland have been published in Sater Frisian yet. Translations into the written language prove to be extremely difficult (cf. no. 10077).

#### **B.10.2.2.4 Regarding the question as to whether the Romany language can be used in relations with public authorities**

10080 The German Sinti and Roma see Romany as a language that is used within the family and the family clans of the Sinti and Roma. In their dealings with German authorities, they use the German language and object to their own language being learnt and used by administrative officials who are not members of this minority. However, the German Sinti and Roma wish that there should be no problems involved when Romany is used in contacts of Sinti and Roma as administrative staff members, on the one hand, and as citizens seeking advice, on the other.

10081 In view of the fact that the German Sinti and Roma grow up as bilingual speakers of Romany and German and, as a rule, have full command of both languages, the need to use Romany in relations with administrative authorities has not yet emerged.

#### **B.10.3 Article 10 (3) (Language used in court proceedings)**

10082 Section 184 of the Organization of the Courts Act lays down that the **official language in court is German**. However, the constitutional stipulations regarding fair trial and due process of law (Articles 2 (1) and 20 (3) of the Basic Law) entail the **obligation** for courts also **to take note of declarations** made by parties to a lawsuit **in a foreign language**. If the court hearing is attended by **persons who do not know the German language**, an **interpreter** must be called in (Section 185 of the Organization of the Courts Act).

10083 Similarly, during preliminary investigations, the accused must be informed, in a language he/she understands, of the offence with which he/she is charged and must be given an opportunity to present his/her view on the alleged offence in that language. As soon as it becomes obvious that communication is not possible for language reasons,

involvement of an interpreter is mandatory also in this case. Articles 5 (2) and 6 (3) (a) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) also stipulate this right. Article 10 (3) of the Framework Convention does not contain any obligations going beyond the ECHR provisions, and thus in Germany is already part of applicable law. Apart from a few exceptions, however, the **members of the groups protected under the Framework Convention understand German** so that these problems do not arise in practice.

10084 **Special provisions** governing language use in court exist with regard to **Sorbian**. The **Unification Treaty** of 31 August 1990 explicitly provides that the Sorbs shall - continue to - have the right to speak Sorbian in court in their home districts and that this right shall remain unaffected by Section 184 of the Organization of the Courts Act (Annex - I Chapter III, Subject Area A, Section III 1. of the Unification Treaty of 31 August 1990). This provision is implemented in the *Länder* of Saxony and Brandenburg.

10085 The signs indicating the courts in the traditional settlement area of the Sorbian (Wendish) people in Brandenburg are bilingual. If Sorbs wish to litigate in their own language, translators are called in. However, this right has hardly ever been made use of in the courts of *Land* Brandenburg. In the Sorbian settlement area of the Free State of Saxony, all courts have bilingual signs. In addition, the Saxon Higher Administrative Court also uses German-Sorbian letterhead stationery. In every court in the Sorbian settlement area of the Free State of Saxony, at least one staff member has a command of the Sorbian language so that citizens can also state their case in Sorbian. This right is actually being made use of.

**B.11 Article 11**

(1) The Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

(2) The Parties undertake to recognize that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

(3) In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

**B.11.1 Article 11 (1)**

**(Obligation to recognize the right to use personal names in the minority language)**

11001 In Germany, **changes of first names and surnames on principle are admissible** if an **important reason** warrants the requested change. The conditions and procedure are laid down in the Act on Changes of Surnames and First Names of 5 January 1938, amended last by the Act of 16 December 1997 (Federal Law Gazette I 1997, p. 2942). Irrespective of those provisions, the Federal Republic of Germany has granted members of national minorities the right to use their names in the minority language.

11002 In order to meet the obligations flowing from Article 11 (1) of the Framework Convention, the **Act on Name Changes by Minorities** (*MindNamÄndG*) of 22 July 1997 was passed on the basis of provisions in the Act ratifying the Framework Convention (Federal Law Gazette II 1997, p. 1406).

11003 The **members of national minorities** and of other ethnic groups traditionally resident in Germany to whom the Framework Convention and the German law governing names apply, **may assume the minority-language version of their names by making a**

**pertinent declaration before the Civil Registry Office.** With the 13<sup>th</sup> General Regulatory Order Amending the General Regulatory Order to Implement the Act on Civil Status (“Standing Instructions for Registrars and Their Supervisory Authorities with regard to the Act on Civil Status”) of 2 June 1998 (Supplement to the *Bundesanzeiger*, no. 107), which entered into force on 1 July 1998, account was taken of the Framework Convention by including the provisions of the Act in Section 381 a of the Standing Instructions for Registrars and having them applied in civil registry office practice. Adaptation of a name may be effected by translation of the name into a minority language if the name also denotes a specific term and thus is translatable from one language into another. If the name cannot be translated, it may be adapted to the phonetic particularities of the given minority language. Members of national minorities whose former names in the respective minority language were given a German form or were changed to some other name, may again assume those original names. A pertinent declaration before the Registrar suffices for adapting a name to the special features of the given minority language.

11004 The Standing Instructions for Registrars and Their Supervisory Authorities take account of the orthographic particularities of the names of members of national minorities by providing that the diacritics (graphic accents, hooks, etc.) in names or other words shall be retained unchanged. The change of a person's surname at birth will affect the married name of the person making such declaration only if the spouse also makes such a name-change declaration before the Registrar. Extension of such name changes to the children of the person making the declaration or of their spouses is governed by the provisions of the Civil Code of the Federal Republic of Germany.

11005 Section 3 of the Act on Name Changes by Minorities provides that no fees shall be charged for acceptance of a declaration to this effect and for its certification or judicial recording.

11006. The number of persons making use of the right to have their names changed is not covered by the statistics of the Civil Registry Offices. There are no provisions laying down any general obligation of Civil Registry Offices to report such information to any registry supervisory bodies.

**B.11.2 Article 11 (2)****(The right to display, in the minority language, signs, inscriptions and other information of a private nature)**

11007 In Germany, the right, stipulated in Article 11 (2), to display - visible to the public and in one's own minority language - signs, markings and inscriptions and other information of a private nature is guaranteed in particular by Article 2 (1) of the Basic Law.

11008 Article 25 (3) of the Constitution of *Land* Brandenburg guarantees the right of the Sorbs/Wends to preserve the Sorbian language and culture in public life. This also covers the right to display signs, markings and inscriptions and other information of a private nature in a form visible to the public. This right is limited only by the pertinent legal provisions applying to all public notices; distinction founded on the language used is not allowed.

11009 The Danish minority, the Sorbian people and the Frisian ethnic group make intensive use of this right. The German Sinti and Roma who regard Romany solely as the language of the members of this minority usually do not set any store by public markings and inscriptions in the Romany language.

**B.11.3 Article 11 (3)****(Obligation to endeavour to display topographical indications also in the minority language when there is a sufficient demand)****B.11.3.1 Extent of the obligation to provide bilingual topographical indications**

11010 The regulation regarding provision of topographical markings also in the minority language applies to areas inhabited traditionally by substantial numbers of members of a national minority. This clause only imposes the obligation on public authorities *to endeavour* to achieve this objective, and in this respect, additional conditions must be met as well.

**B.11.3.1.1 Status as regards provision of bilingual topographical indications in the Sorbian settlement area in the *Länder* of Brandenburg and Saxony**

11011 In the Sorbian settlement area, bilingual signs must be provided for places, towns, districts, etc., and public buildings, institutions, streets, lanes and roads, squares and bridges. This is laid down, as a directory provision, in Section 10 of the Act on the Sorbs'

Rights in the Free State of Saxony and, as a peremptory provision, in Section 11 of the Act to regulate the substance of the Sorbs' (Wends') rights in the Land of Brandenburg.

11012 The **requirement for bilingual inscriptions**, as laid down in **Section 11 of the Brandenburg Sorbs Act**, also covers the arrangement, design and posting of **traffic signs/road signs** pursuant to the German Road Traffic Regulations. Where local authorities, as public construction agencies, are responsible for putting up traffic signs/road signs, such responsibility refers to Sign 432 (indicating direction to destinations within built-up areas and to locations of considerable traffic importance) and to Sign 437 (indicating road or street names) as defined in the German Road Traffic Regulations.

11013 The Ministry of Urban Planning, Housing and Transport published a Ministerial Order on Bilingual Traffic Signs/Road Signs in the Traditional Settlement Area of the Sorbs, of 1 March 1999 (Brandenburg Official Gazette, p. 284); implementing the relevant provisions of Federal and *Land* legislation, this Order regulates bilingual signposting in the Sorbs' traditional settlement area. Since 1999 the Order has been amended several times with the help of the *Sorbenrat*, a body representing the Sorbs' interests. The current version was adopted on 29 October 2008 by the Ministry of Infrastructure and Regional Planning in consultation with the *Sorbenrat*. A survey conducted by subordinate road traffic authorities in October 2002 on the implementation of the Ministerial Order showed that the **requirements** stipulated in the Order **had, for the major part, been met**. In those cases where **replacement** of the signs was considered **disproportionate** (because they had been put up only shortly before the issue of the Order, and additional marking with Sorbian-language stickers was not feasible), the road construction authorities **promised** to provide **bilingual inscriptions** as soon as the respective signs were replaced.

11014 Also, the majority of the **local authorities** and districts of the Sorbian settlement area included, in **their Main Municipal Ordinances**, the obligation to provide bilingual signs for public buildings, institutions, streets, lanes and roads, squares and bridges. In view of the current budget situation, this commitment is implemented gradually, i.e. bilingual signs are put up for new streets or when streets are renamed, or bilingual inscriptions are provided on signs that have to be replaced.

11015 Thus, Section 6 (2) of the Main Municipal Ordinance of Cottbus Municipality lays down that bilingual German-Sorbian signs shall be provided for public buildings and establishments, as well as for streets, lanes and roads, squares and, if named, bridges. So far, around 50 to 60 per cent of the signs for streets and squares in Cottbus are bilingual; most of the buildings of the municipal administration are also marked with bilingual signs. The Main Municipal Ordinances of all local authorities which are part of Burg/Spreewald

include acknowledgement of their being part of the Sorbs' traditional settlement area, and provisions on gradual bilingual signposting for public buildings and establishments, streets, lanes and roads, and bridges. This requirement has been met for public buildings, and provision - to be phased according to the current budgetary situation - of bilingual street nameplates in the local communities has been started. The Main Municipal Ordinance of the town of Drebkau stipulates bilingual signposting for public buildings and establishments. It is planned to provide such signs gradually, depending on the need for replacement/repair. A district council decision requires the district of Spree-Neisse to provide bilingual signs for all district roads in the Sorbs' traditional settlement area, with due regard to economic efficiency, i.e. at the time of replacement of the road signs concerned. If a sign is damaged and therefore must be replaced, a bilingual sign must be put up at once.

11016 According to Section 3 (2) of the Act on the Specification of the Rights of the Sorbs (Wends), a municipality belongs to the traditional settlement area of the Sorbian people, to which the obligation to introduce bilingual signposting pursuant to Section 11 of the Brandenburg Sorbs/Wends Act applies, if both features mentioned in this Act apply to them, i.e. if it can be proven that a linguistic and cultural Sorbian tradition exists in this area.

11017 In response to the Advisory Committee's criticism expressed in nos. 99, 105, 107 and 108 of the Second Opinion that only limited progress had been made with the introduction of bilingual signs in areas where the Sorbian language is spoken, and especially in the *Land* of Brandenburg and that there remain differences of opinion between the authorities and the representatives of the Sorbian minority over the attachment of certain municipalities in Brandenburg to areas where the Sorbian language is spoken, Brandenburg clarified in Germany's reply that the minority's desire to change the statutory settlement area so that it is no longer necessary to fulfil both requirements (linguistic and cultural tradition) will not be successful since language and culture are linked with each other and cannot be considered as two separate entities.

11018 Furthermore, Brandenburg again asked for forbearance for being unable to introduce bilingual signposting simultaneously in all places. Signposts are successively replaced, once they have been damaged or become too old or if new signposts are necessary because of territorial reforms, which means that in the course of a couple of years all signs will have been replaced.

11019 The following developments in bilingual signposting since the Second State Report should be underlined:

The district of Spree-Neisse informs that nearly 75% of all traffic signs and approximately 95% of all place-name signs in the traditional Sorbian (Wendish) settlement area of the district are now bilingual. Approximately 90% of administrative buildings have been provided with bilingual signs. It is not possible to give the exact figures for public squares and buildings, however some catching-up is required in this area. The city of Cottbus declares that bilingual signposting of place names has been completed and that more than 60% of the signs of public roads and squares are bilingual. Most public buildings have bilingual signs, however exact figures or reliable estimates are not available.

11020 It is not possible to give an exact date for the completion of the measure.

#### **B.11.3.1.2 Status as regards provision of bilingual topographical indications in the Frisian settlement area in Schleswig-Holstein**

11021 In addition to a number of other positive consequences, the previously mentioned Frisian Act of 13 December 2004 welcomed by the Advisory Committee in no. 106 of its Second Opinion was an important step to introduce more bilingual inscriptions of *Land* authorities (e.g. the Local Courts of Husum and Niebüll, offices of the police, the water police and the criminal police, the Land Registry Office of Nordfriesland, the Revenue Office of Nordfriesland in Leck and Husum, the Forest Office of Nordfriesland, and Maintenance Depots in Leck and Bredstedt) and for the increasing number of municipalities in the district of Nordfriesland using bilingual place-name signs. (In Section 6 the Frisian Act specifically refers to the provision of Section 46 (2) of the German Road Traffic Regulations (StVO) on the possibility of multilingual place-name signs.)

11022 Furthermore, also on the basis of a decree of the Ministry of Science, Economics and Transport of 11 June 2007, it is possible to put up multilingual place-name signs including the place name in the official, as well as in the Frisian language at the request of municipalities. This decree updated a special provision adopted in 1997 for the Frisian ethnic group and extended it to include all regional and minority languages.

By 31 January 2007 a total of 14 municipalities had bilingual signposts: Borgsum (Föhr), Bredstedt, Dagebüll, Kampen (Sylt), Midlum (Föhr), Nebel (Amrum), Niebüll, Norddorf (Amrum), Oldsum (Föhr), Rantum (Sylt), Risum-Lindholm, Süderende (Föhr), Utersum (Föhr) and Westerland (Sylt). Other municipalities are considering this measure.

11023 Furthermore, with financial support provided by the Federal Government (Federal Government Commissioner for Culture and the Media) and Land Schleswig-Holstein

(regional transport company SH – LVS), bilingual railway station signs were posted along the much frequented Husum - Westerland railway route (at the stations of Westerland, Keitum, Morsum, Klanxbüll, Niebüll, Bredstedt, Husum) together with information boards on the Frisian people and their language. Along the route from Niebüll to Dagebüll Mole the stations of Niebüll NEG, Deezbüll, Maasbüll, Dagebüll Kirche und Dagebüll Mole received bilingual railway station signs.

#### **B.11.3.1.3 Status as regards provision of bilingual topographical indications in the Danish settlement area in Schleswig-Holstein**

11024 A decree issued by the Ministry of Science, Economics and Transport on 11 June 2007 created the basis for multilingual place-name signs in Schleswig-Holstein. This decree extended a special provision adopted in 1997 for the Frisian language area to include all regional and minority languages. Thus, it has become possible to express throughout Schleswig-Holstein an enhanced sense of cultural identity with the help of place-name signs. This decision is taken by the local authorities concerned, which also bear the relevant costs. This has led to a change of ideas among the Danish minority with regard to bilingual place-name signs in their settlement area. For this reason, at the initiative of the parliamentary group of the SSW, the city of Flensburg put up bilingual place-name signs in 2008 (Flensburg/Flensburg).

11025 The Danish minority is making an effort to increase the number of public signs at Danish institutions in the settlement area and to introduce the bilingual signposting of trails and cycle paths. To this end, they also receive state support.

#### **B.11.3.1.4 Status as regards provision of bilingual topographical indications in the settlement area of the Saterland Frisians in Lower Saxony**

11026 The Second Act to Implement the European Charter for Regional or Minority Languages, which entered into force on 19 September 2002, guarantees the use or introduction of the traditional and correct forms of **place-names**. Adequate signposting was provided in Saterland.

**B.11.3.1.5 No bilingual topographical indications in the Romany language**

11027 Traditional place-names etc. in the Romany language are not known in Germany so that the implementation of this requirement is not an issue as regards Romany.

**B.12 Article 12**

**(1) The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.**

**(2) In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.**

**(3) The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.**

**B.12.1 Article 12 (1)**

**(Measures in the fields of education and research to foster knowledge of the languages etc. of national minorities)**

**B.12.1.1 Responsibilities as regards fostering of knowledge *inter alia* about national minorities**

12001 Under the federal structure of the Federal Republic of Germany, compliance with this provision is ensured by the *Bund* and the *Länder*. Within the educational system of the *Länder*, promoting the knowledge of the culture, history, languages and religion of the respective minorities/language groups as well as of the majority population is part of the curricula of publicly maintained and private schools.

12002 However, an important role in imparting knowledge of the culture of the national minorities and protected ethnic groups, in and outside schools, is also played by the state institutions for civic education, i.e. the Federal Agency and the *Land* Agencies for Civic Education. The materials compiled by these agencies with regard to issues of the co-existence of the various cultures represented in Germany are used as instruction material both in schools and in adult education (on this point and with regard to the educational mandate of schools, cf. the comments on Article 6, nos. 06022 – 06047a above).

**B.12.1.2 Measures in the field of (school and adult) education to foster knowledge about national minorities**

**B.12.1.2.1 Legal bases as regards education concerning knowledge *inter alia* about national minorities**

12003 A provision implementing the educational mandate stipulated under para. 1 of the *Convention* is to be found, for instance, in Section 2 of the **Schools Act of Lower Saxony**, according to which pupils are to be enabled to “develop and expand their faculty of perception, their sensitivity and their ability of expressing themselves, with the inclusion of the major regional variants of Low German and of Frisian ...”; in Section 4 of the **Brandenburg Schools Act** which provides that the pupils' ability and readiness shall be enhanced to understand their own culture as well as other cultures, with particular reference to the Sorbian (Wendish) culture; and in Section 2 of the **Saxon Schools Act**, under which all schools in the Free State of Saxony shall impart basic knowledge of the history and culture of the Sorbs. In this context, it must be noted that, as part of school education, knowledge of the culture and language of these minorities in Germany is passed on to a much greater extent in the respective traditional settlement areas than in other parts of the national territory. It is especially in the schools of the protected groups (private schools of the Danish minority and publicly maintained schools for the Sorbian people) - cf. our comments on Article 13 below - that classroom instruction deals with the language, literature, culture, traditions and folklore, and history of the respective group in a particularly intensive way.

12004 In response to the Advisory Committee's recommendation included in no. 113 of the Second Opinion entitled “**Multicultural curricula**” that the authorities should continue in their efforts to extend the multicultural and multi-ethnic content of school curricula, even in areas outside those traditionally inhabited by national minorities, the *Länder* insisted that knowledge of a specific minority culture must be passed on to a much greater extent in the settlement areas of the national minorities concerned than in the remaining parts of the national territory.

12005 However, they have also adopted the position of *Land Baden-Württemberg*, which in Germany's response to the recommendations stated:

“Today, teaching is not so much dominated by content, but by competences. For this reason, the curriculum's content is not so strictly defined as it used to be. Individual issues or content are not explicitly mentioned in the definition of competences, even though they serve as the basis for school lessons.

12006 Of course, national minorities are a basic issue also in the new curricula. This applies to all types of school and subjects such as Religious Education, History, Social Sciences, German and foreign languages. As part of these competences, respect, tolerance and empathy for national minorities are defined and the understanding for the co-existence of different cultures is promoted – already from primary school onwards. Furthermore, examples from the history of the persecution of minorities and the life of different groups of society are envisaged.”

#### **B.12.1.2.2 Measures in the field of education with regard to the various national minorities and ethnic groups**

##### **B.12.1.2.2.1 Measures in the field of education with regard to the German Sinti and Roma**

12007 Taking into account the Advisory Committee’s recommendations in nos. 115 and 117 of its Second Opinion that there should be more extensive instruction concerning the history and culture of (German) Sinti and Roma under the school syllabi and teacher training programmes, and noting the recommendation in no. 118 of this Opinion that the dissemination of information on the Holocaust of Roma/Sinti to the general public should continue to be systematically supported and in view of Germany’s response to these recommendation, the measures in the field of education with regard to the German Sinti and Roma are seen as follows:

12008 On account of the historical events during the Nazi regime, the history and the culture of the German Sinti and Roma, who live dispersed in almost all parts of the Federal Republic, are included in school education throughout the Federal Republic.

12009 In **Baden-Württemberg**, but also in other federal *Länder*, the schools’ task is to teach young people the events of the Third Reich and raise their awareness for the extent of terror in connection with persecution, Holocaust and genocide under the premise that this must never again happen.

Baden-Württemberg, for example, pursues the following approach in the curricula of secondary schools:

- In secondary modern schools (*Hauptschule*), it is possible to address the history of Sinti and Roma in the context of the persecution of dissidents and minorities by the Nazi regime when discussing the issue of power and dominance as part of the subject “World – Time – Society” (*Welt-Zeit-Gesellschaft*) taught in grade 9.

- In specialized secondary technical schools (*Werkrealschule*), the curriculum for grade 10 also offers this possibility in the context of “relations with minorities in different societies”.
- In secondary technical schools (*Realschule*), history lessons specifically address Sinti and Roma as part of the topic on the creation of states and their power structures (particularly Germany under Nazi dictatorship) in grades 5 to 10 in the context of the term “persecution of minorities”. Furthermore, to improve children’s musical skills it is possible to study Sinti and Roma culture in music lessons in secondary technical schools.
- History taught in grammar schools (*Gymnasium*) in grade 9 and 10 can include the persecution of Sinti and Roma as part of lessons dealing with the Weimar Republic and the Nazi regime.
- At seminar level, the genocide of Sinti and Roma is an obligatory subject when studying “Germany between democracy and dictatorship”.

12010 Regardless of the inclusion of the culture and history of German Sinti and Roma in school curricula, the Ministry of Education and Cultural Affairs and the *Land* Association of German Sinti and Roma of Baden-Württemberg agreed on the following measures already mentioned in the Second State Report:

- Setting up a working group on Sinti and Roma in Germany at the *Land* Institute for Education and Instruction in Stuttgart to cooperate with the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg, which brings together teachers and educators, representatives of the “Union of German Sinti and Roma - Baden-Württemberg *Land* Association” and of the Documentation and Cultural Centre. The working group is to give new impulses for the inclusion, in classroom instruction, of the history, culture, and suffering of German Sinti and Roma. In particular, material on this issue for teacher follow-up training including comprehensive teaching material was published.
- Inclusion of the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg in the number of non-school educational institutions for school trips designed to provide information on the culture of the German Sinti and Roma minority and their historical fate.

12011 **In Bavaria**, the new curricula for all types of schools place greater emphasis than before on intercultural education. Within this framework, the language, culture, history and religion of German Sinti and Roma will also be covered. Taking into account the Advisory Committee’s comment in no. 115 of its Second Opinion that providing information on the culture and history of German Sinti and Roma should be improved, it must be pointed out – as was already done in Germany’s comments on these findings – that numerous aspects

of the history and culture of Sinti and Roma are part of the curricula of all Bavarian schools.

The following examples illustrate this fact:

*Hauptschule* (secondary modern school):

Intercultural education is part of multidisciplinary teaching and educational tasks: Pupils from different cultures and backgrounds and different mother tongues attend school. They learn to perceive differences without considering them a threat and to recognize diversity as a chance for their mutual benefit. By developing the skill to deal with differences a process of life-long learning is set in motion, which reduces hostilities and enables positive co-existence. In grade 6 of Protestant Religious Education there is one curriculum item entitled "Meeting foreigners - being foreign". This item concentrates, among others, on the experience of foreignness (experience of pupils with aspects of foreignness – experience of pupils with being foreign, response to foreignness) and the way they treat foreigners and foreignness (getting to know the context of foreigners/minorities living in the area, e.g. the fate of refugees or displaced persons, possibly the background in their home countries, Sinti and Roma). In grade 8, the curriculum of History/Social Studies/Geography includes the issue "Democracy and Nazi Dictatorship". The oppression, the deprivation of rights and the murder of Sinti and Roma are specifically dealt with under this item. In grade 10, the subject History/Social Studies/Geography concentrates on conflict, consensus and the protection of minorities.

*Realschule* (secondary technical school):

As part of the studies on totalitarian regimes, the Second World War and its consequences, the genocide of Sinti and Roma is addressed in grade 9 in History. When studying the examples from history and the present (e.g. by interviewing witnesses to the events) pupils become aware not only of the suffering of people, when human rights are ignored, but also of the importance of respecting different cultures.

*Gymnasium* (grammar school):

Intercultural education is also an established part of grammar school curricula and is taught in Catholic and Protestant Religious Education as well as in History, Social Studies and foreign languages. In History, the status of minorities is addressed already as part of life in the feudal society of the 15<sup>th</sup> to 18<sup>th</sup> century. However, also the issue of the persecution and deprivation of the rights of Jews and other groups play an important role in grade 9.

12013 The persecution and murdering of Sinti and Roma continue to be subjects regularly covered by the activities referring to memorial sites in Bavaria. Study trips are organized, for schools of all types, to the KZ memorial sites and to regional concentration camps and KZ workcamps. The Union of German Sinti and Roma (Bavaria *Land* Association) is invited to take part in the development of specific models for visits by school children to these memorial sites. In Bavaria, the *Land* Association of Sinti and Roma has a seat on the board of trustees of the foundation *Stiftung Bayerische Gedenkstätten* (Bavarian memorial sites), which was set up on 1 June 2003.

12014 Within the Senate Department for Education, Science and Research of the *Land* of **Berlin**, staff members from both the schools and youth services sectors deal with the current situation of Sinti and Roma. The current Framework Curricula for Education and Instruction at the Berlin schools for the subjects History and Political Science include, of course, the Sinti and Roma in the treatment and discussion of the Nazi ideology and of its enforcement by means of persecution and extermination. The Berlin schools also avail themselves of the opportunity to invite Sinti and Roma as external speakers/lecturers. The media forum of the Senate Department for Education, Science and Research provides teachers in Berlin with audio-visual media and print media on this topic.

12015 Since 1990 the Berlin/Brandenburg *Land* Association of German Sinti and Roma has maintained a social services/youth work Counselling Bureau. The staff members of this Bureau are Sinti. Its main tasks are social counselling and general assistance with the enforcement of indemnification claims of victims of the Nazi regime who are members of this national minority. In addition, awareness-raising activities forming part of school and out-of-school youth education as well as adult education, or presented at public events, are carried out with the aim of providing basic information about Sinti and Roma in order to reduce misconceptions and prejudices.

12016 In **Hamburg**, aspects of the history and culture of German Sinti and Roma have been integrated into the framework curricula for Social Studies in grade 9/10 (at secondary modern and secondary technical schools as well as comprehensive schools). In Political Sciences/Social Studies/Business Studies (grammar school, grades 8 to 10) pupils acquire knowledge about German Sinti and Roma as part of the item on "Minorities"; in History these aspects are intensified in grades 9 and 10 in the context of the Nazi extermination policy ("Porajmos").

12017 In Hamburg the public information offer on the history and identity of the German Sinti and Roma minority within the framework of civic education was increased already

during the Second State Report's monitoring cycle. Furthermore, the Adult Education Centre usually organizes a course on the situation of Roma and Sinti.

12018 In **Hesse**, school education includes the history and culture of the Sinti and Roma, as provided under the framework curricula for schools. On behalf of the Hessian Ministry of Education and Cultural Affairs and in cooperation with Fritz-Bauer-Institut, the Hessian Land Institute for Pædagogics has developed pertinent educational materials. In 1998, the Hessian Ministry of Education established the Pädagogisches Büro Nationale Minderheiten: Sinti und Roma (Educational Bureau for National Minorities: Sinti and Roma) and integrated it within the Hessian Land Institute for Pædagogics. A priority element of the mandate therefore is follow-up training of the teachers of Hessian schools with regard to the history and culture of the Sinti and Roma, both in a narrower and broader sense. However, in addition to its responsibilities within the Hessian Land Institute for Pædagogics, the Educational Bureau was assigned an additional task by the Hessian Ministry of Education and Cultural Affairs, namely implementation of this matter at the university level and in society at large.

12019 Against this background, the Educational Bureau, under the auspices of the Hessian *Land* Institute for Pædagogics, carried out the following activities during the period under review:

- Advisory services for classroom instruction projects of various schools
- Distribution of teaching materials:
  - Teacher guidance material "Sinti and Roma in Films", ed. by Charlotte Bernard and Marlis Sewering-Wollanek; *Pädagogisches Büro nationale Minderheiten: Sinti und Roma / Hessisches Landesinstitut für Pädagogik*. Wiesbaden 2001. (= Materials for Classroom Instruction, 135A),
  - Various hand-outs for school classes,
- In 2006 and 2008 participation of a group of pupils of Marburg grammar schools in the ceremonies on the occasion of the Memorial Day commemorating the deportation of Marburg Sinti.

12020 In the context of the task to raise public awareness for matters related to Sinti and Roma, *Land Hesse* points out that remembering the events and disseminating information on Nazi crimes still are a top priority of the *Land's* civic education activities and that for this reason it provides assistance for relevant activities of the *Land* association. A book entitled "*Flucht – Internierung – Deportation – Vernichtung*" (Flight, Internment, Deportation, Extermination) published in 2006 by the *Land* Association of German Sinti and Roma and promoted by Hesse particularly serves this purpose.

12021 Furthermore, during the period under review the following services were provided in Hesse to raise public awareness:

- Presentations addressed to different institutions and target groups,
- Film presentations,
- Publications.

Furthermore, some schools in Hesse seized the opportunity in 2008 to present the exhibition prepared by the *Land* Association of Sinti and Roma entitled “*Hornhaut auf der Seele*” (“Callus forming on the soul”) and in this context provided further teacher training on this issue. Occasionally, this exhibition is also open to the public and is accompanied by information events of other local educational institutions.

12022 The culture and history of Sinti and Roma are not explicitly included in any curriculum in **Lower Saxony**. The main educational concept for the acquisition of competences is based on the idea that students should be able to identify the characteristics of national minorities and deal with them in a responsible manner in accordance with ethical principles. For this reason they must learn about the history and culture of a national minority. It is up to the schools to decide which national minority to choose for acquiring these competences so that the history and culture of Sinti and Roma may be part of lessons in History, Political Sciences, Geography, German, Religious Education or in Music or Cultural Studies.

In the new competence-based core curricula of History at secondary modern and secondary technical schools knowledge about the measures taken by Nazis to discriminate against and persecute Jews, political opponents and other minorities and the preparation and execution of the genocide is required under the item “Nazi dictatorship in Germany”.

12023 The memorial site of Bergen-Belsen and the *Stiftung niedersächsische Gedenkstätten* (Lower Saxon Memorial Sites Foundation) have been cooperating with the Lower Saxon Association of German Sinti and with the Documentation and Cultural Centre of German Sinti and Roma/ Central Council of German Sinti and Roma for many years. Sinti and Roma are also represented in the various bodies of the foundation. As part of the work of the Lower Saxon Memorial Sites Foundation, the history of the persecution of Sinti and Roma during the Nazi period has been a permanent issue. The foundation holds meetings on this subject and carries out research on the fate suffered by the Sinti and Roma in the concentration camp of Bergen-Belsen. From 13 September to 13 November 2005, the memorial site of Bergen-Belsen presented the special exhibition “*Aus Niedersachsen nach Auschwitz. Die Verfolgung der Sinti und Roma in der NS-Zeit*” (“From Lower Saxony to Auschwitz. The persecution of Sinti and Roma during the Nazi regime”)

prepared by the Lower Saxon Association of German Sinti, which also raised the issue of continued discrimination. Additionally, the memorial site organized a comprehensive framework programme (film presentations, guided tours of the exhibition). In a joint commemorative event at the memorial site of Bergen-Belsen in March 2006, the Lower Saxon *Land* Government, the Memorial Sites Foundation and the North German Associations of Sinti and Roma recalled the persecution of Sinti and Roma by the Nazis and its consequences, which are still visible today. Since October 2007 the memorial site's new permanent exhibition has been presenting the specific collective persecution of Sinti and Roma in a more comprehensive way than in the past, both in general terms, but also with a focus on Bergen-Belsen. The type and scope of the presentation, which is currently being revised, are consistent with the presentations of other persecuted groups, such as Jews or political opponents. Video clips of interviews with Sinti and Roma can be watched in several chapters of the general exhibition. Within the framework of a video interview project, ten interviews were conducted with Sinti and Roma who had been imprisoned in the concentration camp of Bergen-Belsen. The memorial site's educational section is currently preparing a DVD on the history of Sinti and Roma persecution, which can be used both in schools and for the educational work of the memorial site. The project cooperates with the *Land* Association and the "*Verein für Geschichte und Leben der Sinti und Roma*" (Association for the History and the Life of Sinti and Roma").

12024 In **North-Rhine/Westphalia** there are educational offers on the history and culture of Sinti and Roma. The persecution and extermination of minorities and the consequences of racial ideologies are part of History lessons on the time of the Nazi regime. The work of memorial sites also contributes to enhancing pupils' knowledge of the history and culture of Sinti and Roma. As many as 120 schools in North-Rhine/Westphalia have joined the network "Schools without Racism – Schools with Courage". These schools have committed themselves to facing up to discrimination in everyday life and to conducting a project day once a year.

12025 In the schools of **Rhineland-Palatinate** the history and culture of German Sinti and Roma and Nazi persecution in particular are part of the Social Sciences curricula. Nazi persecution is studied in grade 9 of secondary modern schools (*Hauptschule*) and in grade 10 in secondary technical schools (*Realschule*) and grammar schools (*Gymnasium*) in the context of the Nazi regime together with the issues "Consolidation of power through Gleichschaltung and persecution" and "Racial ideology and its implementation".

12026 In **Schleswig-Holstein** the Nazi regime, the persecution of the Jews and the Holocaust, racism and anti-Semitism are part of the History curricula of the lower secondary grades (in grade 9) and the higher secondary grades (grade 12). Teachers can

also take the persecution of Sinti and Roma as one example to explain the Holocaust. Furthermore, studying the culture and history of minorities is considered an interdisciplinary item of all subjects of the curriculum. Specific material on “Intercultural learning in school curricula” has been developed, in which teachers of all school types can find ideas on how to acknowledge and respect the diversity of members of different cultures to promote peaceful co-existence. This material provides ideas on how to learn more about cultural, religious and ethnic backgrounds and relationships and the conditions of co-existence in cultural diversity, e.g.

- the essential characteristics and developments of one's own and other cultures,
- common features and differences of cultures and the way they mutually influence each other,
- universal human rights and the cultural environment as a determinant of human rights,
- the development and significance of prejudices,
- the causes of racism and xenophobia,
- the reasons and consequences of natural, economic, social and demographic differences,
- the causes and effects of migratory movements in the present and the past,
- international efforts to settle religious, ethnic and political conflicts,
- the possibilities for the living together of minorities and majorities in a multicultural society.

#### **B.12.1.2.2.2 Measures in the field of education with regard to the Sorbian people**

12027 Passing the cultural heritage on to upcoming generations is still seen by the **Brandenburg Land** Government as a basic condition for the survival of the national culture of the Sorbian or any other people. This requires, first of all, achievement of active and passive command of the given language. Accordingly, the *Land* Government aims, to the extent possible, at promoting achievement of Sorbian language proficiency in the field of public education.

In addition, however, the aim must be to initiate the upcoming generations into their people's history and traditions, to promote identification with one's own roots, and to foster readiness to take an active part in forms of, and activities related to, cultural expression. In some areas, such participation is to be achieved without any public intervention or support; there is a great interest, in particular, in cultivating Sorbian customs and folklore, and this in turn opens up a wide field for potential active participation.

Another important aim is to get children and adolescents interested in familiarizing themselves with Sorbian culture, to foster their readiness to accept the cultural specificity of their community environment, and to encourage them to experience Sorbian culture in its full diversity. These aims will have to be achieved, in particular, by schools and children's day-care centres (cf. section 5 of the Brandenburg Schools Act (*BbgSchulG*); Section 3 (2) (5) of the Children's Day-Care Centres Act (*KitaG*)).

12028 In addition to the efforts aimed at familiarizing children, preferably even preschoolers, in the Sorbs' traditional settlement area with the Sorbian (Wendish) language as a vehicle of cultural identity, related - specific and varied - possibilities are offered on a regional basis to children and youngsters for leisure-time activities involving the cultivation/preservation of the language and culture, including cultivation of customs.

12029 A wide range of activities aimed at cultivating/preserving the Sorbian language and culture are pursued in the districts of Dahme-Spreewald, Oberspreewald-Lausitz and Spree-Neisse and in the city of Cottbus. The regional association of *Domowina* in Lower Lusatia runs its own youth recreational centre in Cottbus. One staff position of this youth recreational centre is subsidized by the *Land* under the programme to subsidize the payroll costs incurred for qualified social education workers in youth and community work and in socio-educational work for young people. In Lübben a group of Sorbs/Wends has been set up trying to familiarize the public with the Sorbian/Wendish culture.

12030 In addition, the districts and Cottbus Municipality subsidize a large number of projects involving young people and mostly organized by youth initiatives, citizens' groups and clubs dedicated to the preservation of traditions, and/or local authorities.

12031 A report on the situation of the Sorbian people in the Free State of **Saxony** is submitted pursuant to Section 7 of the Saxon Sorbs Act by the Saxon State Government to the Saxon *Landtag* at least once per legislative period. The report is published for release to the general public. In May 2004, the second "Report on the situation of the Sorbian people" (editing deadline: 31 July 2003) was transmitted by the Saxon *Land* Government to the *Landtag*. Additional activities by the Saxon *Land* Agency for Civic Education include, for instance, the publication - in cooperation with the *Domowina* Publishing Company - of a "Short History of the Sorbs" appearing in the series of publications covering the history, geography and political system of the region. This publication closes with the following words: "The Sorbs' future lies in their bilingualism. Thus they will, on the one hand, face up to the economic needs and requirements and, on the other hand, preserve and further develop the Sorbian culture which has a rich tradition. This, in turn, fulfils an important function as a mediator between Germans and Slavs and

contributes towards understanding, friendship and good-neighbourly relations among peoples.”

#### **B.12.1.2.3 Overarching educational measures in Schleswig-Holstein referring to all of the national minorities or ethnic groups living in this *Land***

12032 Information about the respective culture of the Danish minority, of the ethnic group of Frisians and of the minority of German Sinti and Roma is provided by the Schleswig-Holstein *Land* Government especially in the above-mentioned Minority Report, which is published as a brochure.

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#### **B.12.1.2.4 Educational objectives of national minorities and ethnic groups**

12034 In response to the wish expressed by the national minorities and ethnic groups for a nation-wide overview of the four groups, the Federal Government published the aforementioned information brochures (cf. no. 0021 above).

#### **B.12.1.3 Measures in the field of research and tertiary education to foster knowledge about national minorities**

12035 In the field of research, several *Länder* of the Federal Republic of Germany established state-run research institutions with the pertinent terms of reference, or on a continuous basis support private research institutions of the minorities. On the subject of assistance measures, cf. the comments above on Article 5 (1), nos. 05001 - 05005.

12036 However, for the following reasons it is getting increasingly difficult to obtain information on individual national minorities in Germany as a subject of university research and teaching:

Universities in Germany develop in an environment characterized by state management, academic autonomy and market orientation. To this end, many federal *Länder* amended their laws on tertiary education in the past few years. Today, universities have a lot more freedom than in the past. This includes increased competition as an organizing principle, quality assurance through evaluation and accreditation and the conclusion of target agreements between the *Länder* and the universities. This process resulted in enhanced

autonomy instead of state regulation at universities. The federal *Länder* have thus clearly opted for the greatest possible degree of independence of universities from state requirements. This development has also been supported by the Bologna Process.

12037 The process of creating a single European area of higher education (**Bologna Process**) started as early as in 1997 with the Lisbon Agreement of the Council of Europe and UNESCO, which laid the legal basis for recognizing university studies in Europe. This agreement aims at recognizing degrees and qualifications in Europe on the basis of reciprocity. It was ratified by the German Bundestag on 16 May 2007. The Ministers of Education of 29 European countries met in Bologna in 1999 and adopted the “Bologna Declaration”, in which they committed themselves to the creation, by 2010, of a European area of higher education with the following objectives:

- Three-levels of university studies with bachelor, master and doctor’s degrees;
- Introducing study modules and the European Credit Transfer System (ECTS) to ensure mutual recognition;
- Accreditation to ensure quality and the mutual recognition of studies and exams, but also the mobility of students beyond national borders;
- Introduction of the diploma supplement explaining study contents and achievements.

12038 The Bologna Process has resulted in comprehensive changes for German universities. In particular, the reform affects the structure of university courses and contents, organizational processes in universities, administrative processes and decisions by the students. One of the biggest challenges is the introduction of bachelor and master courses and related developments such as modularization and the introduction of the credit system.

12039 In its amended version (1998) the Federal Higher Education Act already envisaged the introduction of graded university courses (**bachelor and master courses**) as a test. With the adoption of the sixth amendment to the Federal Higher Education Act of 2002, bachelor and master courses are now part of the regular offer. The Higher Education Acts of the *Länder* were or will be gradually adapted. Bachelor and master courses may be introduced both at universities and similar institutions of higher education and at polytechnics. During the accreditation process the feasibility of the study offer is examined.

12040 In the 2007/2008 winter semester, 61% of all study courses in Germany were offered as bachelor and master courses. The universities in Germany have made ample use of the new possibilities offered. A couple of years ago, they started to reorganize their

offer throughout the country. They now offer new bachelor, master and PhD programmes to improve the range of study courses. As a result, many M.A. and diploma courses were discontinued.

12041 After the *Länder* created the prerequisites for the universities' far-reaching autonomy on the basis of the Bologna Process, the universities are now called upon to use the freedom they have been given and to turn themselves into self-managing organizations.

12042 Given their static nature, the commitments undertaken by the *Länder* in higher education in accordance with the Framework Convention for the Protection of National Minorities increasingly tend to be out of step with the dynamic developments in the federally organized field of higher education in Germany. Nevertheless, it is the common objective to promote the development of structures strengthening minority languages despite the changed framework conditions. Taking account of the universities' autonomy, the aim is to pursue this objective also in the future within the framework of the reorganization of teacher training courses and when (re-)filling vacant professorial chairs. Independent of the federal approach, great care is taken to ensure that there is an appropriate offer in higher education to fulfil the commitments under the Framework Convention.

#### **B.12.1.3.1 Research activities with regard to the Danish minority**

12043 At Kiel University (CAU - *Christian-Albrechts-Universität*) there are two professorial chairs for Nordic philology, where Danish can be studied. One chair is specialized in Medieval Studies, the other in Modern Literature. At this university, Danish can be studied as part of Nordic/Scandinavian philology and as part of a teacher training course as a school subject taught in grammar schools.

Following the introduction of the bachelor/master system at Flensburg University, the Institute for Danish Language, Literature and Didactics offers the possibility of studying Danish as part of the polyvalent bachelor course "*Vermittlungswissenschaften*" (Teaching Sciences) intended to prepare students to teach at primary, secondary modern and secondary technical schools and special remedial schools. In this course Danish can be studied as one part of the degree. Furthermore, there are master courses for teaching at primary, secondary modern and secondary technical schools and special remedial schools. Flensburg University also offers Danish lessons in study courses organized in

cooperation with Danish universities. At Flensburg University there is a Commissioner for Minority Languages.

In addition, the *Dansk Centralbibliotek for Sydslesvig* (Central Library for South Schleswig) in Flensburg has a research unit which prepares scholarly articles/essays on the Danish minority. The general public in the German-Danish border region, and the Danish minority in particular, also make use of the research findings of Danish institutions, e.g. of Danish universities and especially of the *Institut für Grenzregionforschung* (Institute for Border Region Research) (which used to be in Aabenraa/Apenrade in Denmark, but recently moved its staff and facilities to Sonderburg University).

#### **B.12.1.3.2 Research activities with regard to the Sorbian people**

12044 The Sorabistics Institute of Leipzig University offers Sorbian Studies for the teaching profession or as a degree course in Sorbian philology. This includes both Upper Sorbian (in the Free State of Saxony) and Lower Sorbian (in *Land* Brandenburg). This is the only university institution in Germany for students training to become teachers for Upper and Lower Sorbian instruction at schools of all types, for students preparing for a M.A. degree with a major or minor in Sorbian, and since the 2006/2007 winter semester has been offering bachelor courses and as of the 2009/2010 winter semester will be offering master courses. Furthermore, it offers language courses for students of all faculties. The number of required subjects stipulated in the curricula and the required diversity of choices as regards courses of study in linguistics, study of literature, political and regional geography, subject-specific didactics, practical use of the Upper and/or Lower Sorbian language as a mother tongue, a secondary language or a foreign language, are offered by university staff with permanent posts or freelance staff with relevant teaching assignments. Such freelance staff provides courses in subject-specific didactics and Upper Sorbian.

12045 The staff of the Sorabistics Institute cannot cover the teaching requirements in the field of Cultural Studies, including history, cultural history, study of the material culture and customs, and minority issues. Therefore, staff members of *Sorbisches Institut e.V.* are employed as temporary lecturers.

12046 Within the framework of higher education funding a grade 4 professorship and all other posts at the Sorabistics Institute are provided by Saxony (State Ministry for Science and Culture) (with the exception of a part-time post for Lower Sorbian paid for by *Land* Brandenburg).

The majority of students enrolled at the Sorabistics Institute are Sorbs who, for the major part, are native speakers. Lower Sorbian students - whose number has dropped since the fall of the Wall in 1989 - enrol on the Institute's course of study without any native-speaker knowledge of Sorbian. There are also some ethnic Germans who complete a full course of study in Sorabistics.

12047 So far, the courses are generally held in Upper Sorbian and, on a limited scale, in Lower Sorbian. Since university textbooks and other teaching materials are commercially available only in rare cases, the Institute's faculty and guest lecturers themselves develop the relevant materials. In part, these are patterned on teaching materials developed for other Slavonic languages and based on treatises and publications on various fields of Sorabistics.

12048 In response to the Advisory Committee's comments in nos. 119 and 125 of its Second Opinion to take account of the concerns expressed by representatives of the Sorbian minority regarding centralisation of provision for further teacher training in Sorbian at the University of Leipzig and of the clear need for the University of Leipzig to provide adequate training in Lower Sorbian as well, the affected *Länder* of Brandenburg and Saxony pointed out in Germany's Comments on the Opinion that the assumption that the centralisation will reduce the quality of teacher training has not been proven by experience.

The Sorabistics Institute of Leipzig University has sufficient staff and resources to offer Sorbian studies (in Upper and Lower Sorbian). There are places for applicants focusing on Lower Sorbian. For all basic teacher training courses there are rules on courses and examinations. Furthermore, advanced teacher training in Upper and Lower Sorbian can be provided.

See no. 12101 for further teacher training in Upper Sorbian in the Free State of Saxony. As from the 2009/2010 winter semester, teachers from Brandenburg will receive teacher follow-up training in Saxony. Teachers who have already been trained to teach two subjects may receive an additional qualification in Sorbian at Leipzig University.

12049 After the marked decrease in the number of students enrolled at the Institute in the wake of the political change of 1989, a slightly rising tendency now emerges with regard to numbers. According to the official statistics of Leipzig University a total of 30 students were enrolled in the 2007/2008 winter semester.

One reason for the slight increase in the number of students may be the explanation given by the Saxon State Ministry of Education and Cultural Affairs mentioned in no. 120 of the Second Opinion that the recruitment of teachers for schools in the Free State of Saxony can be guaranteed, if the graduates of the Sorbian grammar school in Bautzen speak Sorbian as their mother tongue and have successfully completed teacher training (first and second state examination for teachers) in a combination of subjects required by the regional school office in Bautzen. This practice has been fully taken over by the now competent *Sächsische Bildungsagentur* (Saxon Education Agency).

12050 An increasing number of students are interested in obtaining one of the three scholarships covering a 10-month period (2 semesters) which, for the past six years, the Foundation for the Sorbian People has granted every year to East European students who are interested in following a partial course of study in Sorabistics at Leipzig University. The grant holders of previous years came from the Czech Republic, Poland, Russia, Ukraine, Serbia and Bulgaria. Also, scholarships for the duration of one or two semesters are occasionally granted (by *DAAD*, the German Academic Exchange Service, *ERASMUS* or *SOCRATES*) to foreign students, e.g. from the Czech Republic, the U.S.A., Canada, Japan.

12051 No specifically Sorbian-language courses or lectures are offered for any other fields of university study. This means that Sorbian university graduates - if their profession requires use of the Sorbian language or special knowledge of the history and present situation of the Sorbian people - will rely on the knowledge acquired at *Sorbisches Gymnasium* (Sorbian grammar school) or will acquire it by self-study. They can also take additional courses in Sorbian history and culture. These offers are open, in particular, to language multipliers such as teachers, journalists, clergymen, writers, actors and staff members of Sorbian institutions.

12052 In addition to providing Sorabistic Studies, the Sorabistics Institute at Leipzig University also pursues academic research. The focus of research in the past five years was on areas such as the history of the Sorbian language, the Sorbian language of the present, Sorbian literature, parallels between Sorbian and other Slavic literature and Sorbian didactics.

The Sorabistics Institute cooperates with a number of academic research and educational institutions and other institutions, such as the *Sorbisches Institut e.V.* (Sorbian Institute) in Bautzen, *Domowina-Verlag GmbH* (Domowina Publishing House) in Bautzen, *Sächsische Akademie der Wissenschaften* (Saxon Academy of Sciences), Warsaw University, Prague

University and several minority organizations and research institutions in Europe and worldwide.

In addition to the above-mentioned academic fields of Sorabistics including literature and Sorbian folklore in the broadest sense, further research into Sorbian affairs in other academic areas is required. This is particularly true for pedagogy, art, music, archaeology and museum studies. The few academic staff members working in other Sorbian institutions are unable to perform extensive research in these areas. The work of the *WITAJ* language centre is intended to overcome some of the deficits. This Saxon educational institute cooperates with the *Sorbischer Schulverein e.V.* (Sorbian Schools Association) to plan and implement new schemes for bilingual education.

12053 The *Sorbisches Institut e.V./ Serbski institut* (Sorbian Institute) set up as a non-university research institute in Bautzen together with a working unit in Cottbus in 1992 by the Free State of Saxony and *Land* Brandenburg is a centre of Sorbian national identity. Its responsibilities according to its statutes are research into and cultivation of the Sorbian language, history and culture and the collection and archiving of the required material. This also includes comparative studies on ethnic minority issues in Europe as well as minorities and minor languages in Europe. The institute is a registered association and receives institutional assistance by the Foundation for the Sorbian People on the basis of a business plan. The institute is actively involved in cultivating and developing the Sorbian language. This also includes language acquisition in kindergartens and schools. Its tradition as a non-university research institute goes back to the *Institut für sorbische Volksforschung* (Institute for Sorbian Ethnology) set up in 1951 and subordinate to the Academy of Sciences of the GDR in Berlin from 1952 to 1991. Thanks to its double strategy – on the one hand focusing on Sorabistics research, on the other on the practical impact on the Sorbian settlement area – the institute can interfere in the dialogue between academic research and society in manifold ways and act as an advisor. Linking basic research tasks with the cultivation and development of the Sorbian language and culture expected by the public is considered a permanent task by the institute. According to its establishment plan, the institute has 33 posts, 19 of which for academics working in the five sections of Cultural and Social History, Empirical Cultural Research/Ethnology, Linguistics, Library/Archive and Lower Sorbian Research (working unit in Cottbus). In 2007, it was possible to fund only 29 posts, 17 of which for academics, who used to have 22 posts. In addition to this, there are two posts for PhD students, and from 2007 to 2009 two project posts paid for by external funding. The institute submits a comprehensive annual activity report, which is available to the public.

12054 The Sorbian Institute also has at its disposal the *Sorbische Zentralbibliothek* (Sorbian Central Library) with some 90,000 volumes and the *Sorbisches Kulturarchiv* (Sorbian Cultural Archives) with about 500 running metres of records and files. The Sorbian Central Library was set up in February 1949, the archives nominally in 1956. Both the library and the Sorbian Cultural Archives go back to the collection of Maćica Serbska (see below). The two relatively independent parts of the institute perform internal and external service functions and are also open for public use. Every six months the periodical “Lětopis”, first published in 1952, is issued. It is the only complex academic periodical on research into the Sorbian language, Sorbian history and culture. Furthermore, the institute issues monographs and other publications, e.g. the *Schriften des Sorbischen Instituts* (Documents of the Sorbian Institute) with approximately three volumes a year. These publications are edited and distributed by *Domowina-Verlag GmbH* (Domowina Publishing House).

12055 Taking into account the demand and past achievements in Sorabistics in Saxony, the State Government does not intend to change its higher education and research policy in this area. Both the Sorabistics Institute at Leipzig University and the Sorbian Institute are special institutions and of major importance for the preservation of the identity of ethnic Sorbs and for the cultivation and development of the Sorbian language and culture.

### **B.12.1.3.3 Research activities with regard to the Frisians**

12056 Since 1950, Kiel University has had the *Nordfriesische Wörterbuchstelle* (North Frisian Dictionary Institute), and since 1978, the grade 3 professorial chair for Frisian philology.

12057 The North Frisian Dictionary Institute has regular contacts with the Frisian Academy of Leeuwarden, with *Mertens Instituut* of the Royal Netherlands Academy of Sciences, with the professorial chairs for Frisian in Groningen and Amsterdam University, and with *Nordfriisk Instituut* (North Frisian Institute) in Bredstedt (Germany).

Frisian philology and the North Frisian Dictionary Institute deal with linguistic and literary research of the Frisian language (study of dialects, grammar, lexicography, literature, sociolinguistics including the question of European linguistic minorities) and the documentation and study of North Frisian sources.

12058 *Friesisches Seminar* (Frisian Institute) of Flensburg University primarily provides training of teachers for employment with Schleswig-Holstein schools.

The two aforementioned institutions for Frisian training are maintained and/or co-funded by Schleswig-Holstein. The CAU in Kiel, Flensburg University and the NFI closely cooperate. As part of their cooperation, they organize an annual study day for students of Frisian of the universities of Kiel and Flensburg. Furthermore, these three institutions cooperate in a working group on Frisian in higher education. In 2006, this working group held a joint seminar on multilingualism in schools.

12059 As a central scholarly institution in Nordfriesland, the *Nordfriisk Instituut* (North Frisian Institute) in Bredstedt is of great importance to the cultivation and promotion of, and research on, the Frisian language, culture and history. In particular, its scholarly activities and publications cover the languages, history, and study of the geography and civilisation of Nordfriesland. The Institute has a specialized library and archives and offers seminars, courses, workshops and lectures. The Institute's providing body is the *Verein Nordfriesisches Institut*, with a membership of around 850, and its work is funded, in particular, by state and local authorities. It is an independent institute of Flensburg University.

12060

12061 Despite the tight budget situation of the *Land*, institutional funding for *Nordfriisk Instituut* (NFI) has slightly increased to currently € 217,000. Additionally, after consultation in the Frisian Council, funding for projects is provided by the *Land*. Since 1997, the *NFI* has been granted an additional annual amount of € 30,700 to compensate for the financial implications entailed by the so-called *Hochschulkompromiss*, a compromise reached in connection with the ongoing reform of higher education. Since 2000, also federal funds have been granted for projects of special importance, also after consultation with the Frisian Council. Until this day, a total of € 775,000 has been provided.

12062 Overall (Kiel and Flensburg Universities), the number of students studying Frisian has mostly remained unchanged over the past few years. The aggregate figures for both universities were: 2005/2006 winter semester: 43; 2006/2007 winter semester: 44; and 2007/2008 winter semester: 53 students. However, at Flensburg University the figure has continued to drop and now amounts to two students.

12063 Until the 2007 summer semester the University of Kiel offered Frisian philology both as a major and minor subject for the M.A. degree and doctor's degree.

Since the 2008/2009 winter semester there has been a master degree course on Frisian philology in Kiel (degree: Master of Arts). This master degree course is intended for an

academic career at the Frisian research institutions in Germany and the Netherlands and other activities in research and teaching. Kiel University offers Frisian as a complementary subject (24 hours/week per semester) or as an extension subject (with 64 hours/week per semester). In didactics, students may benefit from the teaching offers of the Nordic Institute. The University reported, however, that unfortunately the possibility of the extension subject is not made use of by the students.

12064 The introduction of bachelor courses (e.g. bachelor course in Frisian philology) has changed the structure of studies in Kiel. While the former study regulations required one major and two minor subjects, there are now two subjects only. In both subjects, students must achieve a certain number of credits. A thesis can be written in only one of the two subjects. Additionally, there are specialization areas (e.g. internships, events on media competences), in which students can earn approximately 30 credits. There is a broad offer of Frisian language courses among them. The expectation that the number of students studying Frisian would drop with only two subjects, because students would prefer more comprehensive subjects, so far has not turned out to be true; in November 2007, 51 students were enrolled in Frisian at Kiel University.

12065 For Frisian philology, Kiel University at present employs one grade C3 professor and one academic assistant as well as two other temporary lecturers. Since there are only two staff members for Frisian with a permanent post, some bottlenecks may occur. The following approaches have been developed to solve the problem:

- Some of the lectures will be given in a two-years cycle;
- As many offers on Frisian as possible will be provided as part of the specialization courses (bachelor classes will be attended both by students of the complementary subject and of the specialization courses);
- Classes in other subjects will be used.

Furthermore, the university tries to cooperate with Groningen University in the Netherlands to merge the master course in Frisian at least in part.

12066 - 12076

12077 Following the introduction of the bachelor/master system at Flensburg University, a bachelor course on Teaching Sciences was set up intended to prepare students to teach at primary, secondary modern and secondary technical schools and special remedial schools. As part of this course of studies, a requirement stipulated for admission to examinations in the subject "German" is proof of the successful completion of a course in Low German or Frisian. During the course students can choose other methodological

competences to study. Some of them are taught in the regional or minority languages. Also, in later stages of this course of studies, students may enrol for the subject “German philology” with Frisian as a core subject.

12078 For the 2008/2009 winter semester Flensburg University set up master courses for teaching at primary, secondary modern and secondary technical schools and special remedial schools. With regard to Frisian, it must be noted that teachers offering this subject may only be assigned to schools in a rather small region. In order to take into account the importance of this minority language, Flensburg University offers Frisian as a certificate course with the same number of classes as in the former complementary course.

12079 Teaching at Flensburg University is ensured by two honorary lecturers and by teaching assignments at present totalling ten hours per week per semester. One honorary lecturer offering four hours per week per semester is the Director of the NFI in Bredstedt, the other, also offering four hours per week per semester, is the chairperson of *Ferring Stiftung*, a foundation in Alkersum on the island of Föhr. The NFI receives a yearly payment to compensate for the resultant loss of scholarly work capacity.

12080 - 12083

12084 In addition, in order to promote the protection of regional and minority languages, all students training to become teachers for the subject “German” at schools providing general education shall, also in future, attend one course in Frisian or Low German. Further, it is intended to comply with the pertinent constitutional mandate in future by explicitly including Frisian in the detailed schedules for the subject “German”.

12085

12086 For research activities in respect of the Saterland Frisians, see section B.5.1.7.3.2, nos. 05092-05996 (Fields of support for the Frisian ethnic group), penultimate paragraph regarding research on the Saterland Frisian history, culture and language.

#### **B.12.1.3.4 Research activities with regard to the German Sinti and Roma**

12087 Research projects by outsiders on the language, history and culture of the German Sinti and Roma are still strictly rejected by the members of this minority. Such rejection is based on the experience with the pseudo-scientific race-related research

undertaken by the Nazis. While at that time the Sinti and Roma at first responded openly to scholars who researched their language and culture, and in many instances supported these researchers, they later had to realize that this research was used as an instrument for racist purposes and was followed by the Nazi genocide of the Sinti and Roma. Against the background of this experience, the organizations of the German Sinti and Roma take the view that the language and culture of the minority should not be a subject of research by non-Sinti or non-Roma. Therefore, the study of the history and culture of this minority is mainly carried out by the Documentation and Cultural Centre of German Sinti and Roma which is under the minority's own administration (in this regard, cf. the comments under B.5.1.7.4.1, nos. 5100 -5104, above). Universities and other scientific/scholarly institutions deal with research subjects concerning the persecution of the Sinti and Roma under the Nazi regime.

12088 In addition, however, other institutions have come into being. In Marburg, *Land Hesse* set up the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* (Educational Bureau for National Minorities: Sinti and Roma) in cooperation with Marburg University. This Bureau closely cooperates with the Hessian *Land* Association of Sinti and Roma. The target group are future teachers. Through imparting knowledge of the history and culture of the Sinti and Roma, acceptance of the minority is to be promoted within society.

12089 The *Gesellschaft für Antiziganismusforschung* (Society for the Study of Anti-Gypsy Attitudes) was founded in Marburg in July 1998. The members of this Society are scholars from various special-subject fields, who study anti-Gypsy attitudes in the past and at present and the outflow of such attitudes, especially the killing of Sinti and Roma during the Holocaust. The Society for the Study of Anti-Gypsy Attitudes holds seminars on these issues, which receive assistance from the Hessian Ministry of Science and Culture and from the municipality of Marburg. The members of the Board have participated in follow-up training courses for teachers in several federal *Länder*. Their objective is to ensure that the issue of anti-gypsy attitudes is also addressed in schools.

12090 The Educational Bureau, thanks to a teaching assignment at Marburg University, was able to do the following:

- Hold seminars at the Department of History / Institute for East European History, which regularly cover the history and present situation of East European Roma in the narrower and wider sense.
- Provide assistance to students preparing essays on these subjects; over the past few semesters, an increase in the number of such coursework papers has been observed.

- Hold intermediate examinations which by now, although only infrequently, also include subjects related to the Sinti and Roma.

**B.12.2 Article 12 (2)**

**(Providing information about national minorities through**

**- teacher training**

**- textbooks**

**- contacts between different groups of the population at school)**

**B.12.2.1 Providing information about national minorities through contacts at school**

12091 In the Federal Republic of Germany, there are no governmental impediments whatsoever as regards contacts among pupils and teachers from different groups of the population; instead, many and various efforts are made to intensify such contacts. Governmental measures for teacher training, government promotion of such measures taken by other parties, and provision of textbooks are adjusted to the respective requirements of the various minorities and thus different for the various languages spoken by the groups protected under the Framework Convention.

**B.12.2.2 Providing information about national minorities through teacher training**

12092 Teacher training and the development of appropriate educational materials are important prerequisites for information on the history and culture of the groups protected under the Framework Convention. As regards educational materials, see also the comments above referring to paragraph 1 of Article 12.

**B.12.2.2.1 Providing information about the Danish language in teacher training**

12093 The teachers of the private schools of the Danish minority were trained either by institutions of the Kingdom of Denmark in Denmark or by the Danish Schools Association in Germany. In Schleswig-Holstein, a course of studies in Danish is offered (for details, see the comments regarding paragraph 1 in no. 12043 above). The Danish private schools primarily use textbooks published by Danish educational publishing companies, but also

educational materials developed by these schools themselves to take account specifically of the Danish minority's situation and history, as well as German textbooks. The Bonn/Copenhagen Declarations of 1955 triggered the cross-border promotion of minorities on the basis of reciprocity, which has ensured adequate opportunities for teacher training and access to textbooks for the minorities on both sides of the border, i.e. Danes in Germany and Germans in Denmark.

12094 With the specific aim of ensuring recruitment of teachers who belong to the Danish minority and are able to teach all subjects included in the curriculum in the Danish language, Section 5 (3) of the *Federal Educational Grants Act* (*Bundesausbildungsförderungsgesetz*, BAFöG) accords members of the Danish minority unrestricted educational grants for attending a training institution in Denmark if such training is not available in Germany. This applies, for instance, to teacher training since, as a rule, in Germany the subjects included in the curriculum are taught in the German and not in the Danish language.

#### **B.12.2.2.2 Providing information about the Sorbian languages in teacher training**

12095 In the Sorbs' settlement area (Free State of Saxony and Brandenburg), the Sorbian language (Upper Sorbian and Lower Sorbian) is taught at public schools which also provide Sorbian-language instruction in the other subjects. For grades 1 through 4 of primary schools and for grades 5 through 7, the Free State of Saxony introduced new curricula for these subjects in the 2004/2005 school year. In August 2008 an up-to-date framework curriculum was introduced for foreign language instruction. It covers various languages and grades and provides a uniform concept from the first to the last grade for all foreign languages, including Sorbian (Wendish).

12096 On the basis of an agreement between Brandenburg and the Free State of Saxony on cooperation between the *Länder* in the field of advanced training, teachers of the Sorbian language and culture may receive training at the University of Leipzig (in Saxony). Following this agreement, the advanced Sorbian/Wendish course of study, which had been provided by Potsdam University from 1998 to 2002, was transferred to Leipzig.

12097 - 12098

12099 The first binding framework curricula for Sorbian (Wendish) instruction at primary, secondary and grammar schools entered into force on 1 August 1997. These plans were established by teachers from Brandenburg in cooperation with the former Brandenburg

Educational Institute (*Pädagogisches Landesinstitut*). The work was coordinated by the Cottbus Workshop for Educational Development (*Arbeitsstelle Bildungsentwicklung Cottbus, ABC*). (See no. 12103 regarding Sorbian language instruction in the framework curriculum adopted in late 2007.)

12100 In addition, native speakers of Sorbian are trained as teachers of a number of additional school subjects which, under the present and future subject table (allocation of hours per subject), may be taught in the Sorbian language. If these persons successfully complete these studies, the Free State of Saxony guarantees their employment in public service. Domowina points out, however, that this can be realized in practice only if junior teachers have the possibility to complete the required preparatory service at schools.

12101 The **Saxon Educational Institute** (*Sächsisches Bildungsinstitut*) responsible for central advanced teacher training and executive staff and teachers with special tasks and functions offers **advanced training courses for Sorbian-language instruction**. At regional level, advanced teacher training for Sorbian-language instruction is provided, organized and carried out by the Bautzen Regional Office of the Saxon Education Agency (*Sächsische Bildungsagentur, Regionalstelle Bautzen*). The introduction of the concept of bilingual instruction has sparked broad interest. Also, the WITAJ language centre and the Sorbian Schools Association (*Sorbischer Schulverein*) are involved in advanced teacher training. On this basis, teachers and educators working in bilingual education projects are able to share experiences.

The Institute for Sorbian Studies at Leipzig University provides lectures on linguistics, literature and didactics for advanced teacher training. These measures facilitate Sorbian studies and advanced teacher training. They are supported by cooperation of the responsible ministries and representatives of Sorbian associations and institutions (Sorbian Schools Association, WITAJ language centre, Domowina publishing house). It is planned to introduce and conduct annual advanced training courses for Upper Sorbian (Saxony) and Lower Sorbian (Brandenburg) for teachers of all school types at Leipzig University. In the 2009/2010 winter term a consecutive master's programme for Brandenburg primary school teachers will start at the Institute for Sorbian Studies.

The sentence "The history and culture of the Sorbs/Wends shall be adequately taken into account" was included in Section 4 (2) of the Brandenburg Teacher Training Act (*Brandenburgisches Lehrerbildungsgesetz*) amended in 2007. This means that courses of studies for teachers in Brandenburg must also address Sorbian/Wendish issues.

Since the 2007 winter term courses on Sorbian/Wendish issues have been held at Potsdam University.

12102 The **education schedule** established by the **Bautzen Regional Schools Office** for the 2003/2004 school year covers two courses for primary school teachers and four courses for lower secondary school teachers in the German-Sorbian settlement area. In July 2004, teachers who had successfully completed the first annual intensive course in the Sorbian language received their final certificates. These are teachers at primary and intermediate schools (under the supervision of Bautzen Regional Schools Office) who thereby have obtained the qualification for teaching at a Sorbian or a bilingual school. The annual intensive course was continued in the 2004/2005 school year. The course was attended by primary and intermediate school teachers as well as teachers of the Sorbian grammar school. Following a further assessment of needs, the Bautzen Regional Office organized and carried out another two-year course in the 2007/2008 school year. At the end of the school year, 15 teachers obtained a participation certificate. In the same school year, the Bautzen Regional Office of the Saxon Education Agency offered an advanced Sorbian course for teachers who had attended courses 1 to 3. Together with the Saxon Educational Institute, the Bautzen Regional Office drafted an advanced training plan for a two-year basic course and an advanced course (*Konzept2plus*) for the Sorbian language in the 2008/2009 school year. After having attended the basic and advanced course, interested teachers may participate in on-the-job advanced training (in cooperation with Leipzig University, as for Lower Sorbian). To meet the educational and instructional requirements of *Konzept2plus*, different advanced training programmes were offered at regional and supraregional level in the 2007/2008 school year. In the 2008/2009 school year, the Bautzen Regional Office together with the Saxon Educational Institute will provide general courses on the methodology and didactics of bilingual instruction. Advanced training courses on specific subjects are being prepared annually.

Domowina takes the view that in the long term such advanced teacher training cannot substitute direct training of Sorbian native speakers taking a course of study for the teaching profession. (For the existing offers of relevant teacher training, see B.12.1.3.2, no. 12044 et seqq.)

12103 In May 1992, the independently managed Cottbus Workshop for Educational Development (ABC) was established at the Lower Sorbian grammar school in Cottbus (Brandenburg). The first binding framework curricula for Sorbian (Wendish) instruction at primary, secondary and grammar schools entered into force on 1 August 1997. These plans were established by teachers from Brandenburg in cooperation with the former Brandenburg

Educational Institute. The work was coordinated by the Cottbus Workshop for Educational Development.

Since 2005 the *Land* Institute for Schools and the Media in Berlin and Brandenburg (*Landesinstitut für Schule und Medien Berlin-Brandenburg*, LISUM) and the ABC have been preparing a new curriculum for foreign languages at primary schools, and since late 2007 the ABC has participated in a working group to approximate the framework curricula of Brandenburg and Berlin. In the final framework curriculum for modern foreign languages in grades 1 to 10, Sorbian (Wendish) is equal to other languages taught at Brandenburg schools in terms of standards and competence levels to be achieved. The framework curriculum has been in force since 1 August 2008. The accompanying implementation letter explains that Sorbian (Wendish) is taught as foreign and as second language. Details on the curriculum for Sorbian (Wendish) as a second language will be given in another implementation letter which also addresses forms of bilingual instruction.

12104 Until the end of the 2007/2008 school year, ABC had appointed a teacher as advisor for advanced teacher training in primary school. In consultation with ABC, the advisor offered advanced training courses tailored to the needs of primary school teachers. This supported the work of teachers of Sorbian (Wendish) and promoted contacts between the ABC and practitioners at schools. The advanced training courses were held regularly in the schools. Currently, efforts are being made to integrate advanced training courses for primary school teachers of Sorbian (Wendish) into the advisory and support system for Brandenburg schools and school supervisory authorities (*Beratungs- und Unterstützungssystem für Schule und Schulaufsicht*, BUSS). Until then, the office will carry out special advanced training courses, in particular on the implementation of the new framework curriculum for foreign language instruction at primary schools. Advanced training and advice are provided to teachers of Sorbian (Wendish) at secondary schools in the framework of BUSS.

12105 Under the responsibility of the Saxon Educational Institute, the “**Bilingual Sorbian-German Schools**” concept was developed for schools of any type providing general education in the German/Sorbian settlement area. At present, this concept is being evaluated.

12106 The Ministries of Science and of Education of Brandenburg and the Free State of Saxony in July 2002 signed an Administrative Agreement to **pool university training of Sorbian teachers** (for all types of schools) **at Leipzig University**.

Training of Sorbian teachers at Leipzig University takes account of the linguistic and cultural differences between Sorbs (Wends) in Upper and Lower Lusatia. Brandenburg

covers 50 per cent of the expenses incurred for a post provided by Saxony for a **lecturer for special tasks also teaching Lower Sorbian at the Slavonic Studies Institute** of Leipzig University.

12107 To cover the medium-term need for Sorbian teachers, Brandenburg initiated an on-the-job advanced course of study in the 2008/2009 school year for Brandenburg teachers who wish to qualify for teaching Sorbian. The course includes a preliminary course for acquiring the necessary language skills. The ensuing course of study is carried out by Leipzig University in Cottbus.

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12109 This information was contradicted by Domowina which expressed the view that the advanced course of study for Brandenburg teachers had not yet been instituted and that the Administrative Agreement was by no means implemented. Despite the pooling of resources, the Institute for Sorbian Studies at Leipzig University had not enough staff to ensure teacher training in Lower Sorbian, in particular as regards practical language use.

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12111 Instruction in the **Sorbian history and culture** is provided mainly by the section for Lower Sorbian language and culture of the **Adult Education Centre**. This form of further training is recognized by Schools Offices as advanced teacher training.

12112 On behalf of the Brandenburg Ministry for Education, Youth and Sports, Potsdam University, ABC and the *Verein Weiterqualifizierung im Bildungsbereich* (Association for Advanced Training in Education, WiB e.V.) offer a **two-year advanced training course for teachers to prepare them for bilingual instruction**. The course is designed to impart knowledge of the Sorbian (Wendish) language, history, culture and literature as well as skills regarding the structuring of subject-specific bilingual instruction with Sorbian (Wendish) as a working language. Successful completion of the course confers an **additional qualification for bilingual teaching and learning** under the Brandenburg Teacher Training Act (*Lehrerbildungsgesetz*). To facilitate this measure, the required number of hours devoted to classroom instruction was reduced by three. Since 2001, ten teachers have successfully completed this training, and another eight teachers started their training in 2007.

12113 In no. 659 of the Second State Report, Domowina pointed out that there was no **supervisory body** – as recommended by the Advisory Committee in its First Opinion –

which would be responsible for monitoring the measures taken to further develop education in the Sorbian language and for drawing up periodic reports of its findings. The responsible staff members of the Regional Schools Office were entrusted with many and various other tasks, and it was thus not possible for them to carry out this assignment properly. Therefore, Domowina recommended that a section staffed with Sorbian specialists be set up at the Bautzen Regional Schools Office.

12114 However, the Free State of Saxony takes the view that, in particular against the background of the drastic decrease in the number of pupils, the present structure of school inspection – i.e. that, for every type of school, matters of Sorbian schools are handled by a Sorbian staff member – is still suitable for meeting the specific Sorbian requirements and for ensuring that the education and final qualifications at Sorbian schools correspond to those provided by neighbouring “German” schools. This view is shared by the Sorbian professional association *Sorbischer Schulverein e.V.* (Sorbian Schools Association).

12115 For further details on training for Sorbian teachers, see no. 12044 et seqq. in section B.12.1.3.2 on research activities with regard to the Sorbs.

### **B.12.2.2.3 Providing information about the Frisian languages in teacher training**

12115a For Frisian training **Schleswig-Holstein** maintains or co-funds three institutions:

- *Friesisches Seminar* (Frisian Institute) of Flensburg University, which provides training especially for teachers at Schleswig-Holstein schools;
- the chair of Frisian Philology at Kiel University (*Christian-Albrechts-Universität, CAU*), who is responsible also for *Nordfriesische Wörterbuchstelle* (North Frisian Dictionary Institute);
- *Nordfriisk Instituut* (North Frisian Institute, NFI) which focuses its activities on the promotion of scientific and educational work for Nordfriesland, on the Frisian language, history and culture, and on documenting and researching the North Frisian language, history and culture.

12116 For details see no. 12056 et seqq. in section B.12.1.3.3 on research activities with regard to the Frisians.

12117 To avoid misunderstanding, we would like to refer to no. 784 of the Second State Report and point out that Frisian-language instruction in Schleswig-Holstein is not mainly provided by volunteers. Frisian instruction is provided by teachers, especially in all cases

where parents enrol their children for Frisian classes at primary schools. During the 2006/2007 school year, 23 teachers at 24 schools of various types taught 159 hours of Frisian per week to 1,231 pupils. Continuing such lessons at secondary schools is proving to be a problem in a large region with many pupils commuting to school. Furthermore, acceptance of Frisian classes as an optional subject is dwindling among adolescents. Since Schleswig-Holstein was and still is aware of these facts, it has committed itself to providing for the inclusion of Frisian as an integral part of the curriculum for secondary schools; this does not, however, imply that schools are under the obligation to provide Frisian instruction.

12118 To ensure a sufficient number of teachers for **Sater Frisian in Lower Saxony**, the following measures were taken in basic and advanced teacher training:

In its Ordinance on Master Programmes for Teachers published on 15 November 2007, Lower Saxony provides for a binding Low German component in the course of study for future teachers of German. This includes language history and development, regional language, Low German and the minority language Sater Frisian. Sater Frisian is not offered as a separate subject in teacher training. Since the 2008/2009 winter term, students of the German language and literature have been able to choose Low German as their focus of study. It is integrated in the regular BA and MA programmes. Students may thus acquire a “Low German BA Certificate” and a “Low German MA Certificate”. Examination codes for the BA programme and the various Master programmes have been adapted accordingly. A brief description of the certificate can be found at: <http://www.uni-oldenburg.de/Niederdeutsch/35720.html> (in German). For the specialized studies, Low German modules were created. Since the 2008/2009 winter term, there has been a Low German advanced module for the BA programme and a Low German master module for the MA programme. Moreover, in the basic module there is at least one course on Low German per semester, which is mandatory for obtaining the Low German Certificate. At the beginning of the 2009 summer term, but in the 2009/2010 winter term at the latest, it is planned to provide one or two teaching assignments for Sater Frisian. Further, it is planned to offer language courses and courses for the new master programme, MA Language Sciences, which is provided in cooperation with Bremen University.

12119 In no. 775 of the Second State Report it was stated that in the Saterland (Lower Saxony) Sater Frisian is taught not only by fully trained teachers but also by other persons provided that they have the appropriate qualification and that there is a demand for such instruction.

12120 In no. 124 of its Second Opinion “the Advisory Committee notes that the number of teachers of the Sater Frisian language is insufficient, that teacher training is provided essentially by volunteers” and recommends in no. 126 “that the authorities should continue to develop training of teachers involved in minorities’ education”. In this respect, Lower Saxony explained that “at the four primary schools and the *Schulzentrum Saterland* (Saterland School Campus) at secondary level I, four trained teachers give lessons in Sater Frisian” who are supported by only two teachers who have not completed teacher training. Lower Saxony considered this number sufficient, since not only the number of teachers, but also the number of lessons provided is an indicator for the developments in education. In the 2005/2006 school year the number of lessons was increased by four hours as compared to the previous year.

12121 Currently, the four full-time teachers are assisted by a voluntary teacher without teacher training. In the 2008/2009 school year these teachers of the four primary schools and the Ramsloh secondary technical school gave a total of 18 hours of instruction in Sater Frisian, including 17 by the full-time teachers and one by the voluntary teacher.

12122 There seems to be no need for further teachers. However, the *Land* School Office is being encouraged to advertise vacancies, if needed. In this regard, the main criterion will have to be the demand for classroom instruction, and nobody will be hired simply because they speak Sater Frisian. However, special consideration can be given in the selection process to applicants who can speak and read Sater Frisian, even if this additional requirement is not specified in the job offer. Here, too, the prerequisite is a demand at the school concerned.

12123 Since November 2000, there has been a **Specialist Adviser for Sater Frisian in Classroom Instruction** who is currently assigned to the Osnabrück *Land* School Office. The Specialist Adviser also coordinates Sater Frisian teaching at schools by professional teachers and volunteers. Regular meetings are held to this end. For each of the four primary school grades, Sater Frisian teachers developed handouts for classroom instruction. For this work, they were credited teaching hours by the Lower Saxony Ministry of Culture. The Specialist Adviser communicates problems, suggestions and results of the work at Saterland schools during expert meetings and joint meetings in the framework of cooperation with the *Niedersächsischer Heimatbund* (Lower Saxony association for regional traditions) and the Lower Saxony *Landschaften* and *Landschaftsverbände* (regional organizations and associations).

12124 Under the target agreements concluded with the Specialist Adviser for Sater Frisian, she is responsible also for planning and implementing advanced training

activities. In 2007 and 2008 she held a course on Sater Frisian at Bremen University, and in the 2008 summer break offered a course for students of the German language and literature with the aim of developing a language course for adults. Also in summer 2008, she conducted an advanced training course on the history, culture and language of the Saterland for eleven teachers of the Scharrel primary school. Further events are planned for day-care centres in 2009.

#### **B.12.2.2.4 Providing information about the Romany language in teacher training**

12125 The **Central Council of German Sinti and Roma** and, independently of the Council, the ***Sinti Allianz Deutschland*** and **other associations of German Sinti** are **against the introduction of the Romany language in public schools** and, in particular, against developing a written form of this language. This is in line with centuries-old Sinti traditions and is based on the experience made with Nazi language researchers. Therefore, the Central Council and the *Sinti Allianz* take the view that, also out of regard for the experience undergone by the survivors of the genocide, Romany should neither be taught by non-Gypsies nor be learnt within the public educational system. The opposite position is taken by Roma associations which come out in favour of the inclusion of Romany in school education and wish to support measures, like those taken in European neighbouring countries, for the development of a written form of this language. Thus, going by those German Sinti and Roma as are represented by their relevant organizations, the vast majority of German Sinti and Roma are against inclusion of their language in the public education system and emphasize their right to cultivate their language and to pass it on to future generations exclusively within the family and family clans. These organizations also object to occasional initiatives by other organizations to have teachers trained in Romany, because they object to outsiders being introduced to their language.

12126 However, **the Central Council favours supplemental instruction for interested children of German Sinti and Roma, where teachers coming from the minority give instruction on various subjects in the Romany language** to enhance the children's knowledge of Romany. Within the *Länder*, however, only a limited number of teachers with sufficient language proficiency are available. The Central Council also favours language courses for members of the minority on a private basis and as part of adult education to be carried out by teachers coming from the minority.

12127 For the ***Sinti Allianz***, **imparting their mother tongue Romany** also in this field is the **exclusive responsibility of the families and clans** of the Sinti community, and it

takes the view that instruction in the mother tongue is not possible since the Sinti language does not have a written form and consequently no literature exists in this language.

12128 For the organizations of German Sinti and Roma it is very important that the children of German Sinti and Roma continue to participate in the existing public and officially recognized system of schools and education without any limitation. The Central Council of German Sinti and Roma and, independent of the Council, the *Sinti Allianz Deutschland* and other organizations therefore object to separate schools or school classes for Sinti and Roma. Obviously this also is the parents' wish since the children of German Sinti and Roma attend local regular and secondary schools.

12129 **Special possibilities taking into account cultural traditions and the language of this group to promote the schooling progress of Sinti and Roma children exist in some of the *Länder*** of the Federal Republic of Germany, for instance in Baden-Württemberg, Bremen, Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia, and Schleswig-Holstein; in instances these activities are part of local projects. Such projects are carried out at primary schools, secondary modern schools and secondary technical schools. The experience gained in this context has shown that in the long-term only those initiatives will be successful which are launched locally with the consent, willingness and responsible participation of the persons concerned.

12130 In **Bavaria** centrally organized advanced teacher training regularly addresses the problems of ethnic linguistic minorities. Current educational objectives are tolerance, cooperation, understanding, and respect for linguistic and cultural minorities. Advanced teacher training courses, which also cover intercultural education, regularly address these subjects. This includes advanced training of teachers with regard to the culture, history, language and religion of the German Sinti and Roma. Since 2003, also the history of persecution of Sinti and Roma has been included in advanced teacher training.

12131 The Academy for Advanced Teacher Training and Personnel Management in Dillingen (*Akademie für Lehrerfortbildung und Personalführung*) offered the following course on intercultural education in the 2004/2005 winter term: Course no. 358 (15-17 December 2004) on attitudes towards minorities in the past and present on the example of Sinti and Roma. The teachers who participated in this course are encouraged to act as multipliers and share their knowledge. The course content is described as follows: "Relations with minorities are an important indicator of a society's political culture and thus a central subject of civic education. On the example of Sinti and Roma, the course illustrates the fate of a minority in Germany. It does not only focus on the persecution during the Nazi era and the still existing discrimination and marginalization but

is also concerned with the self-perception and cultural identity of Sinti and Roma. Lectures and talks with witnesses to the events are intended to introduce the participants to a complex issue. Together with participants it will be discussed how the subject can be integrated into classroom instruction.”

12132 Section 36 (3), no. 2 (School Pedagogy), lit. d (Education, advancement and counselling in schools and classroom instruction) of the Ninth Ordinance amending the Bavarian Teacher Examination Regulations I (*Bayrische Lehramtsprüfungsordnung I*, LPO I) which entered into force on 1 August 2002 includes “intercultural education” as an examination subject. In addition, “intercultural education” was included as a subject of teacher training in the ordinances to amend the Admission and Training Regulations for college training of teachers for public schools (*Zulassungs- und Ausbildungsordnung für die Seminarbildung*), which entered into force on 4 August 2003.

12133 As part of the measures designed to promote the self-organization of Roma and Sinti by means of employment and protection of livelihoods, since December 2002 the *Regionale Arbeitsstelle für Ausländerfragen* (Regional Workshop for Foreigners’ Issues) in Berlin has trained ‘school assistants’ who serve as mediators between schools and Roma and Sinti families to promote mutual understanding of the respective cultural background. The aim of ensuring regular school attendance and improving educational opportunities was achieved by the first fully-trained Roma school mediators who have been appointed to schools since 2005. In September 2008 a new training course started for a broader target group (in addition to speakers of Arabic and Turkish also German Roma and Sinti protected under the Framework Convention; cf. no. 12187).

12133a In Berlin, the *Landesinstitut für Schule und Medien* (Berlin Land Institute for Schools and the Media, LISUM) organizes a number of advanced training courses on intercultural learning, which include the language group of the Sinti and Roma. As part of its Working Papers series, LISUM published “*Geschichte der Sinti und Roma in Deutschland; Darstellung und Dokumente*” (History of the Sinti and Roma in Germany; Description and Documents), and in the series “*Didaktische Materialien*” (Didactic Materials), the volume entitled “*Von Berlin nach Lodz und Auschwitz, Materialien zum nationalsozialistischen Massenmord*” (From Berlin to Łódź and Auschwitz – Materials on the National Socialist massacre). Also, in cooperation with the publishing house Hentrich & Hentrich, the volume “*...die vielen Morde*” (*Dem Gedenken an die Opfer des Nationalsozialismus*) (...those many murders (In remembrance of the victims of National Socialism)) was published and distributed at Berlin schools. A large number of documents are dedicated to the memory of the Sinti and Roma as one of the seven groups of victims.

12134 **Various schools in Hamburg** with a large share of Roma children **employ Roma as teachers** and social workers. Their work focuses on the culture of Sinti and Roma and fine arts. The *Land* Institute for Teacher Training and School Development (*Landesinstitut für Lehrerbildung und Schulentwicklung*, LI) offers on-the-job training to those Roma working at Hamburg schools. At eight Hamburg schools (primary, secondary modern and secondary technical schools and one remedial school) six Roma teachers and social workers provide assistance to pupils. In addition, Sinti social workers provide homework assistance to Sinti pupils at two Hamburg schools (Wilhemsburg and Lokstedt districts). Measures not provided in German are provided in the Romany spoken by the German Roma but not in the Romany spoken by German Sinti since the members of this part of the national minority refuse this.

12135 Since 1993, the ***Land* Institute for Teacher Training and School Development in Hamburg** has promoted and **supported school education of Roma and Sinti children**. This includes (or included, as regards the informational film mentioned in the following):

- conceptual development of school programmes also for German Roma and Sinti children;
- advanced training of teachers and of Roma employed in schools;
- the development of instruction materials in connection with the training of the Roma teachers and social workers;
- the production of an informational film in the Romany spoken by both the German Roma and Sinti for Roma and Sinti parents, which addresses the issue of schooling and is intended exclusively for the members of the minority (also because members of the majority population would not understand the language).
- counselling for parents, pupils, schools and the competent authority.

12136 The Hamburg *Land* Institute for Teacher Training and School Development also takes care of the counselling of specialized teachers who receive advanced training or additional qualification for teaching in the minority language Romany. The Institute keeps a list of the relevant courses offered by Hamburg schools; information on such activities is given at irregular intervals in the periodical "*LI Magazin*". In consultation with the responsible authority, the Institute decides on whether programmes should be enhanced.

12137 For further information on the Hamburg curriculum for training Roma without school education qualifying for admission to a university to become assistants in children and youth organizations and schools, in particular for children from the minority, see no. 12189 and no. 04035. This aspect is relevant regarding both teacher training and equal opportunities for Roma children.

12138 In **Hesse**, the aforementioned Educational Bureau for National Minorities: Sinti and Roma offers **advanced teacher training** and supports projects carried out by schools. As a first step, the history and present-day life of the Sinti and Roma and the issue of anti-Gypsy attitudes were incorporated in the framework curricula for sociology, history and social studies, which were adopted in 1995.

12139 Subsequently, **educational materials for history instruction** were developed in a two-year project and made available to schools in the 1998/99 school year. Within the framework of the 1997 Hessian Schools Act, the establishment of the Bureau is the third step of the envisaged fundamental educational concept for the inclusion of the history and culture of the Sinti and Roma in school education. In 2001, the Bureau developed teaching material on the subject "Sinti and Roma in films – Information on documentaries and feature films" (*Sinti und Roma im Film - Informationen über Dokumentar- und Spielfilme*).

12140 The Educational Bureau has the task to create the conditions for a general introduction to the history and present-day life of the Sinti and Roma, the subject of anti-Gypsy attitudes, and the culture of the Sinti and Roma in a form adapted to the respective age groups and school subjects in the Hessian schools. Teachers are to be provided with reliable information on this subject which so far has been neglected by academic research and which has been the subject of stereotypes. The target group of these awareness-raising efforts is the majority population to reduce information gaps and prejudices on a long-term basis. Therefore, these activities are designed to have both a *Land*-wide and a regional impact. Advanced teacher training includes lectures and seminars, literary research and supply of literary works as well as an introduction to newly developed educational materials. In addition, the Bureau gives advice to schools and initiates and coordinates regional and local projects. It informs about current research findings and cooperates with academic institutions, its counterparts in other *Länder*, and institutions and organizations of the Sinti and Roma. Organized events and meetings help develop a dialogue between the minority and majority populations.

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12150 To give some examples of activities carried out by the Educational Bureau under the auspices of the Hessian *Land* Institute for Pædagogics:

- organizing and monitoring pertinent in-school advanced education (e.g. an "Education Day" for the entire teaching staff of a school);
- presenting the exhibition organized by the Documentation and Cultural Centre of German Sinti and Roma on the subject "The Genocide of Sinti and Roma under

National Socialism” in cooperation with the Hesse *Land* Association of German Sinti and Roma, the municipality of Marburg, the Marburg Philipps University, the Marburg *Cineplex*, and the Marburg *Land* Theatre. This project combined the three aforementioned fields of activity (advanced teacher training, university activities, and society) in such a way that they complement each other. 750 pupils visited the exhibition and were introduced to this particular subject;

- providing advanced training organized within the Hessian *Land* Institute for Pædagogics;
- providing advanced training courses at *Studienseminare* (colleges for the professional training of teachers);
- establishing a coordinators’ network of all Hessian teachers dealing with subjects concerning Sinti and Roma with the aim of creating synergies by interrelating and enhancing their work;
- giving a joint presentation of the exhibition organized by the Hesse *Land* Association of German Sinti and Roma on the 600 years of the history (of persecution) of Sinti and Roma in Hesse, with an accompanying cultural programme. The target groups of this exhibition are in particular pupils and teachers;
- concluding a service contract with a teacher offering homework assistance (covering 12 hours/week of instruction) for Sinti and Roma children. This offer of homework assistance is well received by the Sinti and Roma;
- carrying out a total of 40 interviews for a publication which contains reports by contemporary witnesses to come to terms with the history of Sinti and Roma in Hesse, and which was edited by the *Land* Association of Sinti and Roma and funded by Hesse. At present, written transcripts of these interviews are being made. The reports by contemporary witnesses will be published afterwards.

12151 Recruitment of members of the minority for teaching Romany to Sinti and Roma although they do not have a teaching degree is made possible and facilitated by the opening of schools as stipulated in the **Hessian Schools Act** and by the extension of schools offering all-day classes.

12152 In no. 121 of its Second Opinion the Advisory Committee notes that “several projects have been launched to train Roma/Sinti assistants for the classes attended by many children belonging to this minority, in order to help them overcome possible difficulties”. In this respect, Hesse added in Germany’s comment on the Opinion that the special annual grant for the *Land* Association of Sinti and Roma aims to help Sinti children in two troubled schools in Bad Hersfeld.

12153 Hesse commented on the statements made in nos. 117 and 119-121 of the Second Opinion as follows: “The *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* (Educational Bureau for National Minorities: Sinti and Roma) at the University of Marburg is a central element of Hesse’s policy to promote the interests of Sinti and Roma. It pursues an interdisciplinary approach.” The combination of its continuous activities in teacher training at university level and projects of social dialogue (such as presentations, work with pupils at school) has been particularly effective since teachers’ awareness for the situation of Sinti and Roma is raised during their training so that they can then integrate these aspects in their teaching.

For the Hessian Ministry of Education and Cultural Affairs, the reason for establishing the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* in 1998 was the fact that the national minority of Sinti and Roma is subject to serious discrimination in the Federal Republic of Germany and that this is also a problem of the majority population because it is not familiar with their history and culture, in particular the history of persecution of Sinti and Roma. For this reason, the task of the Bureau is to raise awareness of this issue at schools and universities and to initiate a dialogue in society to reduce prejudices among the majority population. The Bureau was integrated into the Hessian *Land* Institute for Pædagogics, which still existed at the time, to provide advanced training for teachers. At the same time, the departments for history and cultural studies, and educational studies at the Philipps University in Marburg offered courses on the issue, in particular for future teachers. Lectures, film presentations and exhibitions were organized for the general public. Furthermore, Hesse included this issue in school curricula and developed teaching material which can be easily used in school lessons.

After the first few years it became clear that the university courses were much more successful than the offers for advanced teacher training. For this reason, the original structure of the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* was changed. In August 2005, the Bureau’s director was assigned to a part-time position at the Department of History and Cultural Studies of the Marburg Philipps University to provide additional courses in this subject for teacher training. To this end, a cooperation agreement was concluded between the *Amt für Lehrerbildung* (Office for Teacher Training) and Marburg Philipps University. This cooperation model is intended to link the first and the third phase of teacher training.

At the end of each academic year an annual report is drawn up. Both in the 2005/2006 winter term and the following summer term the courses were (and will continue to be) a great success given the large number of students attending them. Both courses followed an interdisciplinary approach (involving the Department of Educational Sciences and the

Department of European Ethnology). At the same time, joint advanced teacher training is offered each term, in which the lecturers of the departments participate and in which the issue of Sinti and Roma is an important part of the training.”

12154 The **Lower Saxony** ordinance on master programmes for teachers (*Verordnung über Masterabschlüsse für Lehrämter*) promulgated on 15 November 2007 does not require teacher training to impart detailed knowledge. Future history teachers are required to gain general knowledge and basic insights into concepts. In this context, it can be assumed that they acquire specific knowledge on the history of National Socialism in Germany, and thus on the history and culture of Sinti and Roma. They also learn how to use new theoretic models to form a collective memory of, teach and describe history.

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12156 Following the 2002 expert meeting in Soest (**North-Rhine/Westphalia**), regional working groups drafted reports and handouts for teachers. These materials help understand the learning conditions of pupils with regard to the cultural tradition of Sinti and Roma. They show how individual pupils can be supported and promote the exchange among teachers as well as advanced teacher training. To implement these projects, additional teachers were assigned to schools with a large number of children from this ethnic group.

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12158 Regarding no. 121 of the Advisory Committee’s Second Opinion stating that “several projects have been launched to train Roma/Sinti assistants for the classes attended by many children belonging to this minority, in order to help them overcome possible difficulties”, **Rhineland-Palatinate** pointed out the following measures: In the course “educational sciences” provided during the first phase of teacher training at university focuses on heterogeneity and cultural diversity as conditions in schools and teaching – intercultural differences as a prerequisite for education and learning. This is a statutory subject laid down in the examination code for the first state examination of teachers. During the preparatory service (second phase) this issue is addressed in courses on history, social studies, German and religion, work at memorial sites, minority policies and cultural diversity.

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### **B.12.2.3 Views of national minorities on information provided on minority languages in teacher training**

12160 In the view of the national minorities and ethnic groups, the activities carried out so far with regard to the advanced training of teachers at public schools need to be enhanced, in particular as regards selective measures in individual fields (e.g. the Sater Frisian culture) and nation-wide activities in the field of advanced teacher training with regard to the culture and language of the minorities.

### **B.12.2.4 Access to textbooks to promote knowledge on national minorities**

12161 Regarding the Advisory Committee's recommendation in no. 116 of its Second Opinion "that the authorities should pursue their efforts aiming to include information in textbooks on history, culture and traditions of the various groups living in Germany, including outside the areas inhabited traditionally by national minorities", we would like to refer to the comments of Baden-Württemberg on the Second Opinion:

12162 "The school books are based on the requirements of the curriculum. For this reason, these issues are dealt with in textbooks in various ways. It has been repeatedly pointed out to publishing houses and textbook authors that it is important to appropriately take into account the history, culture and traditions of various ethnic groups when drafting textbooks."

12163 The brochure prepared by the **Baden-Württemberg Land** Institute for Education and Instruction for use in classroom instruction to analyse and attempt to come to terms with the history of the Sinti and Roma is still being used. In addition, the *Land* Government still endeavours to encourage educational publishing houses to take increased account of the Sinti and Roma in textbooks and other educational media.

12164 Also, in Baden-Württemberg a brochure entitled "*Zwischen Romantisierung und Rassismus: Sinti and Roma 600 Jahre in Deutschland*" (Between romanticizing and racism: 600 years of Sinti and Roma in Germany) was published in November 1998 by the Baden-Württemberg *Land* Agency for Civic Education and Baden-Württemberg *Land* Association of German Sinti and Roma. It contains articles by writers and scholars, and is primarily intended for teachers and professionals in adult education. It is intended to impart basic and background knowledge to help prevent prejudices and raise public awareness.

12165 In **Bavaria**, information on the culture and history of the German Sinti and Roma is provided, for instance, in the brochures “*Nationalsozialismus – Band III*” (National Socialism – Volume III) and “*KZ Dachau*” (Dachau Concentration Camp) published by the Bavarian *Land* Agency for Civic Education. In addition, the *Land* Agency published a general survey of the culture, history, language and religion of the German Sinti and Roma.

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12167 Also, the **Hamburg** *Land* Agency for Civic Education still distributes its 2002 book on the Nazi persecution of Roma and Sinti in Hamburg (*Die nationalsozialistische Verfolgung Hamburger Roma und Sinti*). The book was revised and updated in 2006.

12168 In **North-Rhine/Westphalia**, materials were developed for classroom instruction and regional advanced training to provide information on the culture and history of the Sinti and Roma. In Hamm, Essen and Cologne, for instance, materials for instruction and regional advanced training have been developed in cooperation with locally resident Sinti and Roma to inform on the culture and history of the Sinti and Roma and to establish closer links between the Sinti and Roma and the school in classroom instruction.

12169 In **Rhineland-Palatinate**, the State Pædagogical Centre and the *Land* Agency for Civic Education developed information material on the subject “Sinti and Roma – a German Minority” (*Sinti und Roma – eine deutsche Minderheit*). This material is made available to the schools of this *Land*. A key feature of these materials is that the perspectives of both the majority and the minority are represented to the same extent, rather than developing a “minority science” from the perspective of the majority population.

12170 In **Schleswig-Holstein**, current information on the activities and the situation of the German Sinti and Roma is still provided in one of the chapters of the *Land* Government’s Minority Report. Once per legislative period – last in December 2007 – the *Land* Government publishes its Report on Minorities and submits it to the Schleswig-Holstein parliament.

12171 The **Federal Government** funds the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg where two staff work in the education division. One of the Centre’s tasks is to give advice to teachers from the minority/language group who provide homework assistance and language instruction, organized in the various *Länder* by the *Land* associations, to interested children from the minority (e.g. by developing materials for Romany courses). The Hessian *Land* Association of German Sinti and Roma

takes part in these efforts. The *Land* Government coordinates the assignment/employment of suitable teachers with these organizations. In the view of the *Land* Government, 8 to 10 participants coming from this minority/language group will be sufficient to ensure that a course is held. This also holds true for adult education.

12172 The **Federal Agency for Civic Education** has explored the issue of Sinti and Roma in much detail (cf. no. 06022).

12173 The educational materials for **Sater Frisian in Lower Saxony** developed by the Sater Frisian teachers themselves (partly voluntarily) are used mainly in primary school. They are based on materials for English lessons in primary school, materials of the teaching and learning system developed as part of the pilot project "*Plattdeutsch in der Schule*" (Low German in School), and materials from the Nordfriesland and West-Friesland language areas. Within the framework of advanced teacher training, it is planned to further develop a concept for learning Sater Frisian in primary school.

Specifically:

12174 In no. 124 of its Second Opinion the Advisory Committee notes that the preparation and production of educational material for the teaching of Sater Frisian is based on voluntary work. In Germany's comment on the Opinion, Lower Saxony clarified that "since the 2004/2005 school year until the end of the 2005/2006 school year, three teachers have one hour per week as a compensation for their review of teaching material." In August 2004, these three teachers from the region were assigned the following additional tasks for the duration of two school years:

- to revise and, in part, re-edit the **teaching materials** available in the Sater Frisian language **for grades 1 - 6**; and
- to develop **concepts for Sater Frisian instruction as a required part of primary school curricula**.

The developed handouts (cf. no. 12123) for primary schools are now available and used for classroom instruction.

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12176 Moreover, the Specialist Adviser for Sater Frisian (appointed in November 2000 to work for the Weser-Ems district government and after its dissolution for the Osnabrück *Land* school office; cf. no. 12023) established a **Working Group for Sater Frisian** in which schools participate to **develop a teaching and learning system for Sater Frisian** for grades one to six. The objective is to raise awareness of the cultural values of the

Sater Frisian language, to initiate and consolidate communicative learning processes in language education, and to document the history of the Saterland culture. In the course of various projects, **reading/colouring books** with a focus on various specific subjects were developed for primary school grades one to four and for nursery schools, and books entitled “*Seelterlound*” for were developed for grades one to four. Educational materials for classroom instruction on the “history, culture and language of the Saterland” are being prepared. Half-year plans for grades two, three and four are also available. In addition, a collection of songs and poems was produced.

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### **B.12.3 Article 12 (3) (Equal opportunities for access to education at all levels for members of national minorities)**

#### **B.12.3.1 Legal bases regarding equal opportunities for access to education**

12178 Equal opportunities for members of national minorities and ethnic groups as regards access to all levels of education are guaranteed under Article 3 (1) and (3) of the Basic Law and specified in the Schools Acts of the *Länder*.

#### **B.12.3.2 Measures to support equal opportunities for access to education**

12179 Among the minorities, only German Sinti and Roma experience disadvantages as regards access to education. The *Länder* offer special promotion in cases where children of individual families of German Sinti and Roma do not fully meet the general attainment targets. On the one hand, the cause of such shortfalls is the difficult transition from the traditional perception of the family as an all-embracing social community to modern society, including compulsory school attendance and vocational training which mostly takes place outside the family. On the other hand, also a defensive attitude of the parents or grandparents towards the public school system comes into play. It stems from the marginalization of these persons and from their negative experience during their school days, and from subsequently being denied all educational opportunities during the persecution suffered under the National Socialist regime.

12180 With reference to Article 6 on tolerance towards minorities and protection against hostilities, in no. 80 of its First Opinion the Advisory Committee called for better school

education for German Sinti and Roma to improve their standing in society. The Committee repeated this request in its Second Opinion in nos. 15, 16, 65 and 70 also regarding Article 6, and nos. 109, 111, 112, 122 and 127 regarding Article 12 (3) on equal opportunities for access to education at all levels. The Committee recommended that measures be taken to remedy the present situation where children of Roma/Sinti (they are the relevant group in contrast to the mentioned travellers and immigrants) are overrepresented at secondary modern schools and special schools for under-achievers and correspondingly underrepresented at intermediate and grammar schools.

12181 Objecting to the Committee's statement where it refers to groups other than national minorities, Germany's Second State Report provided the following information regarding school education of German Sinti and Roma:

12182 Together with the relevant national minority organization, the *Länder* regularly develop and take targeted measures to improve the integration and participation of Roma and Sinti children in school education. However, Sinti and Roma pupils are not covered by statistics. Therefore no reliable statistical evidence is available to suggest that this group of pupils has a lower rate of participation in education. This group of pupils has access to the same school programmes and promotional measures available to all other pupils.

12183 However, in the Second State Report some *Länder* have reported that a particularly large number of children of Sinti and Roma attend general remedial schools and that further efforts should be made to improve the general educational situation for this group of pupils. But they also pointed out that improvements to this effect cannot be brought about through government action alone. As an example for insufficient participation they presented a project implemented in Schleswig-Holstein which aimed at enhancing the school performance of Sinti children. It was found that there is an extremely high rate of absenteeism among these children even though four Sinti women are employed as educational assistants. Hence the *Länder* emphasized the need to require the individual families of this group of pupils to make sure their children attend school regularly and to make use of government measures currently available in the educational system. In this respect, it was stressed that all bodies and groups involved must make a concerted effort to raise awareness of this issue.

12184 In Germany's comment on the Advisory Committee's Second Opinion, other *Länder* said that they are not able to follow the aforementioned statements and asked for (so far in vain) the information they are based on.

12185 Concerning the statements in nos. 109 to 112 of the Advisory Committee's Second Opinion **Baden-Württemberg** commented as follows:

"In general, in Baden-Württemberg all children and young people have the same access possibilities to the various forms of education. It is decisive for successful school careers that parents/guardians of the aforementioned target groups understand the importance and value of an early and continuous attendance of nursery schools or children's day-care centres. Social competences and language skills which children acquire in these institutions are of fundamental importance for the subsequent school education. The active support of children by their parents is helpful and beneficial. Increasing the parents' awareness of this issue in the interest of their children's future irrespective of their origin should be included in the recommendation.

Decisions on a child's school education always depend on educational considerations and are based on the child's needs. Status-related aspects such as ethnicity are not used by teachers as criteria to assume their task of choosing an appropriate school in a competent and responsible manner. In Baden-Württemberg the procedure for a child's transition from primary school to secondary schools has stood the test. In addition to a child's performance, its development and forecasts about its ability to cope with future school requirements are the basis for any recommendation concerning secondary schools or for a differentiated admission procedure.

A qualified decision in the child's interest is based on the assistance it needs, its performance and disability, in particular when choosing an appropriate remedial school. This task is performed in a competent, targeted and cooperative manner by special remedial school teachers in Baden-Württemberg in review procedures to determine whether it is in the child's best interest to attend a special remedial school. The teachers' commitment in assuming their educational mandate at secondary modern schools and special remedial schools in Baden-Württemberg puts children and young people on the right track for a successful school career and personal life. Irrespective of their origin, pupils acquire basic skills to plan their future in a responsible way, which they can make use of in accordance with their personal abilities.

Over the last few years, Baden-Württemberg has initiated, intensified and further developed a series of measures in the field of pre-school and school education, in particular to promote language skills. Other *Länder* have taken similar measures. For information on a special advanced training course aimed at Roma without university admission certificate in Baden-Württemberg see nos. 04035 and 12189.

12186 In Germany's comment on the Second Opinion, the **Free State of Bavaria** reported that regarding promotion which benefits also children of German Sinti and Roma, "the efforts for the necessary language and social integration of children at an early stage will be given even greater priority than in the past. This applies to all children of German and foreign nationality, regardless of whether they belong to a minority." Bavaria also reported that targeted promotion of children of German Sinti and Roma is also possible, if the relevant associations apply for funds to conduct such measures. For example, the Bavarian *Land* Association of German Sinti and Roma offers homework assistance in the framework of in-school midday care, which also serves to maintain the Romany language. As any other private midday care, it receives government funding.

Regarding the Advisory Committee's statement that children of German Sinti and Roma are overrepresented at special remedial schools, the Free State of Bavaria added the following: It is true that Sinti and Roma pupils attend remedial schools in Bavaria. These children and young people are treated with the appropriate respect. In accordance with the Bavarian Act on Education and Instruction (*Bayrisches Gesetz über das Erziehungs- und Unterrichtswesen, BayEUG*) and the School Regulations for Public Schools providing Remedial Teaching (*Schulordnung für die Volksschulen zur sonderpädagogischen Förderung*), admission to special remedial schools depends on an expert report which must be submitted for all pupils before they enter such schools.

12187 For **Berlin** the Advisory Committee finds in no. 122 of its Second Opinion that "the projects or programmes for introducing Roma/Sinti mediators into schools are marred by a lack of continuity in the funding and support provided, which prevents sustainable results from being achieved" and in no. 127 of the Second Opinion calls for "ongoing support for projects for Roma/Sinti children, particularly by means of the programmes to appoint Roma/Sinti teaching assistants and mediators" and high-quality vocational training for such assistants. Accidentally, the German comment referred to no. 589 of the Second State Report since only a further revision revealed that most of the described measures were intended for foreigners who do not fall under the Framework Convention for the Protection of National Minorities. We can now report that since September 2008 the Regional Centre for Education, Integration and Democracy (RAA Berlin), together with self-help organizations (network "All-day school of diversity" [*Ganztagsschule der Vielfalt*]) has trained **school mediators** for members of the national minority of German Sinti and Roma to mediate between schools and families concerned and to promote mutual understanding of the respective cultural background. The aim is to improve the children's educational opportunities by ensuring regular and successful public school attendance. For information on a special advanced training course for mediators in Berlin aimed at Roma without university admission certificate see nos. 04035 and 12189.

12188 The Free Hanseatic City of **Bremen** promotes projects to foster the cultural identity of Sinti and Roma by strengthening their self-assurance and sense of personal identity. In Bremen, a second state-employed teacher (from the Sinti promotion project and the Roma promotion project, respectively) tutors and helps Sinti and Roma children during regular classes. The projects aim at ensuring that Sinti and Roma children participate in education and can be integrated into secondary technical schools, ensuring school attendance, reducing absenteeism and preventing drop-outs.

Remedial teaching aims at integrating pupils into regular educational processes and the school/class community, and to enable them to achieve a (higher) school-leaving degree. Remedial teaching is provided individually, in small groups and during classroom instruction. Under the Sinti promotion project, three state-employed teachers and one Sintessa are available for social education support and for monitoring the project; the Roma promotion project at present employs four such teachers. In addition, one Roma woman has been employed as a school assistant.

12189 Together with the Baden-Württemberg and Schleswig-Holstein Sinti associations, the Regional Centre for Education, Integration and Democracy (RAA Berlin) and Roma representatives from Hamburg, **Hamburg** is preparing an educational training strategy for Roma and Sinti without school education qualifying for admission to a university. The strategy will be developed in 2009. At the same time, a survey regarding the interest of young Sinti and Roma in such training will be conducted.

The curriculum should help Roma and Sinti without university admission certificate to qualify for work in children and youths institutions and schools. On the one hand, this improves the status of persons who have not acquired university admission and increases their job opportunities. On the other hand, employing qualified persons may prevent children from poorly educated families from suffering disadvantages.

In Hamburg, this measure is part of an overall strategy. To reduce the drop-out rate among young Roma and Sinti and to improve the transition to vocational training, Hamburg will conduct a support programme which takes into account the special situation of the young people concerned. The process of promoting young Sinti and Roma is based on an overall package which merges and coordinates individual services such as social counselling, informing about possibilities to obtain help and support, family counselling and support in finding vocational training. Young people are supported in developing their potentials and overcoming learning problems. The counselling services will be provided by specially qualified persons from the minority. It is intended to gradually train Sinti and Roma to become counsellors, coaches and multipliers.

12189a For **Hesse** it is also especially important to improve the integration of children belonging to the Sinti and Roma minority into schools and their participation in the education system. A particular priority are language courses for children with a poor command of the German language. These courses may be attended also by members of the national minority of Sinti and Roma. In addition, an annual grant of 18,000 euros is provided to support Sinti children at two troubled schools in Bad Hersfeld. A mediator deals specifically with the difficult relationship between pupils, teachers and parents in order to break through the self-reproducing circle, in which poorly educated parents do not succeed all by themselves to motivate their children to perform better at school.

12190 In Germany's comment on the Second Opinion, **Lower Saxony** pointed out that the *Land* Government published a flyer advertising an early attendance of nursery schools. Given many families' social situation, contributions can be paid for by the competent youth welfare offices. So far, only the last year in nursery school has been free of charge. In Lower Saxony, all children from the age of three are legally entitled to a place in nursery school. From 2013 this right will be extended to include all children from the age of one year. There is no obligation to attend nursery school. Therefore, the government cannot force Roma and Sinti children to attend nursery schools.

In Germany's comment on the Second Opinion, Lower Saxony also pointed out the following:

"As for other children, school attendance is also compulsory for Roma and Sinti children and youths. Furthermore, there are specific offers for these children, similar to offers for children whose parents travel for professional reasons, which take into account their specific circumstances (e.g. school journal and support by mobile teachers responsible for travelling children in a certain region). For different reasons, Sinti and Roma children at times do not regularly attend school. This alone results in disadvantages for these children's performance in school and their educational opportunities.

Lower Saxony (and other *Länder*) does not intend to provide separate educational institutions for teaching these children. Separate teaching contradicts the objectives of mutual respect, intercultural dialogue and integration and is thus opposed to the Lower Saxon Schools Act. It is necessary to seek mutual trust, schools should consider the children's special family and cultural background, and parents should assume their educational responsibility specifically taking into account their children's educational opportunities."

In addition, already in the Second State Report (no. 695) the following was said regarding the promotion of equal opportunities in education for German Sinti and Roma in Lower Saxony:

Those Sinti and Roma children who still have insufficient proficiency in the German language can, together with foreign children and with school children from German minorities from the Russian Federation and Central Asia who resettled in Germany, take part in special promotion measures:

- Language classes (for pupils without any knowledge of German who cannot yet follow lessons in a regular class). This measure is designed to prepare these pupils for attending regular classes, and usually extends over a one-year period;
- Literacy courses (for pupils who can read or write neither in their native language nor in German);
- Remedial courses and remedial instruction in German (for pupils attending regular classes but still needing language-related promotion).

12191 At its all-day schools, **Rhineland-Palatinate** provides a wide range of promotion measures for children. Furthermore, Rhineland-Palatinate promotes the language development of nursery school children with a special programme of 6 million euros aimed at children which require remedial language teaching. In addition, the secretariat of the Rhineland-Palatinate *Land* Association of German Sinti and Roma has assumed this and other tasks to improve equal opportunities. The office receives annual institutional funding of 222,000 euros (2008).

12192 In **Schleswig-Holstein**, the *Land* Government supports a project initiated in 1995 for the employment of educational assistants (mediators) at Kiel schools to tutor Sinti and Roma children. In the medium term, funding of the project is ensured by an earmarked grant included in the *Land* budget for covering related payroll costs of the *Land* Association of German Sinti and Roma, Kiel. At the moment, three mediators and one assistant social worker are employed. All of them are members of the minority. The objective of this project is to improve educational opportunities for Sinti children. To this end, the *Land* Government has increased the (still available) grant for the *Land* Association of German Sinti and Roma at the beginning of the financial year 2000. In 2006, the mediators project at Kiel schools was awarded the Otto Pankok Prize by the *Stiftung zugunsten des Roma-Volkes* (Foundation for the Roma People) for exemplary integration efforts.

Moreover, Schleswig-Holstein employed two teachers who assist children whose parents travel for professional reasons (including Sinti and Roma) in school matters. For information on the special advanced training course aimed at Roma without university admission certificate in Schleswig-Holstein see nos. 04035 and 12189.

As perhaps all *Länder*, **Thuringia** supports pupils without sufficient German language skills, e.g. in writing, in line with legal provisions by providing remedial instruction in German. This service is also available for German Sinti and Roma.

12193 German authorities do not see any need for action in the field of universities because access to universities is determined by the educational career of applicants and because the *Länder* take the necessary measures to help families steer the course of their children into the right direction at an early stage.

**B.13 Article 13**

**(1) Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**

**(2) The exercise of this right shall not entail any financial obligation for the Parties.**

**B.13.1 Article 13 (1)**

**(Right of national minorities to their own private educational and training establishments)**

**B.13.1.1 Legal bases regarding private schools and private nursery schools**

13001 The right to establish private schools is guaranteed under Article 7 (4) and (5) of the Basic Law. Under this provision, the State has also the obligation to protect and promote the private education system. Private schools which are to serve as alternatives to public schools require the approval of the State and are subject to State supervision. Since the *Länder* have legislative competence for such substitute schools, they are subject to *Land* law.

13002 The Children's Day-Care Centres Act of Schleswig-Holstein lays down that the right of national minorities and ethnic groups to establish and operate their own day-care centres shall be ensured and be considered in local-government requirement planning.

**B.13.1.2 Private schools and private nursery schools of the respective national minorities and ethnic groups****B.13.1.2.1 Private schools and nursery schools of the Danish minority**

13003 Nursery schools and general schools are of fundamental importance for preserving the identity of national minorities. Therefore, Article 8 (4) of the Schleswig-Holstein *Land* Constitution leaves it to the parents/guardians to decide whether their children should attend a school of a national minority.

13004 The Danish minority has a well established system of schools and nursery schools. The body responsible for schools and nursery schools is the Danish School

Association for South Schleswig (*Dansk Skoleforening for Sydslesvig*). The Danish schools are state-approved substitute schools run by voluntary bodies, i.e. their pupils attain the same qualifications and degrees as in public schools. They are the regular schools for members of the Danish minority. The teaching objectives and facilities of these schools and the academic training of their teachers are equivalent to those of public schools. The degrees are recognized by both Germany and Denmark.

In close consultation with all stakeholders, *Dansk Skoleforening for Sydslesvig* completely reorganized its school structure (48 schools) in one go. On 1 August 2008 the former school types became primary and comprehensive schools (36 primary schools, 3 primary schools with specialist schools, 3 comprehensive schools with primary schools, 4 comprehensive schools with primary and specialist schools and 2 comprehensive schools with grammar schools). On the same day, A.P. Møller Skolen was opened as the Danish minority's second comprehensive school with a grammar school, in addition to Duborg Skolen. The school provides teaching for 625 pupils. The construction costs were paid for by a private Danish fund. All these schools remain approved substitute schools without any further requirements. Only the conversion of integrated comprehensive schools into regular comprehensive schools was subject to Section 148 (14) of the Schools Act. These schools and A.P. Møller Skolen still require final approval.

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13006 The proposal made by the Advisory Committee on the Framework Convention to continue the dialogue was in line with the ideas of the *Land* Government. At the suggestion of the *Land* Government and based on the wish to arrive at a solution as regards the strained relations which had emerged between the *Land* Government and the Danish minorities on account of budget-related decisions, a working group led by the Ministry for Education, Science, Research and Cultural Affairs was set up in early summer 2002 together with the Danish Schools Association and in close coordination with the Commissioner for Minorities. Following the entry into force of the new Schools Act, the agreements reached in the final communiqué of 24 November 2004 were implemented on 1 January 2008. In particular, the financial equality of Danish minority schools and public schools was re-established. As regards the payroll costs and material expenses of the private schools operated by the Danish minority, Schleswig-Holstein pays a per-pupil contribution which, irrespective of the actual requirement, amounts to 100% of public cost-per-pupil rates established the year before the contribution is paid. The public cost-per-pupil rates are determined on the basis of the payroll costs and material expenses, which on average were incurred for a pupil at a public school of a similar school type in the *Land* the year before such determination is made.

13007 - 13008

**B.13.1.2.2 Private schools and nursery schools of the Sorbian people**

13009 Throughout the Free State of Saxony and Brandenburg, i.e. including the entire settlement area of the Sorbian people, the respective *Land* Constitution and the relevant *Land* laws ensure that children's day-care centres and schools can be established by private bodies. Of course, this is also guaranteed to Sorbian (Wendish) associations. All other educational institutions of the Sorbian-German settlement area in Saxony which offer instruction in the Sorbian language, especially the schools, are state-run. A similar structure exists in Brandenburg.

**B.13.1.2.3 Private schools and private nursery schools of the Frisians and the Sinti and Roma**

13010 The children of the Frisian ethnic group and of the German Sinti and Roma usually attend the local children's day-care centres provided by either the state or voluntary bodies. The large majority of the children of both groups attend public schools. Some of the children of the Frisian ethnic group attend schools of the Danish minority. These minorities do not want to have their own day-care centres and schools.

**B.13.2 Article 13 (2)**

**(No financial obligations are entailed for the State on account of the right to set up and manage private schools and private nursery schools)**

13011 In addition to the funds provided by **Schleswig-Holstein** for the payroll costs and material expenses of the independent schools of the Danish minority (cf. no. 13006 at the end of section B.13.1.2.1 – "Private schools and nursery schools of the Danish minority"), the Danish school system in Germany (schools and nursery schools) is funded on a considerable scale by the Kingdom of Denmark. The basis for this funding, which includes Danish subsidies and applies *vice versa* to the funding of the private school system of the German minority in Denmark, was laid by the Bonn and Copenhagen Declarations of 1955. A number of local authorities in Schleswig-Holstein grant subsidies for the operation of German and Danish nursery schools.

13012 Taking into account the clarification in Article 13 (2) that the Framework Convention does not entail any financial obligations for states with regard to schools of minorities, the Advisory Committee pointed out in nos. 129 and 130 of its Second Opinion that the reduction in subsidies for school transportation of pupils attending Danish minority schools “may impact negatively on the commendable practice of equal funding for all pupils and might threaten the existence of certain Danish minority primary schools” and reminds the responsible authorities of “the need to ensure that budgetary restrictions do not affect minorities more than the population at large” and encourages them to find an appropriate solution to the problem.

13013 Schleswig-Holstein already provided its comments in Germany’s response:

13013a On 30 November 2008 the school transportation costs were as follows: The provision governing the school transportation of pupils attending public schools is Section 114 of Schleswig-Holstein’s School Act, which, however, does not apply to substitute (private) schools run by voluntary bodies. This also includes the Danish minority schools.

Pursuant to Section 124 of the Schools Act, the substitute schools of the Danish minority receive a contribution amounting to 100% of the public cost-per-pupil rates established the year before the contribution is paid, regardless of the actual requirement. Other substitute schools run by independent bodies receive a contribution of only 80%. The contribution is determined on the basis of the payroll costs and material expenses, which, on average, are incurred for a pupil at a public school of a similar school type. This average amount (cost-per-pupil rate) includes one third of the costs required for the school transportation of pupils in accordance with Section 114 (3) of the Schools Act. This corresponds with the average costs a public school in the *Land* pays for the transportation of a pupil. The remaining two thirds of transportation costs of the public school system are paid for by the districts and are not taken into account by the grants provided to private schools in accordance with applicable law. Hence, the districts of Nordfriesland, Schleswig-Flensburg and Rendsburg-Eckernförde have provided voluntary grants for the Danish minority schools for years. The district of Rendsburg-Eckernförde ceased payments in 2006 but provided a contribution again in 2008.

The aim of the Danish minority and the districts concerned is to adopt a legal provision on the remaining two thirds of transportation costs. For this reason, the question of school transportation costs has been discussed at political level for some time (by the *Land*, the districts and the Danish minority). Apparently, an interim solution has been found for the 2009/2010 biennial budget. It remains to be seen how the situation will evolve.

13014

13015 In no. 706 of the Second State Report it was pointed out that **Brandenburg** grants general subsidies which are used by the minority's institutions for specific projects. In response to the request made by Domowina in this respect, i.e. that provisions similar to those existing in Saxony should be introduced in Brandenburg for subsidizing Sorbian-language or bilingual children's day-care centres, Brandenburg pointed out that such promotion falls under the responsibility of the Foundation for the Sorbian People which is already funded by the *Land*.

**B.14 Article 14**

**(1) The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.**

**(2) In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.**

**(3) Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.**

**B.14.1 Article 14 (1)****(Right of national minorities to learn their minority language)**

14001 The freedom of the individual to learn a language of his/her choice, free of any outside influence, especially without interference by public authorities, is generally protected by Article 2 (1) of the Basic Law. Governmental promotion of language learning is discussed in the comments on Article 14 (2).

14002 Furthermore, under the legal order in Germany, Roma and Sinti are free to confine cultivation of their language to their own community and to pass the language on to younger generations.

**B.14.2 Article 14 (2)**

**(Obligation to endeavour, in areas inhabited by minorities traditionally or in substantial numbers and in keeping with the respective demand, to ensure adequate opportunities for learning the minority language)**

**B.14.2.1 Government level responsible for fulfilling the obligation to endeavour, in areas inhabited by minorities traditionally or in substantial numbers, if there is sufficient demand, to ensure adequate opportunities for learning the minority language**

14003 In Germany, implementation of the obligations imposed under paragraph 2 is incumbent on the *Länder*. The legal framework and practice as well as the government support as regards teaching of and instruction in the minority language meet the requirements of the Framework Convention.

**B.14.2.2 Legal bases of the right to learn a minority language**

14004 The Constitutions of five *Länder* of the Federal Republic of Germany contain provisions referring to national minorities and ethnic groups or to national and ethnic minorities. In part, these provisions also relate directly to the language/languages spoken by them. Such constitutional provisions form the basis for legislative measures or for administrative action taken for the benefit of these languages.

14005 Under Article 25 (3) of the **Brandenburg Land** Constitution, the Sorbs have the right to the preservation and promotion of the Sorbian language and culture in public life and to having the language and culture taught at schools and children's day-care centres. Section 8 of the Sorbs (Wends) Act explicitly reiterates that the Sorbian language, in particular Lower Sorbian, must be protected and promoted. Provisions similar to the above provisions of Brandenburg can be found in Article 6 (1) of the Constitution of the Free State of **Saxony** and in Section 8 of the Saxon Sorbs Act.

14006 Article 37 (2) of the Constitution of **Saxony-Anhalt** guarantees the cultural autonomy of ethnic minorities.

14007 Article 5 of the **Schleswig-Holstein Land** Constitution stipulates that the cultural autonomy and political participation of all national minorities and ethnic groups protected by the *Land*, local governments and local authority associations. It also contains the explicit provision that the national Danish minority and the Frisian ethnic group are entitled

to protection and assistance. Under Article 8 (4) the parents/guardians shall decide whether their children should attend a school of a national minority.

### **B.14.2.3 Status as regards opportunities for learning minority languages**

14008 According to the language proficiency of school-children and youngsters, and in accordance with the parents' wishes, different school structures have been developed for the teaching of and instruction in the minority language. While the Danish private-school system and the Sorbian public schools have a long tradition of such language teaching, the teaching of the Frisian languages is still in an initial stage, and its integration into classroom instruction is based on different concepts. In this respect, the present Report can only provide information on the current state of affairs. Since the German Sinti, on the basis of their traditional position in this matter and for other reasons already mentioned, usually wish neither a written form of their language nor the inclusion of the Romany language in the instruction offered at public schools, pilot measures for the introduction of Romany in school education usually are confined to Roma children according to the parents' wish (see also the comments on Article 12 (2) in nos. 12125 et seq.).

#### **B.14.2.3.1 Status as regards opportunities for learning Danish at school**

14009 As regards the school system in general, it should be noted that the Danish minority has the right, in all of Schleswig-Holstein, to instruction in the Danish language (Declaration by the Government of the Federal Republic of Germany of 29 March 1955). Article 8 of the Schleswig-Holstein *Land* Constitution leaves it to the parents/guardians to decide whether their children should attend a school of a national minority. The pupils coming from the Danish minority are thus given the opportunity to learn and use the Danish language. The details are regulated by the Schools Act.

14010 The body responsible the schools and nursery schools of the Danish minority, the Danish Schools Association for South Schleswig, is operating 48 schools of varying levels attended by 5,700 pupils, and 55 children's day-care centres attended by 1,750 children (as at September 2008). The nursery schools prepare their children for the Danish primary schools. The language of communication in these nursery schools is Danish. With a few exceptions, all of these children move on to a Danish school. These institutions have their own admission regulations.

14011 The children's day-care centres of the Danish Schools Association are supported with funds provided by Schleswig-Holstein. Grants are paid in accordance with Section 25 of the Children's Day-Care Centres Act.

14012 There are also some German nursery schools offering Danish language instruction. Since 1998, Danish has been offered as part of a specific language scheme in seven nursery schools by the *Arbeitsgemeinschaft Deutsches Schleswig*, the Working Group "German Schleswig Region", one of the four German border associations.

14013 See B.13.1.2.1 concerning the structure of Danish minority schools, the school system and funding provided by Schleswig-Holstein.

14014 Apart from the compulsory major subject "German", taught at the native-language level, the teaching language generally is Danish. In the final-year classes and courses, however, it is ensured that technical terms, especially in the fields of mathematics/natural sciences and economics, are also taught in German to prepare pupils sufficiently for their future (German-language) vocational training in businesses and at university. The final examinations of all schools are recognized in both Germany and Denmark.

14015 For most subjects, textbooks used are published in Denmark. Furthermore, textbooks published in Germany and educational material developed by the minority or by teachers of these schools is used.

14016 Jarplund Højskole, the Danish residential adult-education college in South Schleswig, offers further education activities, ranging from events of several days' duration to courses extending over several months.

14017 The German general-education schools of Schleswig-Holstein usually offer Danish as a subject, although not on a regular basis and not throughout the entire *Land*.

### **B.14.2.3.2 Status as regards opportunities for learning Sorbian**

#### **B.14.2.3.2.1 Present status as regards Sorbian language proficiency**

14018 It may be assumed that an estimated number of 20,000 to 35,000 Sorbs in the central settlement areas have such a perfect command of Sorbian that they can actively communicate in this language orally and in writing. In geographical terms, the two groups are distributed unevenly. Nearly all of those Sorbs having a very good knowledge of Upper

Sorbian live in the area of the schooling district of the Sorbian schools, which have been in existence since the late 1940s, in the Bautzen-Kamenz-Hoyerswerda region. In the other parts of Lusatia, only a small share of mostly elderly Sorbs have a good command of Sorbian. On the subject of language proficiency, see the comments under section B.10.1.2.2, nos. 10012 -10016.

14019 As regards the nursery-school and school system, see the general comments on Article 13 (1). The Saxon Act to Promote Children in Day-Care Institutions (*Sächsisches Gesetz zur Förderung von Kindern und Tageseinrichtungen*, SächsKitaG) of 27 November 2001 (last amended by the Act of 4 June 2003) and the Children's Day-Care Centres Act of Brandenburg of 10 June 1992, last amended on 1 January 2001, form the legal basis for the teaching and cultivation of the Sorbian language and culture at Sorbian and bilingual day-care institutions in the German-Sorbian area. The Saxon Schools Act of 3 July 1991, last amended on 19 February 2004, guarantees the right of pupils to learn the Sorbian language and, at some schools, the right to instruction in the Sorbian language in specific subjects for all grades.

Pursuant to the Schools Act of Brandenburg of 12 April 1996, in the version promulgated on 2 August 2002, last amended by the act of 30 November 2007 (Section 5), pupils in the Sorbian (Wendish) settlement area have the right to learn the Sorbian (Wendish) language and receive tuition in the Sorbian language in subjects and grades which need to be further specified. The history and culture of Sorbs (Wends) must be included in the educational work of schools in the Sorbian (Wendish) settlement areas and taught in schools as places of open cultural activity in accordance with Section 7 (8) of the Brandenburg Schools Act.

#### **B.14.2.3.2.2 Status as regards opportunities for learning Sorbian in pre-school education**

14020 The legal framework conditions in the Free State of Saxony ensure the teaching and cultivation of the Sorbian language and culture in children's day care centres of the Sorbian settlement area. Section 2 of the **Saxon Act to Promote Children in Day-Care Institutions** in the version promulgated on 29 December 2005 (Saxon Law Gazette 2006, p. 2) includes the responsibility to ensure that children's day-care centres in the Sorbian settlement area contribute to the teaching and cultivation of the Sorbian language and the preservation of Sorbian traditions. This responsibility is further underlined in Section 20 of the act which specifies that children's day-care centres in the Sorbian settlement area will set up Sorbian or bilingual groups at the parents' request. The details concerning the work

of these institutions and the assistance they receive are governed by legal ordinance of the State Ministry for Social Affairs.

14021 The **Ordinance on the promotion of the Sorbian language and culture in children's day-care centres by the Saxon State Ministry for Social Affairs**

(*Verordnung des Sächsischen Staatsministeriums für Soziales zur Förderung der sorbischen Sprache und Kultur in Kindertageseinrichtungen*, SächsSorbKitaVO) entered into force on 1 January 2007 and governs the conditions, the objectives and procedures to promote Sorbian and bilingual children's day-care institutions.

14022 A particularly intensive possibility of providing a bilingual education for children of German-Sorbian or exclusively German-speaking families is the immersion method of the WITAJ project. Children growing up in German-speaking families are completely immersed in a Sorbian environment in their children's day-care institution. Thus, they acquire basic knowledge of the Sorbian language.

The WITAJ project, which started in 1998, has become very popular throughout the Free State of Saxony, both in Sorbian and bilingual children's day-care centres. Since none of the Sorbian children's day-care centres are attended exclusively by children with Sorbian as a mother tongue, the groups include Sorbian children and children with no or only basic knowledge of Sorbian, but who learn the language in a playful way. The WITAJ project receives assistance from the Sorbian Schools Association (*Sorbischer Schulverein e.V.*) and the WITAJ language centre. A brochure on ten years of the WITAJ pilot project issued by the Sorbian Schools Association provides a good overview of the situation.

14023 The Ordinance on the promotion of the Sorbian language and culture in children's day-care centres by the Saxon State Ministry for Social Affairs introduces a new structure for Saxony's financial support for the promotion of the Sorbian language in children's day-care centres. The body responsible for the institution receives an annual grant of € 5,000 for each group by the Free State of Saxony if it meets the following two conditions: The aim of the children's education is to ensure comprehensive bilingualism and to create the conditions for allowing children to attend a Sorbian primary school. Generally, Sorbian is spoken in the education, instruction and care of children. If the children do not have a command of German appropriate to their age, they will also receive assistance in learning the German language. The professional educators must be able to speak both Sorbian and German. The providing bodies need to ensure that qualified staff who are native speakers of the Sorbian language are employed for instruction in Sorbian.

The new ordinance also provides for clear rules regarding the purpose of the *Land* grant: 88% of the grant, i.e. € 4,400 per year, must be spent on additional educational experts. 12%, i.e. € 600, are available for special advice or specific training requirements.

With the entry into force of this new, targeted form of assistance for the Sorbian language in 2007, grants were paid to 71 groups in Sorbian or bilingual children's day-care centres (51 groups of independent bodies, 20 groups of local authorities). The aim of the new ordinance is to make the promotion of the Sorbian language more effective also in these groups. In 2008 the number of eligible groups increased to 75 (54 groups of independent bodies, 21 groups of local authorities).

14024 The Foundation for the Sorbian People supports the WITAJ projects for bilingual education in children's day-care institutions to ensure that preschoolers start learning the language. Such early language learning is becoming increasingly important, at least in Brandenburg, since the use of Sorbian has declined over the past decades so that the language is only rarely passed on in private/family life.

14025 See the comments under nos. 05061-05067 with regard to the concerns expressed by spokespersons of Domowina, the interest group of the Sorbian people, that the Foundation for the Sorbian People will have to cease its support for the WITAJ projects due to scarce resources.

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14028 Furthermore, at its meeting in Cottbus on 7 May 2008 the Foundation's governing board decided to commission a comprehensive study evaluating the Foundation and the institutions receiving assistance. It may be assumed that necessary structural adaptations following the study will not negatively impact clearly positive tasks, such as the WITAJ project. Moreover, the Foundation is free to decide on the projects receiving assistance and the amount of funding.

14029 In **Brandenburg**, pre-school education is the responsibility of local authorities. Under the Local Authorities Financing Act (*Gemeindefinanzierungsgesetz*), local governments are allocated funds to support institutions and activities promoting pre-school education, e.g. children's homes or day-care centres. Under the pertinent laws, parents are granted extensive participatory rights. Such rights are exercised in particular within the Children's Day-Care Centres Committee (Section 7 of the Children's Day-Care Centres Act) which "decides on educational and organizational matters of the given day-care centre, especially on the educational concept". This Committee provides a forum which grants

substantial rights also to Sorbian (Wendish) parents regarding the conceptual design and educational orientation of children's day-care centres with a view to focusing educational work on the cultivation and teaching of the Sorbian (Wendish) language and culture.

14030 In Cottbus-Sielow the first pre-school institution of the Sorbian Schools Association as its responsible body was established. Previously, the institution was run by local authorities. It was transferred to Sorbian Schools Association, which receives regular subsidies for the maintenance of the establishment and for its staffing. In addition, the Sorbian Schools Association has been offered additional support for separate activities for further and advanced training of the educators.

14031 The WITAJ project is implemented at eight children's day-care centres with 13 WITAJ groups. As part of the WITAJ project, Sorbian (Wendish) is used as the child-care language. In many other children's day-care centres in the Sorbian (Wendish) settlement area, use of the Sorbian (Wendish) language is offered as part of activities to maintain customs/folklore following the yearly cycle of seasons and festivals. The educators introduce children to dances, songs and stories and to picture books covering the same subjects in German and Sorbian (Wendish). In addition, these children get a first-hand experience of customs/folklore being kept up by their parents, grandparents and relatives in the clubs and associations dedicated to these activities.

14032 The Youth Welfare Office of Oberspreewald-Lausitz plans to take up cultivation of the Sorbian (Wendish) language and culture as an approach to the subject of "Inter-Cultural Education in Children's Day-Care Centres".

14033 As an overall assessment, it can be said that for some years already, a number of initiatives aimed at maintaining and cultivating the Sorbian (Wendish) culture have been developed in the traditional settlement area of the Sorbs (Wends). As part of a series entitled "*Kita-Debatte*" (Day-care Centre Debate), the Ministry of Education, Youth and Sport presented these initiatives to the public, most recently in the publication 1/2008 on accompanying educational processes of children (*Kindliche Bildungsprozesse begleiten*), and will continue its commitment also in future.

14034 Domowina points out that the Sorbian-language intensive courses offered by Domowina or its WITAJ Language Centre for educators in the Free State of Saxony have so far not been recognized by the Bautzen Labour Office as a qualifying measure eligible for advanced training grants. In Domowina's view, this meant in the last analysis that unemployed educators were denied the qualification for employment also with Sorbian-

language day-care centres although there was a demand for bilingual nursery-school teachers.

14035 Schools, too, are engaged in imparting knowledge of the Sorbian language. The number of pupils studying Sorbian increased continuously in the 1990s. In Brandenburg this trend continued particularly thanks to the WITAJ project. Classroom instruction is provided mainly by primary and secondary schools, but also by grammar schools. In this respect, the Lower Sorbian grammar school (*Niedersorbisches Gymnasium*) in Cottbus deserves particular mention. The school not only offers Sorbian language instruction, but also aims at including Sorbian (Wendish) as the teaching language for various other classroom subjects.

#### **B.14.2.3.2.3 Status as regards opportunities for learning Sorbian in school**

14036 In the past few decades, schools providing instruction in the Sorbian language have been established in six different locations in what is now the Free State of Saxony. With the introduction of the Schools Act and the restructuring of the uniform school-type system of the German Democratic Republic (GDR), resulting in its replacement with a differentiated school system, the previously existing six “polytechnic secondary schools” and one “upper secondary school” were transformed into six primary schools, six intermediate secondary schools and one grammar school.

14037 As regards **primary schools**, Sorbian is taught as the native language, as a secondary language and as a foreign language (*secondary language*: mainly for pupils from bilingual families or from a bilingual setting; *foreign language*: mainly for pupils from German-speaking families or from a German-speaking setting in the Sorbian settlement area).

14038 Under the project “bilingual Sorbian-German schools in **Saxony**”, Sorbian is taught as the native language and as a secondary language at six Sorbian primary schools, of which two are in the district of Bautzen and four in the district of Kamenz.

14039 Another four German primary schools within the jurisdiction of the Bautzen Regional Schools Office offer Sorbian as a secondary language on the basis of the aforementioned concept. The 6-years’ project evaluation phase started in the 2002/2003 school year. The Saxon State Ministry of Education and Cultural Affairs assigned scientific monitoring of the evaluation to the *Comenius-Institut (CI)* – Saxon State Institute for Education and School Development. Important criteria used in this evaluation are:

analyses of the achieved levels of proficiency in the Sorbian and German languages; assessment of teaching methods; and the individual conditions existing at the primary schools taking part in the project.

14040 Another 16 primary schools in the area covered by the Bautzen Regional Education Office offer Sorbian as a foreign language. A survey conducted during the 1995/1996 school year on the educational profiles of primary schools showed that the Sorbian schools – but other primary schools as well – pay particular attention to the cultivation of the Sorbian language and culture. Also in many other primary schools in the German-Sorbian region, the Sorbs' customs and folklore are integrated into school life.

14041 In the 2002/2003 school year, the districts of Kamenz and Bautzen had six Sorbian **intermediate secondary schools**. At the end of the 2002/2003 school year, the Saxon State Ministry of Education and Cultural Affairs cancelled its co-funding for the Sorbian intermediate secondary school in Crostwitz because in the 2003/2004 school year pupils were enrolled for only three classes. These remaining three classes were transferred to the Sorbian intermediate secondary school in Ralbitz. In addition, Sorbian is offered as a secondary language at two other intermediate secondary schools within the area of the Bautzen Regional Education Office (*Regionalschulamts Bautzen*). Instruction is based on the current curricula for Saxon intermediate secondary schools.

14042 During the testing of the overarching concept for all types of schools entitled "Bilingual Sorbian-German Schools", a number of secondary technical schools offer bilingual subject-specific instruction (outside language instruction) and/or bilingual modules for subject-specific instruction.

14043 Pupils with Sorbian as their native language are instructed in the Sorbian language, with the exception of the following subjects: German, Mathematics, Physics, Chemistry and Biology (from the 7<sup>th</sup> grade onwards). All other pupils are taught in German. The rules laid down by the Saxon State Ministry of Education and Cultural Affairs with regard to instruction at Sorbian and other schools in the German-Sorbian region, and the specifications regarding the respective approved subject hours have resulted in an increased requirement for teachers covering these subject hours at the Sorbian intermediate secondary schools.

14044 In its Second Opinion the Advisory Committee welcomed the introduction in the *Land* of Saxony of new school syllabi including the study of Sorbian at primary and secondary level.

14045 In no. 59 of its First Opinion the **Advisory Committee** noted that there are reasons for **concern** at the decision to close the Sorbian **intermediate secondary school** in Crostwitz. The Free State of Saxony attempted to allay these concerns with reasoned arguments. However, in no. 133 of its Second Opinion the Advisory Committee “remains deeply concerned about the continued steps to close the Sorbian secondary schools, particularly the 5th class of the Radibor secondary school<sup>9</sup>, the threatened closure of the Panschwitz-Kukau school and thus, the reduction of the number of Sorbian schools in the Kamenz district from four to two. Though well aware of the demographic recession affecting the Free State of Saxony, it reminded the authorities that these schools situated in the heart of the Sorbian settlement areas are essential not only for educational reasons but also for the preservation of Sorbian language and culture, which are affected by difficult economic and demographic conditions. It is also of the opinion that the closure of secondary classes and schools could run counter to the significant advances achieved towards revitalisation of Sorbian, particularly under the WITAJ schemes.”

It also observed under no. 134 of its Second Opinion “that the legislation of the *Land* of Saxony allows exceptions to be made to the minimum thresholds for Sorbian classes. Such exceptions would be applied in a certain number of cases but not in respect of the secondary schools referred to above.” Hence, in no. 131 of its Second Opinion, the Advisory Committee “urges the authorities to give serious consideration to the persisting threats of closure of Sorbian schools, because this would be indispensable for securing the long-term future of the historic network of Sorbian schools in the area traditionally inhabited by this minority”. In no. 136 of its Second Opinion it “urges the authorities to apply the exemptions to the minimum threshold to secondary Sorbian schools and classes, which are at risk of closing down”.

14046 In Germany’s response, the **Free State of Saxony** gave the following reasons to uphold its decision and clearly pointed out at the time that it would ensure that alternative Sorbian secondary schools were within easy reach for pupils:  
“Given the known demographic development, the number of pupils at Sorbian intermediate secondary schools has dropped so low that the educational goal of intermediate secondary schools, i.e. to provide education resulting in a secondary modern school or secondary technical school degree, could in some cases not be realized anymore – not even to a limited extent. Consequently, the Free State of Saxony withdrew its support for the Sorbian intermediate secondary school in Crostwitz on 31 July 2003. Similarly, the Saxon State Ministry of Education and Cultural Affairs does not see any public need to maintain the Sorbian intermediate secondary school in Panschwitz-Kuckau. In the 2005/2006 school year there were no grades 5 and 7. Only seven students applied for attending grade 5 of this intermediate secondary school. Prognoses do not show any

significant increase of students in the next few years. The Saxon State Ministry of Education and Cultural Affairs sees a public need to maintain at most two classes of one grade in the administrative community “Am Klosterwasser” which has the highest number of Sorbian schools in the district of Kamenz. Hence, pursuant to Section 4 (4), no. 4 of the Schools Act, there is a public need of no more than two intermediate secondary schools. Furthermore, it is only a short distance of a few kilometres to the Sorbian intermediate secondary schools in Räckelwitz and Ralbitz. In the long run, there will be a public need to maintain at most three classes of one grade at Sorbian secondary schools in the former district of Bautzen. It is currently not possible to make any reliable statements about the long-term public need concerning the Sorbian intermediate secondary school in Radibor. The responsible body was informed by the Saxon State Ministry of Education and Cultural Affairs that the decision concerning this secondary school may be reviewed if a balanced concept on Sorbian intermediate secondary schools in the district of Bautzen is presented. The Sorbian intermediate secondary school in Radibor will be maintained without any restrictions.

All decisions concerning Sorbian education are based on the rights of the Sorbian people as determined in Article 6 (1) of the Constitution of the Free State of Saxony and in Section 2 and Section 4a (4) no. 4 of the Saxon Schools Act. Even if the Free State of Saxony does no longer provide certain grades at the Sorbian intermediate secondary school in Panschwitz-Kuckau, the maintenance and development of their culture, language and traditions is ensured through the remaining Sorbian intermediate secondary schools in the Sorbian settlement area since they can be reached in fair time and offer good quality education. Before the decision was taken, the educational arguments of Sorbian bodies had been thoroughly examined. The evaluation of the concept of the bilingual Sorbian-German school “2plus” (WITAJ concept), which encompasses all types of schools, will not be affected by the withdrawal of *Land* participation in offering certain grades. This concept is intended to stabilize or even increase the number of pupils at Sorbian schools. The number of Sorbian schools will remain at such a level that Sorbian intermediate secondary schools can be reached in reasonable time. This is ensured by the Free State of Saxony through legal provisions in support of the Sorbian people. A reasonable adaptation of the school network, which gives consideration to the obligations under Article 6 of the Constitution of the Free State of Saxony, is necessary to use available resources as effectively as possible. The historic network of Sorbian schools will remain intact even after the closure of the Sorbian intermediate secondary school in Panschwitz-Kuckau, since primary schools are available in all locations concerned.”

The Free State of Saxony added the following information:

With the closure of the intermediate secondary schools in Crostwitz and Panschwitz-Kuckau, the necessary adaptation of the school network to the demographic development has been achieved for the foreseeable future. The future of the intermediate secondary school in Radibor as part of the school network in the current district of Bautzen has been ensured.

14047 Like all other grammar schools in the Free State of Saxony, the Bautzen Sorbian grammar school (*Sorbisches Gymnasium*) provides general education which is the prerequisite for entry to higher education at universities. This is the only grammar school where pupils are offered in-depth linguistic and literary education in the Upper Sorbian language. The Saxon State Ministry of Education and Cultural Affairs generally allows Sorbian pupils to enrol in a special advanced course in their native language and to take the written *Abitur* exams in this language. The approval granted for the introduction, from the 1996/1997 school year onwards, of the advanced-course subject combination Sorbian/natural sciences (biology or chemistry or physics) for pupils speaking Sorbian as their native language offers pupils a much wider choice and, at the same time, may be seen as a contribution towards promoting the Sorbian language and culture. Bilingualism is a particularly decisive factor of school life at Sorbian grammar school; all pupils study Sorbian either as their native language or as a secondary language. The special expenses entailed by bilingualism for this school are funded with *Land* subsidies. In this respect, however, there are occasional problems regarding responsibility for budgetary matters because the body responsible for the Sorbian grammar school is the district of Bautzen.

In addition to the Sorbian grammar school, the grammar school *Lessing-Gymnasium* in Hoyerswerda, also in Saxony, offers language instruction in Sorbian as a foreign language.

14048 In the 2007/2008 school year approx. 2,100 pupils at 29 schools were taught Sorbian. At Sorbian schools, Sorbian is a compulsory subject. Participation in Sorbian language lessons is a free decision to be made by the pupils' parents. The basis for this decision is provided in children's day-care centres or, at the latest, at the time of enrolment in a primary school. In this respect, it is important that nursery-school teachers, educators and teachers constantly underline the value of the Sorbian language and culture and encourage parents and pupils to commit themselves to these traditional values. This is also the basis for ensuring that in future the required number of trainee teachers and teachers on probation will be available for qualified Sorbian language teaching to the pupils of the Sorbian grammar school.

14049 In addition, adults can attend a Sorbian language course at one of the adult education centres in the towns of Kamenz, Bautzen, Hoyerswerda or Weißwasser.

14050 Under no. 757 of the Second State Report, Domowina pointed out that the Sorbian Educational and Family Centre *LIPA e.V.* in Schmerlitz offers a wide range of courses teaching the Sorbian language to all age groups.

14051 Concerning the wish expressed in no. 135 of the Advisory Committee's Second Opinion by several Sorbian representatives "to move towards more independent management of the Sorbian schools network, on the same pattern as the network of Danish schools, in order to accommodate to the extent possible the Sorbian community's educational and linguistic needs, including by means of the establishment of a foundation for Sorbian education", the Free State of Saxony replied as follows in Germany's response to the Second Opinion:

"The idea to set up schools run by independent bodies was taken note of in 2002, but not pursued any further. A new application supported by the bodies responsible for Sorbian schools has not been submitted to the Saxon State Ministry of Education and Cultural Affairs."

14052 In **Brandenburg**, the Ordinance on School Education Matters of the Sorbs (Wends) (*Verordnung über die schulischen Bildungsangelegenheiten der Sorben (Wenden)*) entered into force on 31 July 2000. Under this Ordinance, the Lower Sorbian grammar school is recognized as a "Sorbian (Wendish) school having its own special character". So far, there are five primary schools which, in accordance with this Ordinance, use Sorbian as the language of tuition for part of classroom instruction.

14053 In Brandenburg the increasing interest in studying the Sorbian language has continued particularly thanks to the WITAJ project. Classroom instruction is provided mainly by primary and secondary schools, but also by grammar schools. In this respect the Lower Sorbian grammar school in Cottbus deserves particular mention since it not only offers Sorbian language lessons, but also aims at including Sorbian (Wendish) as the teaching language for various other classroom subjects.

14054 At the primary schools in the traditional settlement area of the Sorbs (Wends), Lower Sorbian is offered as a regular subject. The number of primary schools offering such instruction rose from 23 in the 2002/2003 school year to 24 in the 2007/2008 school year. In the 2007/2008 school year, some 1,200 pupils of primary schools made use of this offer. Furthermore, the number of participants in Sorbian (Wendish) classes, as a percentage of the total number of pupils, has increased substantially because in the course of the past few

years the number of participants in Sorbian (Wendish) classes has increased while the number of pupils attending primary schools has dropped. Sorbian (Wendish) is offered as a foreign or second language as early as in grade one (WITAJ project). At the same time, Sorbian (Wendish) is the working language in the starting bilingual instruction of specific subjects.

14055 In the 2002/2003 school year, some 500 pupils at secondary schools received instruction in Lower Sorbian; in the 2007/2008 school year there were 700 pupils. The language is taught as a foreign or as a second language. Furthermore, Sorbian (Wendish) is the working language in specific bilingual subjects.

14056 At one school, the Lower Sorbian grammar school in Cottbus, classroom instruction in Lower Sorbian is mandatory.

14057 The Education Offices responsible for schools in the Sorbian (Wendish) settlement area ensure that parents are informed about their right to opt for tuition in Sorbian (Wendish). A survey carried out at the aforementioned Education Offices has shown that the requirements for exercising the right to take part in Sorbian (Wendish) classes are actually met. The increase in the number of pupils also shows that parents increasingly make use of this right.

14058 A statutory ordinance issued by the supreme supervisory school authority under Section 5, third sentence, of the Brandenburg Schools Act entered into force on 31 July 2000. The ordinance regulates Sorbian instruction in various subjects, learning of the Sorbian language and classroom instruction in Sorbian history and culture.

#### **B.14.2.3.3 Status as regards opportunities for learning the Frisian languages**

14059 In Schleswig-Holstein, the legal basis for providing the possibility to learn one's own language in the settlement area of the Frisian ethnic group is Article 5 (2) of the Schleswig-Holstein *Land* Constitution, under which also the Frisian ethnic group is entitled to protection and promotion. There is no comparable legal provision in Lower Saxony, but in this *Land*, too, opportunities are being developed for learning the Frisian language (Saterland Frisian).

14060 **Frisian is taught at many public schools in the North Frisian language area and at a number of schools of the Danish minority.** Frisian is taught at the **grammar schools** in Niebüll and Wyk on the island of Föhr, at the combined secondary technical

schools of Wyk, Neukirchen, Amrum and Helgoland, at the primary and secondary modern schools of Risum-Lindholm, Langenhorn and Bredstedt, at the secondary modern school of Sylt, at the primary schools of Niebüll, Föhr-Ost, Föhr-West, Keitum/Morsum, List, Hörnum, St Nicolai/Westerland, Westerland-Nord, Fahretoft, Husum, Emmelsbüll, and at the Westerland special school.

The following Frisian dialects are taught: Mooring (Frasch, Freesk), Fering, Sölring, Öömrang and Halunder. In the 2007/2008 school year, 14 teachers offered Frisian instruction to a total of 1,022 pupils at 25 schools of all types.

14061 Such instruction is offered mainly by **primary schools**. As a rule, this instruction is offered as a voluntary optional-subject course for the 3<sup>rd</sup> and 4<sup>th</sup> grades, i.e. the parents decide on whether or not their child will attend such classes. Schools of the Danish minority offering Frisian instruction are those in Keitum (on the island of Sylt), Bredstedt and Risum.

14062 At many **nursery schools in Nordfriesland** – from the island of Sylt to Friedrichstadt in the south – children can learn the Frisian language. In some cases, Frisian language learning has been included in the educational programme of these nursery schools. The bilingual nursery schools thus form the basis for subsequent bilingualism at school.

14063 For Schleswig-Holstein, the ordinance of 2 October 2008 is of major importance in this respect:

„5. In grades 5 and 6 of secondary modern and secondary technical schools, regional and grammar schools as well as comprehensive schools, Frisian can be offered as an optional subject or within the framework of a Frisian-language cultural project.

6. From grade 7 onwards, all secondary schools can offer Frisian as an optional subject in the normal curriculum. In the higher secondary level, the minority language Frisian can be chosen as a substitute for a foreign language, if sufficient staff is available. The possibility of setting up activity groups remains unaffected by this provision.”

14064 Under the **Lower Saxony Schools Act**, pupils should be enabled to develop their faculties of perception and sensitivity and their capacity for expressing themselves, also in the relevant regional variety of Frisian. This mandate can be implemented in all subjects of classroom instruction. This calls for a differentiated support system.

14065 As was positively noted by the Advisory Committee under no. 140 of its Second Opinion, **Sater Frisian** is a teaching subject in Saterland primary schools and at the

*Schulzentrum Saterland* (Saterland School Centre). This instruction is offered in the form of **activity groups**. In all the schools Sater Frisian is taught by qualified teachers.

14066 In the **2008/2009** school year, a total of 205 pupils are attending Sater Frisian classes. Of these, **195** were **pupils of the four primary schools** which were attended by a total of 662 children. Only ten pupils taking Sater Frisian classes came from lower secondary schools.

14067 In the **2004/2005** school year, **grades 5 and 6** were transferred to secondary schools. For the *Schulzentrum Saterland*, these are the *Hauptschule* (secondary modern school) and the *Realschule* (secondary technical school). In the context of whole-day schooling, it was planned to establish an afternoon **activity group** for Sater Frisian. **For lack of demand**, this plan was **not implemented**. Since the 2007/2008 school year, Sater Frisian can be chosen as an optional compulsory subject in grade 6. Currently, ten pupils attend this course.

14068 Regarding the **Advisory Committee's recommendation** in no. 88 of its First Opinion "that the authorities should examine ways of developing and financing more teaching hours of the Frisian language, also at levels beyond primary school", Lower Saxony argued in no. 783 of the Second State Report that Sater Frisian instruction can be provided by full-time teachers in the form of activity groups only if there is a sufficient demand.

14069 For instruction in the Sater Frisian language, a total of 17 hours per week are included in the timetable for the 2008/2009 school year. One more teaching hour is provided by a volunteer.

14070 Following the **pilot project on bilingualism in nursery schools** (*Zweisprachigkeit im Kindergarten*) in 1997/98, the **Ostfriesische Landschaft** conducted the EU project "Multilingualism in Pre- and Primary School" together with Saterland Frisians and seven other European language communities. Cornelia Nath and Elke Brückmann described the project in *Mehrsprachigkeit in der Vor- und Grundschulperiode, Schwerpunkt Bilingualer Unterricht in der Grundschule* (Multilingualism in pre- and primary school with a focus on bilingual classroom instruction at primary school), Aurich 2003. The project was carried out from 1 April 2001 to 31 March 2003. The subjects studied under this project and the relevant findings can be found on the Internet at [www.kinder-mehrsprachigkeit.de](http://www.kinder-mehrsprachigkeit.de). For Ostfriesland, the main subjects were training of educators and bilingual instruction at primary schools. Regarding the first subject, a training course on early multilingualism was tested, including the regional language Low German. The

second subject focused on the continuation of bilingual education at primary school. The aim of bilingual instruction in this case was language learning at school.

14071 Continuing minority language instruction at primary schools is considered favourable for promoting children's language skills. Also, primary-school pupils are particularly well suited to become multilingual by learning foreign languages (English, French, Dutch/Flemish) at an early age. Sater Frisian is taught once per week in the five Saterland day-care centres. Cooperation between nursery and primary schools is coordinated by the Specialist Adviser in the framework of the working group.

14072 Regarding no. 143 of the Second Opinion in which the Advisory Committee "invites the authorities concerned to take account of the educational needs of the Saterland Frisians and to step up official efforts for the preservation of their language through education" we would like to point out the following on the basis of the comment of Lower Saxony in Germany's response to the Opinion:

14073 Lower Saxony has increased its efforts to preserve the Sater Frisian language. The number of teaching hours was increased from 12 in the 2004/2005 school year to 16 in the 2005/2006 school year. In the 2008/2009 school year 18 teaching hours will be provided by four full-time teachers (17) and one volunteer (1).

14074 At the *Schulzentrum Saterland* Sater Frisian was offered as a course to be chosen among optional compulsory subjects for the first time in 2005/2006. Pupils will receive marks for their performance in the course. Since then the course has been offered in each school year. Nine pupils attended the course in the 2007/2008 school year and ten pupils in the ongoing school year 2008/2009.

14075 All the new curricula of Lower Saxony which entered into force on 1 August 2006 require that regional affairs be taken into account in classroom instruction. For German and English it is specifically pointed out that Low German and Sater Frisian provide an additional impetus for instruction and should be used for linguistic studies and comparisons.

#### **B.14.2.3.4 Status as regards opportunities for learning Romany**

14076 Children of German Sinti and Roma grow up bilingually with Romany and German and usually have a good command of both languages. None of the School Acts of the *Länder* provides for instruction in the Romany language within the public school system

since such instruction is not wanted by the parents within the German Sinti group. As regards the view taken by the Central Council of German Sinti and Roma, the *Sinti Allianz Deutschland* and other Sinti organizations on non-inclusion of Romany in general classroom instruction, see the comments under section B.12.2.2.4, nos. 12125 et seqq.

14077 Therefore, in accordance with the parents' wish, Romany is not taught at German schools. Nevertheless, special opportunities for promoting the schooling progress of children of members of the minority, taking account of their cultural traditions and their language, have developed in some of the *Länder* of the Federal Republic of Germany:

14078 At eight Hamburg schools (primary, secondary modern and secondary technical schools and one remedial school) six Roma teachers and social workers provide assistance to pupils. In addition, Sinti social workers provide homework assistance to Sinti students at two Hamburg schools (Wilhemsburg and Lokstedt districts). Measures not provided in German are provided in the Romany spoken by the German Roma but not in the Romany spoken by German Sinti since the members of this part of the national minority refuse this (cf. no. 12134).

14079 In addition, the following measures are available in Hamburg: parent-specific activities, interpreting for the Romany language, and support for German teachers at primary and secondary modern school as regards instruction for members of the minority. Courses on adult literacy and German as a foreign language offered by the Adult Education Centre are also attended by Roma and Sinti.

14080 In **North-Rhine/Westphalia**, various possibilities have opened up for promoting the schooling progress of children from Roma families, taking account of their cultural traditions and their language, within the framework of a number of local projects in Hamm and Cologne. On the basis of the requirements and wishes expressed by the representatives of the families concerned, these activities are confined to imparting historical and cultural information about this minority. Instruction by public authorities in the Romany language spoken only within the minority is not wanted also by the local groups.

14081 In **Bavaria**, children are offered Romany-language homework assistance and tutoring by a Nuremberg primary school. This project was introduced at the initiative of the Bavaria *Land* Association of German Sinti and Roma. It is coordinated by a representative of the Association and conducted in the language of the German Sinti and Roma. Although the project focuses on homework assistance, knowledge about the culture of Sinti and Roma is also imparted. The Bavarian State Ministry of Education and Cultural Affairs funds

this project in the framework of midday care at public schools in the same way as midday-care services provided by other bodies.

14082 Recruiting members of the minority without the teachers' state examination for teaching Romany to Sinti and Roma is made possible and facilitated by the opening of schools, as stipulated in the **Hessian Schools Act**, and by extending schools offering whole-day classes.

14083 Moreover, to implement Article 8 (Education) of the Council of Europe Charter for Regional or Minority Languages, various *Länder* (**Berlin, Hesse, Rhineland-Palatinate, and Baden-Württemberg**) have adopted provisions for pre-school, primary and secondary education regarding Romany instruction.

### **B.14.3 Article 14 (3)**

#### **(Acquisition of the official language is not adversely affected by learning a minority language)**

14084 At the schools of general education maintained by and for minorities, i.e. at the Danish private schools as well as the public Sorbian schools and public schools offering Frisian instruction, German instruction meeting mother-tongue standards is ensured in addition to the teaching of and/or in the minority language. This also includes teaching of the required German technical terms, in particular of natural and social sciences.

**B.15 Article 15**

**The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.**

**B.15.1 General bases for equal participation of persons belonging to national minorities**

15001 In the Federal Republic of Germany, effective participation of persons belonging to national minorities and ethnic groups in cultural, social and economic life and in public affairs is ensured by Germany's constitutional order based on democracy and the rule of law. In addition, there are protective legal provisions and practical promotion measures to promote such participation.

**B.15.2 Participation of persons belonging to national minorities in policy-making**

15002 **Participation in policy-making** is ensured first by the **right to freely establish political parties**. This is laid down in Article 21 of the Basic Law. The State may neither impose restrictions on the number of political parties established nor make the establishment of political parties subject to authorization. The members of national minorities and ethnic groups, like the majority population, have the unrestricted right to establish a political party. Also, as German nationals, they have the right to vote in elections and the right to stand for election to the German Bundestag, to the *Land* parliaments and to local councils. As regards elections to the German Bundestag, political parties of national minorities are exempted from the five-percent threshold established by the Federal Electoral Act (*Bundeswahlgesetz*). The same holds true for parties of the Sorbian minority participating in *Land* elections in Brandenburg and for parties of the Danish minority participating in *Land* elections in Schleswig-Holstein. Moreover, parties of national minorities are exempted from the minimum number of votes required to qualify for political party funding.

15003 Parties specifically representing national minorities include the *Südschleswigscher Wählerverband* (no. 15004 et seq.), the *Wendische Volkspartei* and *Die Friesen* (no. 15021). With the exception of some individual elected representatives of political parties on the fringes of the political spectrum, there is a political consensus among all parties represented in the German Bundestag and in the *Land* parliaments to give political support

to the protection and promotion of minorities. This consensus is also reflected, for instance, by the nearly unanimous consent (with few abstentions) to the ratification of the Framework Convention for the Protection of National Minorities and by the unanimous consent to the ratification of the European Charter for Regional or Minority Languages within the Bundestag and the Bundesrat.

#### **B.15.2.1 Participation of members of the Danish minority in policy-making by election to parliaments and local councils**

15004 Through the *Südschleswigscher Wählerverband* (*Sydslesvigsk Vælgerforening*, SSW) the Danish minority participates in the political, economic, cultural, social and societal responsibilities of the *Land*. The SSW, with its headquarters in Flensburg, was established already in 1948 as a political party of the Danish minority of the Schleswig region and of the national Frisians in Nordfriesland.

15005 The *Südschleswigscher Wählerverband* won two seats in the Schleswig-Holstein *Land* parliament elections of 20 February 2005. Irrespective of the number of their mandates, the SSW deputies have parliamentary group status. At present, the SSW is represented by 186 deputies in district, city and local councils in Schleswig-Holstein (municipal elections: 25 May 2008).

15006 The *Land* Electoral Act facilitates political participation of the Danish minority by exempting the SSW from the five-percent threshold for elections to the Schleswig-Holstein *Land* parliament. However, in order to win a seat on the basis of its list of party candidates, the SSW must obtain at least as many votes as those required for the last mandate to be allocated according to the d'Hondt highest average method.

15007 Under the previous one-vote system, the SSW was able to win votes only in those constituencies where nominated SSW members ran for direct election. With the introduction of the two-vote system for elections to the *Land* parliament, starting with the elections of 27 February 2000, the SSW – like any other political party – can win second votes for candidates included on its *Land*-wide list of party candidates. These votes then serve as the basis for calculating the allocation of seats.

15008 In the *Land* Government's view, the introduction of the two-vote system has not posed any legal problems as regards the SSW's exemption from the five-percent threshold. Geographic limitations as regards the nomination of candidates by this political party are required neither in fact nor law. A legal opinion prepared by Professor

Pieroth, Münster, on commission of the *Land* parliament confirmed the *Land* Government's view.

15009 In the context of the proceedings instituted for scrutiny of the 2000 *Land* parliament elections, the Schleswig Higher Administrative Court took two decisions asking the Federal Constitutional Court to verify the compatibility of the exemption from the five-percent threshold with the constitutional principle of "one person, one vote". Both orders of reference were declared inadmissible by the Federal Constitutional Court. Among other things, the Federal Constitutional Court explained that the *Land* parliament has always represented the entire area of Schleswig-Holstein, also in view of the special interests of a national minority, which might be geographically limited. Even if a political party has the function and status of a recognized minority party only in one section of the election area, it may still operate in the entire election area. The election system is determined by the legislator, and there seems to be no exclusive constitutional obligation for the *Südschleswigscher Wählerverband* to nominate candidates only in one part of the *Land*. Thus, the Federal Constitutional Court confirmed the *Land* Government's view that a party which has the function and status of a recognized minority party in one section of the election area, must be entitled to operate in the entire election area<sup>9</sup>.

15010 In no. 158 of its Second Opinion the Advisory Committee welcomed the Federal Constitutional Court's decision.

### **B.15.2.2 Participation of members of the Sorbian people in policy-making by election to parliaments and local councils**

15011 Effective representation of the Sorbian people in **Brandenburg**, in particular in the parliament, is considered particularly important since it takes many decisions affecting the Sorbian people. Given that only some 20,000 Sorbs are estimated to live in Brandenburg, it has not been possible to achieve direct parliamentary representation although parties of national minorities are exempted from the five-percent threshold. However, the *Land* parliament set up a Council for Sorbian Affairs (*Rat für sorbische Angelegenheiten*) dealing with all matters affecting Sorbian interests. This Council has the rights and the function of a parliamentary committee and thus is involved in legislative proposals concerning the Sorbian people.

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<sup>9</sup> See Decision of the Federal Constitutional Court of 14 February 2005, 2BvL 1/05.

15012 In view of the right to freely identify oneself with a minority as stipulated and guaranteed by Section 1 of the Saxon Sorbs Act (*Sächsisches Sorbengesetz*), it is difficult to provide information on the extent to which members of the Sorbian people **participate** in policy-making in **local/municipal councils** in the Free State of **Saxony**. For local elections, the *Land* Statistical Office records the election results only by parties nominating candidates for election, so that no information on individual persons is available to the Office. A voters' association underlining the Sorbian ethnicity by using "Sorbian" in their title participated in the 2008 district elections in Bautzen. The *Freie sorbische Wählervereinigung* (FSWV) whose Sorbian name is *Swobodne serbske wolerske zjednoćenstwo* (Free Sorbian Voters' Association) nominated candidates for the new Bautzen district parliament and won one seat.

All districts, the independent city of Hoyerswerda and various municipalities have statutes governing the representation of Sorbian interests in local parliaments. For example, the Niederschlesische Oberlausitz district, the independent city of Hoyerswerda and the city of Bautzen formed Sorbian advisory boards (called working group in Bautzen) composed of members of the district parliament, the city council and appointed citizens. In the Bautzen district, the working group is composed of competent citizens from the district. After the reform of administrative districts of 1 August 2008, rules and bodies were adapted accordingly.

15013

15014 In response to **the Advisory Committee's comment** (in no. 89 of its First Opinion) that **only 6 out of 15 members of the governing board of the Foundation for the Sorbian People** (*Stiftung für das Sorbische Volk*) are representatives of the Sorbian minority and without any veto right, and to the Committee's recommendation "that the authorities should examine ways of strengthening the representation of the Sorbian minority in the functioning of the Foundation and in other fora", the following information has already been provided in no. 806 of the Second State Report:

15015 It would not be expedient to grant the Sorbian members of the Foundation's governing board a veto right on general policy matters since the margin of practicability is narrow due to the lack of clarity in defining the term "general policy matters". Also, there would be no point in allowing Sorbian representatives to have the majority on the Foundation's governing board since the parties providing funds to the Foundation (Federal Government, Brandenburg, Saxony) would have to claim a veto right in all financial matters and since, due to the financial implications of many decisions taken by the Foundation's governing board, the majority vote would not be fully operative on a large

number of issues, which in turn might be perceived as a *de facto* weakening of the principle of majority rule. Nor does it appear necessary to make any changes because the providers of funds so far have not intervened in the Sorbs' policy-making process and because important decisions must be taken by mutual agreement with the majority of the Sorbian representatives.

15016 The composition of the Foundation's governing board is regulated in Article 7 of the Inter-State Agreement on the Establishment of the Foundation for the Sorbian People (*Staatsvertrag über die Errichtung der "Stiftung für das sorbische Volk"*). Changes regarding the composition of the Foundation's governing board could be made only if this Inter-State Agreement was to be amended.

15017 All the members of the Foundation's governing board jointly pursue the same objectives (see Article 2 of the Inter-State Agreement). The respective association of municipal corporations and local authorities (*Städtetage, Gemeindetage* or *Landkreistage*) of Brandenburg and the Free State of Saxony appoints the representatives as listed in Article 7 (1) nos. 5 and 6 of the Inter-State Agreement by mutual agreement and in consultation with the local authorities of the Sorbian settlement areas in these two *Länder*. They represent cities and municipalities as well as districts in the Sorbian settlement area. The aforementioned Article 7 of the Inter-State Agreement does not state that the "representatives of the Sorbian people" are obliged to indicate that they belong to this ethnic group (cf. "free declaration of one's affiliation with a minority"). They represent the Sorbian people. Nor does the wording of Article 7 rule out the possibility that representatives as defined in Article 7 (1) nos. 2 - 6 may represent the interests of the Sorbian people.

15018 Regarding the Advisory Committee's recommendation in no. 154 of its Second Opinion "to examine the possibility of strengthening the representation of the Sorbian minority in the Foundation for the Sorbian People" the Free State of Saxony had reported on plans to involve Domowina in the *Sorbisches National-Ensemble GmbH* and the *Domowina-Verlag GmbH* as a partner (together with the Foundation for the Sorbian People). However, with Decision no. 255 of 14 December 2006, the board of the Foundation for the Sorbian People has abandoned this plan after thorough examination.

### **B.15.2.3 Participation of members of the Frisian ethnic group in policy-making by election to parliaments and local councils**

15019 A large number of members of the Frisian ethnic group are represented in district councils and city/municipal councils in Nordfriesland and Ostfriesland, and in the Saterland municipality, but the exact numbers are not known. In some island communities of Nordfriesland, Frisians represent the majority.

15020 Those Schleswig-Holstein Frisians who are members of the Frisian association *Friisk Foriining* are politically represented by the South Schleswig Voters' Association SSW (*Sööds-laswiksche Wääl-erferbånd*). Frisian SSW members are represented in local and district councils. One of the two SSW deputies to the Schleswig-Holstein parliament is a North Frisian who is proficient in the Frisian language. Also, some members of the Nordfriesland district parliament representing different political parties have a full command of the Frisian language.

15021 The political association *Die Friesen*, which presents itself as a party for the Frisian minority, for the first time participated in the **Lower Saxony Land** parliament elections on 27 January 2008. The *Land* election committee recognized it as a political party and authorized its participation in the elections. Since the Lower Saxony electoral law does not include special provisions for parties of national minorities, it was not necessary to decide whether *Die Friesen* really is a party of the Frisians. The candidates nominated by *Die Friesen* won 4,122 first votes (=0.1%) and 10,069 second votes for the party list (=0.3%). Irrespective of the five-percent threshold to be reached by all parties in *Land* parliament elections in Lower Saxony, this result would not have been sufficient to qualify for a mandate. Nevertheless, *Die Friesen* filed an appeal against the result claiming that as a minority party they should have been exempted from the five-percent threshold established by Art. 8 (3) of the Lower Saxony Constitution and Section 33 (3) of the Lower Saxony Electoral Act. According to the Lower Saxony supervisor of elections the appeal is unjustified because neither the Basic Law nor the Lower Saxony Constitution provides for an obligation to privilege parties of national minorities. Nor does international law impose such an obligation.

### **B.15.2.4 Only limited participation of persons belonging to the national minority of German Sinti and Roma in policy-making**

15022 On account of their widely dispersed homes, direct participation of the German Sinti and Roma in political life is more difficult than in the case of the other minorities with a

more compact form of settlement. To our knowledge, **no Sinti or Roma** are members of the German **Bundestag** or of **Land parliaments**. However, **individual Sinti** have been elected to municipal councils. The associations of the Sinti and Roma approach parliaments and governments, parliamentary bodies, and bodies of political parties as well as individual politicians for advocating Sinti/Roma interests and enlisting their political support.

15023 Regarding no. 90 of the Advisory Committee's First Opinion stating **that the German authorities should review efforts to ensure the effective participation of Sinti and Roma and consider how to set up much more appropriate structures**, the Second State Report (no. 810 et seqq.) pointed out that the minority has the possibility to participate in implementation conferences (conferences to implement the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority languages). In addition, the minority may participate in Lower Saxony via its *Land* associations, the Counselling Bureau for Sinti and Roma and local advisory boards established in some cities.

15024 Regarding nos. 151 and 152 of its Second Opinion in which the Advisory Committee declares itself "concerned at the continuing poor level of participation by Roma/Sinti in economic and social life of the country and in public affairs" although the Secretariat for Minorities is now responsible for conveying the minority's concerns, and regarding nos. 155 and 156 in which the Advisory Committee urges the authorities to promote full and equal participation by Sinti and Roma in all fields by setting up specific institutional mechanisms for regular consultation of the Roma/Sinti, Lower Saxony responded as follows:

Sinti and Roma are represented by several organizations and *Land* associations which frequently have different opinions on political and social affairs, for instance on maintaining the cultural identities of the represented tribes and ethnic groups.

15025 Furthermore, the Federal Government pointed out that the two federal associations of German Sinti and Roma and of German Sinti have participated in the implementation conferences on the Framework Convention at federal level but have not succeeded in finding a joint position, and that an advisory committee, similar to those for other national minorities, has not been requested for the German Sinti and Roma for this reason.

### **B.15.3 Participation of persons belonging to national minorities in cultural, social and economic life and in public affairs at the local government level**

15026 It has already been described in no. 814 of the Second State Report how national minorities participate in local government affairs:

Under the Basic Law (Germany's Constitution), local governments have the right to regulate all local affairs in line with applicable law on their own responsibility. The constitutionally guaranteed autonomy comprises an entire set of sovereign powers, including responsibility for staff, administrative structures and fiscal matters as well as the power to issue ordinances and to levy taxes. The local self-government system with its extensive binding and autonomous powers also provides national minorities living in grouped settlements ample scope for self-management. Minorities take advantage of the possibilities provided by local self-government for autonomously organizing local life, in particular in those Sorbian and Frisian communities which are predominantly or almost exclusively inhabited by members of the minorities, but also in other communities with a significant number of Danes, Frisians or Sorbs among their population (German Sinti and Roma nowhere form a significant part of the local population).

15027 However, Domowina still seems to believe that these extensive forms of participation are insufficient because it was not able to avoid that some schools (which are not subject to local sovereignty) had to be shut down (cf. section B.14.2.3.2.3 on the closure of Sorbian schools in Saxony).

### **B.15.4 Special bodies promoting the participation of persons belonging to national minorities in cultural, social and economic life and in public affairs**

15028 Effective participation of the groups protected under the Framework Convention can be ensured only if the groups maintain contact with public authorities. The infrastructure required for such an exchange has been described in detail in the comments regarding Article 5 (1) (no. 05021 et seqq.) regarding the promotional policies of the Federal Republic of Germany. In particular, the comments address bodies which consult members of national minorities and ethnic groups on issues affecting them. In addition, mention must be made of the following bodies:

15029 The **Bundestag Committees on Internal Affairs and on Legal Affairs** have lead responsibility for matters concerning national minorities. Specific aspects of the protection of minorities are dealt with also by other committees of the Bundestag. A similar approach is taken by the Bundesrat. Within the *Land* parliaments, lead responsibility for

minority issues lies with the committees responsible for the ministry which is in charge of minority matters within the *Land* Government. A special **parliamentary body** for matters concerning the Sorbs exists in Brandenburg and in the Free State of Saxony (cf. the comments in no. 05038 regarding Article 5 (1)). In this respect, in no. 149 of its Second Opinion the Advisory Committee noted that the existing consultation arrangements are such that national minorities in Brandenburg, Saxony and Schleswig-Holstein are in practice able to express their viewpoints.

15030 Moreover, the Bundestag and the *Land* parliaments have petitions committees which, however, have different designations (e.g. “Committee for Citizens’ Initiatives, Other Petitions, and Hearings on Initiatives originated by the People”). These committees were set up by parliamentary decision.

15031 In addition, there is the **Secretariat for Minorities** (*Minderheitensekretariat*; not to be confused with the Minority Council<sup>10</sup>) which represents all federal associations of national minorities and receives project funding from the Federal Government. In no. 147 et seqq. of its Second Opinion the Advisory Committee welcomed its creation. The Secretariat for Minorities is operated by the *Sydslesvig Forening* (SSF) in Flensburg. Its task is to promote information-sharing among the Bundestag (working group for national minorities), the Federal Government and national minorities, improve coordination among national minorities on federal policies, and to inform the interested public about minorities in general. Further, the Secretariat for Minorities receives and coordinates comments of the individual national minority associations addressed to official national and international organizations (Council of Europe, OSCE). If necessary, comments must be agreed with all associations involved in accordance with requirements of the Federal Government (Federal Ministry of the Interior).

In no. 153 of its Second Opinion the Advisory Committee “encourages the authorities to ensure that the new communication and consultation bodies and arrangements set up at federal level will gradually become permanently established and have the means to work over a sustained period of time”. In this respect, we would like to point out that not only the federal and *Länder* bodies mentioned in section B.5.1.6.1 still exist, but funding of the Secretariat for Minorities will also be continued.

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<sup>10</sup> The Minority Council (*Minderheitenrat*) is a non-governmental group in which most organizations of the four recognized national minorities are represented. Its aim is to maintain contact to federal institutions. However, it does not fully meet the Advisory Committee’s request to take into account the diversity within the ethnic group of German Sinti and Roma because, whereas the Central Council of German Sinti and Roma participates in the group, the *Sinti Allianz Deutschland* is expressly not represented. Therefore, the Minority Council is not in a position to represent the four autochthonous minorities in Germany at large.

15032 In no. 150 of its Second Opinion the Advisory Committee embraces the request of minority representatives to consolidate and institutionalize consultation mechanisms so that they go beyond mere consultation and become more efficient; in no. 154 it “encourages the authorities to pursue their efforts to improve the participation of minorities in the decision-making process”. In this regard, it should be noted that individual groups in general cannot participate in decision-making on issues concerning the public at large, e.g. public budgets. Hence, national minority associations only have the possibility to be heard on issues also affecting their members, e.g. the closure of a public Sorbian school in Saxony. However, in such cases participation in decision-making is possible only via the elected representatives.

#### **B.15.5 Promoting participation of persons belonging to national minorities in cultural life through cultural self-management**

15033 However, greater significance for the minorities and ethnic groups in Germany attaches to cultural autonomy of minorities which is mainly supported by public funding. It ensures an autonomous organization of cultural life in the broadest sense on the basis of private associations, foundations and other institutions without any government intervention. As regards the structure of such cultural self-management, the organizations set up by the groups protected under the Framework Convention, and the activities of these organizations, see the comments referring to Articles 5 and 7.

**B.16 Article 16**

**The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present Framework Convention.**

**B.16.1 Population changes caused by demographic developments, free internal migration, and immigration**

16001 In Germany, there are no governmental or other measures which would alter the proportions of the population in the settlement areas of the national minorities. However, **changes in the population figures** of the various communities and regions **are caused by various factors: general mobility**, in particular due to the economic structure in some regions, including migration to conurbations and the arrival of new residents; the immigration of repatriates (i.e. former members of German minorities, especially from states of the former Soviet Union, who resettled to Germany); and general demographic trends. To a certain extent this affects also the proportions of the groups protected under the Framework Convention as a percentage of the respective local population. This, however, neither is directed against the exercise of the rights of these groups nor does it have an influence on the participation of their members in decision-making on matters affecting them.

**B.16.2 Territorial changes caused by territorial reorganization**

16002 The changed territories of local-government administrative districts caused by the **general territorial reorganization** in the Free State of **Saxony** and in **Brandenburg** have also reduced the proportion of Sorbian inhabitants in some districts and municipalities. In the context of the territorial reorganization, it was not possible to take account of all concerns and interests of the affected local authorities, associations and Sorbian minority organizations. In some cases, local authorities designated commissioners (cf. the comments in nos. 05031-05034 referring to Article 5 (1)).

### **B.16.2.1 Territorial changes caused by relocation to allow for open-cast lignite mining in Brandenburg**

16003 In no. 822 et seqq. of the Second State Report we explained that it had been necessary to **relocate** the municipality of Horno in **Brandenburg** to Forst-Eulo to allow for open-cast lignite mining in Jänschwalde. The decision is based on the Brandenburg Act on Lignite Mining Policy (*Brandenburgisches Braunkohlegrundlagengesetz*) of 7 July 1997. The relocation has been completed, and it has been established that it is in line with applicable law in terms of minority rights. Account was taken of the concerns expressed by the Advisory Committee in its First Opinion and of the pertinent provisions to protect the cultural identity of the Sorbian inhabitants. We also pointed out that the principle of ensuring and promoting the Sorbian population's identity and their right to maintain their language, religion, culture and traditions was included into the *Land* development programme (*Landesentwicklungsprogramm*) so that it was necessary to relocate the whole group of inhabitants of the settlement concerned in the traditional settlement area. Further, mention was made of Section 1 (3) no. 6 of the Ordinance on the Establishment of the Lignite Committee of Brandenburg (*Verordnung über die Bildung des Braunkohleausschusses des Landes Brandenburg*) of 5 April 1992. This procedural provision stipulates that a representative of Domowina may actively participate in all decisions of the Brandenburg Lignite Committee as a voting member. Currently, Brandenburg does not plan to extend lignite mining to other Sorbian settlement areas. However, it cannot be ruled out that this issue will be raised again in the future. If this was the case, however, it would have to be examined in line with the aforementioned legal framework whether the municipality concerned is part of the traditional settlement area of the Sorbian people.

### **B.16.2.2 Territorial changes caused by relocation to allow for open-cast lignite mining in the Free State of Saxony**

16004 In nos. 62 and 63 as well as 160 and 161 of its Second Opinion the Advisory Committee stated that it "has been informed of the possibility of new **relocations**, with effect from 2010, affecting Saxon villages where part of the population is Sorbian, because of plans for further lignite quarrying in the region of Schleife/Trebendorf", and that "such relocations might further undermine possibilities for persons belonging to the Sorbian minority to maintain their culture and their identity and could potentially imply concerns under Article 5 and Article 16". It recommended that, "in cases where it is found necessary to pursue a public interest to relocate villages in this region, German authorities should take due account of the interests of the Sorbian population, its right to maintain and develop its language, culture and identity and to preserve certain institutions such as

schools developing WITAJ projects<sup>11</sup>. The authorities should also ensure that the concerned Sorbian population be fully integrated in the process of decision-making on possible further relocations.”

16005 In this respect, the Free State of Saxony had commented as follows:

“Concerning the special needs of the Sorbian people, we refer to the reply to question 3 of the Saxon *Land* parliament publication 4/0999. It says: ‘Pursuant to Art. 5 of the Saxon Constitution read together with Section 2 (3) of the Saxon Sorbs Act the Sorbian people shall be granted the protection of its traditional homeland. Although the traditional homeland is the historical settlement area – as explicitly stated in the legislative intent regarding Section 2 (3) of the Saxon Sorbs Act – the right of homeland does not constitute a defensive right against measures based on other laws, in particular concerning land use planning. However, Article 5 (1) of the Saxon Constitution and Section 3 (4) of the Saxon Sorbs Act shall be taken into consideration’.”

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<sup>11</sup> Pre-school immersion education programmes aimed at promoting bilingualism from an early age. Rohne, in the Schleife region, has a nursery school working on the WITAJ model.

**B.17 Article 17**

**(1) The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**

**(2) The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.**

**B.17.1 Article 17 (1)**

**(The state's obligation not to interfere with cross-border contacts of persons belonging to national minorities with groups sharing their identity or heritage)**

17001 The right protected under this paragraph to maintain and develop contacts is one of the fundamental freedoms guaranteed by the Basic Law under Article 2 (1) on the general freedom of action and the freedom to leave the country, and Article 11 (1) on the freedom of movement within the federal territory and the freedom to enter the country.

17002 The government does not interfere with these rights, but instead welcomes contacts among the members of national minorities within Germany and in other countries. Often such activities are included in governmental promotion schemes. Examples are the contacts of organizations of the Sorbian people with groups of Sorbs living abroad who are also members of Domowina, the umbrella organization of the Sorbian associations. Another example is the state-funded close cooperation of the Central Council of German Sinti and Roma with the *Kulturverein Österreichischer Roma* (Cultural Association of Austrian Roma) in Vienna. Schleswig-Holstein funds the Section North (*Sektion Nord*) of the Frisian Council (*Frasche Rädj*) and thus indirectly its cooperation with East and West Frisians from the Netherlands within the Inter-Frisian Council. The 2006 Inter-Frisian Congress took place in Schleswig-Holstein (Leck). There is particularly close cooperation of the Danish minority with various organizations in Denmark, and intensive private and cultural contacts exist between members of the Danish minority and the Kingdom of Denmark. For example, under the aegis of the *Sydslesvigsk Forening* the Danish minority organized a Danish cultural week from 27 September to 5 October 2008. The event was inaugurated in the presence of His Royal Highness Prince Joachim of Denmark and the

Schleswig-Holstein Minister-President. The A.P. Møller Skolen in Schleswig was officially opened on 1 September 2008 in the presence of Her Majesty Queen Margrethe II.

17003 Cross-border contacts are not restrained by any legislative or administrative measures. The Sorbs' traditional settlement area nowadays is located exclusively on German territory, which implies that there are no Sorbian ethnic groups living in grouped settlements outside the German territory with whom contacts might be established. However, there is a large number of Sorbs who emigrated to all parts of the world, especially in the 19<sup>th</sup> century, and founded new settlements overseas. These communities continue to maintain contacts with their former home country. These contacts are intensively maintained by the Sorbs' associations as well.

17004 In nos. 162-164 of its Second Opinion the Advisory Committee drew attention to administrative problems sometimes facing workers from the Danish minority who cross the border on a daily basis in order to work in Denmark. In individual cases, the Consultative Committee on Issues concerning the Danish Minority in the Federal Ministry of the Interior found solutions to these problems.

17005 The **problems** addressed in no. 839 of the Second State Report and no. 69 of the Advisory Committee's First Opinion **regarding the taxation of artists resident in Denmark** who perform at events organized by the Danish minority in Germany have been **solved**.

17006 – 17011

### **B.17.2 Article 17 (2)**

**(The state's obligation not to interfere with the right to participate in the activities of non-governmental organizations, also at the international level)**

17012 The State is not allowed to impede participation in the activities of non-governmental organizations (Article 2 (1) and Article 9 (1) of the Basic Law).

17013 The members of the groups protected under the Framework Convention are united in various organizations and actively participate in the work of many non-governmental organizations (cf. the comments on Article 7).

17014 Four organizations of the minorities and ethnic groups protected under the Framework Convention cooperate in the Minority Council and are members of the **Federal**

**Union of European Nationalities (FUEN)**, an umbrella organization of national minorities and traditional (autochthonous) ethnic groups in Europe. Like the Danish minority association SSF, it has its headquarters in Flensburg. In addition, the national minorities and ethnic groups in Schleswig-Holstein and the German minority in Denmark work together in the **DialogForumNorden** of which the Schleswig-Holstein Minister-President's Commissioner for Minorities and Culture is a member. FUEN receives institutional funding by Schleswig-Holstein and also by a number of regional governments in other countries where national minorities have their settlement areas. Like other governments of Central and North European countries, the Federal Government finances individual FUEN projects.

17015 The **youth associations of minorities in Germany are members of the umbrella organization "Youth of European Nationalities" (YEN)** which is funded by the Federal Government and by Schleswig-Holstein for individual projects, the most recent project being the 2008 Easter Seminar.

17016 The national minorities and ethnic groups in Germany are also members of the **European Bureau for Lesser Used Languages (EBLUL)**. Their EBLUL member organizations are united in a Committee for the Federal Republic of Germany whose project work is supported by the Federal Government and Schleswig-Holstein.

17017

17018 With regard to the financial problems of the EBLUL office in Brussels described in no. 846 of the Second State Report, we provided the comment by the president of EBLUL Germany, Karl-Peter Schramm, stating that EBLUL nevertheless continues its work. The Federal Ministry of the Interior is regularly funding the annual conference of EBLUL Germany.

17019 The Federal Republic of Germany welcomes that the minorities and ethnic groups in Germany also jointly with other national minorities represent their interests at the international level. This facilitates the development and practical implementation of minority policies in Europe, taking account of the needs of those concerned. In Germany, FUEN and the German EBLUL Committee also participate in the implementation of the European instruments relating to the protection of minorities.

**B.18 Article 18**

**(1) The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minority concerned.**

**(2) Where relevant, the Parties shall take measures to encourage transfrontier cooperation.**

**B.18.1 Article 18 (1)**

**(Agreements concluded with other states to ensure the protection of national minorities)**

18001 The agreements concluded by the Federal Republic of Germany with other States on the protection of persons belonging to national minorities meet the requirements under paragraph 1 of Article 18. In the **treaties** and other agreements concluded by the Federal Republic of Germany **with the former Soviet Union, Poland, the former Czechoslovakia, Hungary, Romania and a number of other countries**, the **international standards** with regard to human rights and the **protection of minorities**, particularly the obligations imposed by OSCE documents concerning the protection of minorities, have been **agreed as the basis for** future friendly and good-neighbourly **relations**. The provisions already contained in the **Bonn and Copenhagen Declarations of 1955 on the policy regarding minorities in the German-Danish border region** provide the **basis for** implementing the **protection of minorities** along the lines of the Framework Convention.

18002 As regards inter-state agreements, reference is made in particular to the **Inter-State Treaty** concluded between **Brandenburg** and the Free State of **Saxony on the establishment of a Foundation for the Sorbian People**, and to the pertinent Financing Agreement concluded by Brandenburg, Saxony and the Federal Government.

18003 Also, it is ensured that the work of the Foundation for the Sorbian People takes due account of cross-border cooperation, especially with the Slavic neighbours. Under Article 2 (2) no. 5 of the Inter-State Treaty establishing an autonomous foundation for the Sorbian people, promotion of projects serving to enhance international understanding and cooperation with other ethnic groups and minorities in Europe and to cultivate the historically evolved relations of the Sorbs with their Slavic neighbours helps fulfil the Foundation's objectives.

**B.18.2 Article 18 (2)**  
**(Measures to encourage cross-border cooperation)**

18004 The Federal Republic of Germany considers cross-border cooperation among neighbouring countries, including regional cooperation at the local government level, particularly important in a unifying Europe. Therefore, Germany supports the **many and various political initiatives** launched **by the *Länder*, local authorities and other regional or local government bodies**. It welcomes the involvement of national minorities and ethnic groups in this cooperation, wherever this is possible.

18005

**B.18.2.1 Cross-border cooperation of Frisians**

18006 In the Ems-Dollart region, the municipalities, cities, districts, chambers and other corporations under public law in the Dutch provinces of Groningen, Drenthe and Fryslân, in the German districts of Aurich, Cloppenburg, Leer, Wittmund, the municipality of Emden in Ostfriesland, and in the Emsland district still work together in a joint authority which in addition to economic cooperation also has the task to promote, support and coordinate cultural affairs in this region. The Ems-Dollart region covers large parts of the East Frisians' settlement area and peripheral areas of the West Frisians so that cultural cooperation also addresses affairs of these groups. As representatives of the local government bodies concerned, Frisians directly participate in this cooperation. State support in the Netherlands and in Germany has in both countries helped establish structures fostering contacts between the users of the same language, i.e. Frisian in a wider sense, in the aforementioned fields. In 1999 the working group *Interfriesischer Rat* (Inter-Frisian Council), which since 1925 has been the joint organization of West, East and North Friesland, was transformed into a registered association to act as the umbrella organization of the West, East and North Frisians. It is composed of members from all three Friesland regions and once every three years organizes the *Friesenkongress* (Frisians' Congress). The North Frisian organizations work together within the *Frasche Rädj, Sektion Nord e.V.* (Frisian Council - Section North (Nordfriesland)) which is funded by the Schleswig-Holstein government.

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**B.18.2.2 Cross-border cooperation of Danes**

18008 The Federal Republic of Germany, the Kingdom of Denmark and Schleswig-Holstein fund activities for the benefit of the Danish minority promoting the culture, education, information, vocational and further training and increasing the scope for cross-border contacts. For example, Schleswig-Holstein participated in the Danish cultural week which was organized by the *Sydslesvigsk Forening* and took place in Schleswig from 27 September to 5 October 2008.

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18011 Also, Flensburg and the districts of Schleswig-Flensburg and Nordfriesland on the German side and *Sønderjylland Amt* on the Danish side are partners of the German-Danish border region Schleswig/Sønderjylland which was established on 16 September 1997 by an agreement concluded between these local authorities. The aim of that Agreement is to provide the basis for long-term and intensive cooperation and thus to enhance the development of this region in a European context. Work focuses, among other things, on education (basic and further training) and language instruction. In this field, the objective is to overcome cultural barriers by disseminating information about the respective neighbour's culture. On 1 January 2007, the Danish local authorities were replaced by regions. Thus, cooperation with the former Sønderjylland local authority will be continued by the southern Danish municipalities of Tønder, Sønderburg, Apenrade and Hadersleben (corresponds to the territory of the dissolved local authority).

18012 On the German side, cross-border cultural projects and events are promoted jointly by the districts of Nordfriesland and Schleswig-Flensburg, and the city of Flensburg. The national minorities, especially the Danish minority in Germany and the German minority in Denmark, are also involved in cooperation across borders. One representative of the Danish minority and one representative of the German minority are members of the **regional assembly (22 members)**, the organization's advisory, coordinating and decision-making body.

18013 In addition to this direct cooperation in the German-Danish border region, Schleswig-Holstein and the Danish *Sønderjyllands Amtskommune* signed a "Joint Declaration on Regional Cooperation" on 15 June 2001. **On 27 June 2007** this joint declaration was replaced by the **partnership declaration "Zusammen wachsen. Region Süddänemark – Schleswig-Holstein"** (Growing together. South Denmark – Schleswig-

Holstein region) concluded between the chairman of the South Denmark region and the Schleswig-Holstein Minister-President. They agreed on the following key areas of cooperation: a) culture; b) business promotion, labour market, training; c) infrastructure, transport, logistics; d) cooperation of universities; e) environment, renewable energy; f) food and agriculture; g) tourism; h) health/health industry; i) spatial planning/regional development planning; j) education. The Danish minority in Schleswig-Holstein and the German minority in Denmark are recognized for their role in building bridges for cross-border cooperation. The signatories to the partnership declaration guarantee that the minorities will continue to be actively involved in cross-border cooperation.

### **B.18.2.3 Cross-border cooperation of Sorbs**

18014 On the one hand, the Brandenburg Sorbian (Wendish) culture is included in the *Land's* cultural policy abroad and, on the other hand, is represented in external relations by the Foundation for the Sorbian People.

18015 Cross-border cooperation between local authorities and other institutions in Saxony and Brandenburg and the Slavic neighbours Poland and the Czech Republic also involves organizations and institutions of the Slavic people of the Sorbs as well as Sorbian artists, writers, etc. Examples of cooperation include: the annual cultural exchange of Sorbian amateur theatre groups with the Slavic neighbours (approx. 10 projects); the biennial International Folklore Festival in Lusatia with artists from all over the world; the annual FUEN seminars of Slavic minority organizations; the annual youth project "Voices of Europe"; the Schlingel International Film Festival with a matinee in the Sorbian settlement area; school partnerships of Sorbian primary and intermediate schools, in particular with schools in the Czech Republic; literary projects such as the 30<sup>th</sup> Festival of Sorbian Poetry; research colloquia on multilingualism and intercultural competence in cooperation with the PONTES education network in the Neisse euroregion; tourism projects and others. These projects reach tens of thousands of recipients in Germany and across the borders. A highlight in 2008 was an exhibition of graphic artist Heinrich Theodor Wehle (1778-1805) in St Petersburg from 10 June to 7 September 2008.

The project was conducted by the Bautzen Sorbian Museum/district of Bautzen, the Bautzen city museum/city of Bautzen and the Foundation for the Sorbian People in cooperation with the State Hermitage in St Petersburg. The project was co-funded by the Federal Foreign Office, the Cultural Foundation of the Free State of Saxony and the corporation under public law *Kulturraum Oberlausitz-Niederschlesien* (Cultural Area Upper Lusatia-Lower Silesia).

**B.18.2.4 Cross-border cooperation of Sinti and Roma**

18016 Cooperation has developed already for several years between the Documentation and Cultural Centre of German Sinti and Roma and the state-funded *Kulturverein Österreichischer Roma* (Cultural Association of Austrian Roma). They regularly share information and their publications. This cooperation also extends to the fields of culture, education, vocational training and further training.

18017 In cooperation with Roma organizations from a number of European countries (Austria, Poland, Hungary, Slovakia, Czech Republic, Netherlands, Yugoslavia, and others), the Documentation and Cultural Centre of German Sinti and Roma organized the permanent exhibition on the genocide of Sinti and Roma in Nazi-occupied Europe, which is located at the Auschwitz Memorial Site and was opened on 2 August 2001. The exhibition is housed in "Block 13" of the "*Stammlager*" (main camp) of the former concentration and extermination camp Auschwitz. At a number of meetings held during the design and build-up phase of this exhibition, the participation of Roma representatives from the various countries resulted in an international cultural exchange, e.g. music presented in the Romany language of the Ukrainian minority. On the occasion of the international memorial day of the Roma and Sinti, which has been held already for many years every 2<sup>nd</sup> August at Auschwitz-Birkenau, the Polish Roma Association regularly presents an accompanying cultural programme. Every year, delegations comprised of 25 to 30 persons of the Documentation Centre and of the Central Council of German Sinti and Roma take part in the memorial-day ceremonies and attend the performances of the accompanying programme and in this context participate in a cross-border cultural exchange. The Federal Foreign Office and the "Future Fund" of the Foundation "*Erinnerung, Verantwortung und Zukunft*" (remembrance, responsibility and future) provide co-funding for visits of delegations of 150 members to Auschwitz on particular anniversaries.

**B.19 Article 19**

**The Parties undertake to respect and implement the principles enshrined in the present Framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.**

19001 Implementation of the obligations under the Framework Convention is covered by the descriptions referring to the individual Convention articles. These comments also cover any restrictions, limitations or derogations which might exist in the individual case. German law and the German practice regarding the implementation of the Framework Convention are in line with the requirements of Article 19.

**B.20 Article 20**

**In the exercise of the rights and freedoms flowing from the principles enshrined in the present Framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.**

20001 The members of the groups protected under the Framework Convention recognize and respect national legislation in the exercise of the rights and freedoms granted to them. No cases are known where the rights of others were disregarded, in particular the rights of persons belonging to the majority, of members of other national minorities, or of foreigners living in Germany. The organizations of the national minorities and ethnic groups in Germany maintain good contacts. They cooperate within bodies and interest groups and provide mutual support in exercising their rights and preserving their identity, particularly in relations with the media.

**B.21 Article 21**

**Nothing in the present Framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.**

21001 Activities or acts by members of national minorities and ethnic groups in Germany, which would be contrary to the fundamental principles of international law, especially to the sovereign equality, territorial integrity and political independence of states, have never become known. In various declarations, the groups protected under the Framework Convention, in particular their international umbrella organization, the Federal Union of European Nationalities (FUEN), regularly confirm that they attach great importance to these principles and respect them. The organizations of the Danish minority no longer seek the alteration of national borders, as was the aim of the Danish minority in the years after World War II.

**B.22 Article 22**

**Nothing in the present Framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.**

22001 The provisions of the Convention neither limit nor impair human rights and fundamental freedoms going beyond those embodied in the Framework Convention. Likewise, entry into force of the Framework Convention does not adversely affect those additional legal provisions concerning the protection of minorities as are laid down in various *Länder* of the Federal Republic of Germany, for instance in respect of the position of minority languages in school education or as regards governmental promotion.

**B.23 Article 23**

**The rights and freedoms flowing from the principles enshrined in the present Framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.**

23001 The rights and freedoms deriving from the obligations laid down in the Framework Convention are implemented in Germany pursuant to the relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.

**B.30 Article 30**

**(1) Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this Framework Convention shall apply.**

**(2) Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Framework Convention to any other territory specified in the declaration. In respect of such territory the Framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.**

**(3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.**

**Paragraphs 1 to 3**

30001 When Germany ratified the Framework Convention, no declaration was made regarding limited territorial application. Therefore, the Convention applies to the entire territory of the Federal Republic of Germany.

**Part C        Comments by the organizations of national minorities and ethnic groups traditionally resident in Germany, to which the Framework Convention applies pursuant to the Declaration notified by the Federal Republic at the time of signature**

(The Comments by these organizations are included in the present State Report irrespective of the views held by the Federal Ministry of the Interior, which has editorial responsibility for the report.)

**Comments by the Danish minority on the Third State Report of the Federal Republic of Germany on the implementation of the Framework Convention for the Protection of National Minorities**

**Introductory remarks**

*Sydslesvigsk Forening (SSF) / Südschleswigscher Verein (South Schleswig Association), Sydslesvigsk Vælgerforening / Südschleswigscher Wählerverband (SSW) (South Schleswig Voters' Association) and Dansk Skoleforening for Sydslesvig / Dänischer Schulverein für Südschleswig (Danish Schools Association for South Schleswig)* are grateful for the transmission of the draft copy of the Third State Report of the Federal Republic of Germany on the implementation of the Framework Convention for the Protection of National Minorities.

SSF, SSW and *Dansk Skoleforening for Sydslesvig* agreed to submit their joint comments on behalf of the Danish minority. Our comments largely concentrate on selected observations on the situation of the Danish minority which we consider important.

Before commenting on the individual articles of the Framework Convention, we would like to note with approval nos. 005 and 008 in Part A: The Danish minority welcomes the clear definition of national minorities which in Germany are covered by the Convention. The scope of the Framework Convention is limited to the national minorities. The Danish minority therefore does not understand the Advisory Committee's recommendation to apply individual articles of the Framework Convention to groups which do not fulfil the stated criteria (migrants, immigrants).

The Framework Convention is aimed at national minorities, not minorities in general. We would like to emphasize that the Danish minority at all times supports the right of all

minority groups to use their own language and live in accordance with their own culture, as anchored in general human and civil rights.

Regarding no. 05047, the Danish minority believes that the funding policy must be adjusted in line with the wage/salary and price index. At the same time, we would like to stress that increasing public funding for one minority organization must not depend on cuts in public funding for other minority organizations.

On 7 February 2007, the Council of Europe's Committee of Ministers presented a series of recommendations on implementing the Framework Convention in Germany. The Danish minority thoroughly supports the Committee of Ministers' recommendations (A.2.2), especially with regard to the following points:

- continuing efforts to ensure compliance with the principle of equal treatment and guaranteeing more long-term support for national minorities, including in the field of education;
- ensuring proper implementation of applicable legal provisions with regard to the use of minority languages in the public sphere and in bilingual signs;
- pursuing efforts to improve media access and representation of members of national minorities, particularly in the public service media;
- continuing to strengthen the mechanisms for consultation and participation of persons belonging to national minorities.

#### **Part B: Article 4**

##### **04046 No expansion of the collection of statistical data on the national minorities in Germany**

In view of historical experience, the Danish minority opposes any expansion of the collection of statistical data on national minorities. Even though the background information requested by the Council of Europe Advisory Committee, for example on the employment situation of Sinti and Roma, is intended to serve the purpose of integration, we see no need to approve of collecting such information, especially due to the experience of precisely this national minority under the Nazi regime.

**04053 The continuing economic weakness of the Schleswig region has a negative impact on the future of the Danish minority**

The unchanged weak economic base in the Schleswig region continues to have a negative impact as many young people in particular leave the region to seek work or training. Job-creation measures have not been able to make up for the major job losses due to Bundeswehr cutbacks. Under the Framework Convention, the Federal Government has a special responsibility in this regard, because this development represents a major obstacle to ensuring the future of the Danish minority. The Danish minority therefore welcomes the statements in Section B.4.2.3 of the report concerning Article 4. However, we would like to see the Federal Government increase its financial commitment to promoting economic development in the northern region.

**Part B: Article 5****05002 Minorities and the federal system**

In policy and administrative terms, the *Länder* are directly responsible for the autochthonous national minorities. Together with education and cultural affairs, this connection is natural, as the minorities need above all to ensure their equal right to exist in terms of regional and local policy in their respective areas of settlement. Since the 1940s, it has been a major, shared challenge for the Danish minority and Schleswig-Holstein to create the necessary minority policy and financial framework to ensure the equal status of the minority and majority. There continue to be unresolved problems with regard to financial parity in the areas of cultural and school policy (see Part B, Article 13), but the overall situation in Schleswig-Holstein and the German-Danish border region has improved in recent decades.

The Bonn–Copenhagen Declarations of 1955 and later the Council of Europe Framework Convention for the Protection of National Minorities and European Charter for Regional or Minority Languages are an important foundation for this positive development. The Bonn–Copenhagen Declarations in particular have had great significance for voluntary identification with a national minority and for the unhindered cultural efforts by the German and Danish minority, such as operating an officially recognized system of schools.

The Declarations constitute an agreement between two nation-states, Germany and Denmark, to ensure stability for both minorities along the German-Danish border. Even though the Bonn Declaration comes partly under the responsibility of Schleswig-Holstein, due to the Federal Republic of Germany's federal system, it is still important to remember that the declarations were signed by two nations. The ratification of the Framework

Convention and the European Charter represents agreements between the Federal Republic of Germany and the Council of Europe. As a result, the Federal Republic has an overarching political and financial responsibility to ensure that these agreements, into which the Federal Republic has entered, are upheld and implemented in specific action and legislation, even if this affects the *Länder*. This also includes institutional promotion of the Danish minority.

Our experience in recent years of meetings with the Federal Government and Bundestag has sometimes revealed a lack of awareness of responsibility when the minorities draw attention to insufficient cultural and financial parity. We have noted a tendency at federal level to deny responsibility and instead point fingers at the *Länder*. It is unpleasant when the minorities are bounced back and forth between the federal and *Länder* governments.

For example, we cannot understand why no reasonable, long-term solution to the financial difficulties of the Sorb minority in the form of an agreement between the federal and *Land* levels, which would fulfil the spirit and letter of the Framework Convention and Language Charter, has yet been found. With regard to the Danish minority, no viable model to pay for transporting our children to and from school has yet been created. If Schleswig-Holstein is unable to find a solution, then the Federal Government must step in. In Denmark, the government has adopted a special arrangement for the German minority.

To this end, the Danish minority calls for a working group with expert assistance to be set up at the Federal Ministry of the Interior, in order to thoroughly examine financial parity and to study a practical and binding model of federal–*Länder* financing.

### **05036 Outlook for the future work of the Consultative Committee on Issues concerning the Danish Minority**

The Consultative Committee on Issues concerning the Danish Minority, set up at the Federal Ministry of the Interior, has a long tradition. For decades, the Committee has been a valuable voice for the Danish minority where it was necessary to resolve federal policy difficulties and where concerns of minority organizations and the interests of members of the minority were affected. Although many of these difficulties continue to be relevant today, and following the founding of the Minority Council and the experience of recent years, all the national minorities face the question of the outlook for the future work of the Consultative Committee on Issues concerning the Danish Minority. The Danish minority recommends that this Committee develop into a kind of “ombudsman” whose primary task would be to ensure that proposed legislation and other government measures treat the Danish minority fairly and to prevent unintended consequences of such initiatives. With

this function, the Committee could aim to mediate and resolve conflicts with a minimum of bureaucratic effort.

### **Minority Council and Secretariat for Minorities**

The Secretariat for Minorities plays a central role in efforts to intensify the dialogue between the four recognized autochthonous national minorities, the Federal Government and the Bundestag.

Since the Secretariat was established in 2005, its tasks and activities have grown steadily, not least due to the consultation and reporting obligations of the Council of Europe and OSCE on minority issues. The Secretariat is indispensable to the coordination of the minority associations and as liaison to the parliament and the government. In order to continue performing this function adequately, we believe it is necessary to increase the position from 50% to 75%. General price trends should also be taken into account.

### **05125 – 05126 Culture and the Basic Law**

With regard to the final report of the Study Commission on Culture in Germany, the Danish minority would like to stress that German culture is not the only culture in Germany, but that the national minorities also present their own languages and cultures within Germany's cultural landscape. This fact should be noted in a separate article on culture in the Basic Law.

### **06041 Act on Child Day-Care Centres (KiTaG)**

A reference to Section 7 (4) of the Act on Child Day-Care Centres should be added to the reference to Article 5. "Section 7 (4) The Schleswig-Holstein Act on Child Day-Care Centres states that the right of national minorities and ethnic groups to establish and operate their own day-care centres as defined in Article 5 of the Schleswig-Holstein constitution shall be ensured and be considered in requirements planning."

### **06047 Curriculum in Schleswig-Holstein**

The fact that the school curriculum in Schleswig-Holstein addresses "issues of co-existence in a world with different cultures, religions, forms of society, peoples and nations" should be seen positively. However, it should be noted that lesson plans for world cultural studies refer only to "living situations of minorities subject to exclusion from society (people with disabilities, homosexuals, persons with AIDS, homeless people and people living in poverty)", while national minorities are not a focus of interest. The curriculum for history classes lists the following topics for all types of schools: the Danes of North Schleswig in Imperial Germany; the German-Danish conflict over Schleswig Holstein, 1864; and the Treaty of Versailles and the referendums in Schleswig. The focus on North

Schleswig is problematic, because it ignores the area south of the border and thus fails to adequately explain the basis for the situation of minorities today. Curriculum for history, economics and policy does not address the situation following the referendums of 1920. As a result, younger generations will hardly be able to understand current minority issues.

## **Part B: Article 9**

### **09002 Broadcast programming for the Danish minority in Schleswig-Holstein**

The deregulation of media markets creates incentives to ensure the optimal exploitation of rights. At the same time, technological progress through digitalization allows for increasingly precise delimitation of audiences. In structural terms, therefore, the more or less random transmission of radio and television to neighbouring countries is becoming a thing of the past. It is thus a task of minority and cultural policy to ensure the continued distribution of these media in the future by creating the necessary regulations and requirements.

In the German-Danish border area, the free reception of public service broadcasts from the neighbouring country is part of official minority policy. In the Bonn–Copenhagen Declarations of 1955 and above all the European Charter for Regional or Minority Languages, the two countries agreed to guarantee the “freedom of direct reception of radio and television broadcasts from neighbouring countries” (Article 11 (2)). The rapid transformation of electronic media entails certain risks to reception in the neighbouring country:

- The feed-in of Danish radio and television channels into the German cable network depends on whether the Danish broadcasters DR and TV2 will continue to agree in the future with the German cable network operator Kabel Deutschland on fees (possibly by means of a framework agreement like the Global Cable Treaty). One basic prerequisite is of course that Kabel Deutschland remains willing to broadcast Danish radio and television programmes.
- The broadcasting of Danish television programmes via satellite is encoded because of copyright contracts and consequently cannot be freely received. Purchasing the appropriate Danish decoder card involves considerable costs and requires a Danish place of residence.

- After terrestrial signals are digitalized, it is necessary to guarantee that the programmes of public broadcasters from the respective neighbouring country can still be received in North and South Schleswig using standard receivers.

The Danish minority calls on all responsible decision-makers to guarantee reception of radio and television broadcasts in the neighbouring country. We welcome the fact that both the Danish government and the *Land* Government of Schleswig-Holstein are actively committed to ensure that radio and television broadcasts from both countries can be received in the German-Danish border region, but no concrete solutions to the problem are yet available.

#### **09007 Presence of the Danish minority in the German media**

As before, the Danish minority wishes to ensure its increased presence in the media in general and in the public service media in particular. The report's description of the problems involved is correct, and we support the Advisory Committee's request.

Especially after the ratification of the European Charter for Regional or Minority Languages, and given that the Federal Government has assumed responsibility for proactive minority-related policies also with regard to languages, the Danish minority holds fast to its request that continuous and adequate consideration be given to the Danish language and that the Danish minority be more comprehensively represented in the media.

Similarly, the prominence given to the criterion of mandatory governmental non-intervention in the media is not convincing since it is ultimately the respective parliaments which adopt inter-state treaties. The Language Charter's obligations for policy-makers must be anchored in such instruments.

The Danish minority continues to press for negotiations with the broadcasting supervisory authorities in order to make sure that the media take adequate account of the Danish language in a practical way. At the same time, we expect policy-makers to support these negotiations.

In this context, we would like to draw attention to the fact that other national minorities produce their own broadcast programmes in cooperation with the public service media.

**09009 Participation of representatives of national minorities in media supervisory bodies**

The Danish minority welcomes the fact that a minority representative has been given a seat on the media council of the supervisory authority for Hamburg and Schleswig-Holstein.

**09031 The possibility for national minorities to create and use printed media**

With regard to the media situation of the Danish minority, it should be noted that the daily newspaper for the Danish minority, *Flensburg Avis*, is published without any kind of subsidy from either the *Land* Schleswig-Holstein or the Federal Republic of Germany. The enormous costs involved are covered solely by subsidies from Denmark and income generated by the newspaper itself. In our view, at least the Federal Government in Berlin is obligated to provide project funding or institutional grants to assist with the financial security and continued existence of the only Danish-language daily newspaper in the Federal Republic of Germany. The Federal Union of European Nationalities (FUEN) also expressly supports this request in the form of a resolution passed at its Assembly of Delegates in Pécs, Hungary, on 24 May 2008.

**Part B: Article 10****10063 The Danish language and government authorities**

Because the administration of the minority organizations uses the Danish language, there are often difficulties in working with government authorities such as tax and social insurance offices. For example, the Social Code expressly requires that all paperwork be submitted in German. This means that everything has to be translated, creating a significant burden of extra work for the individual organizations.

**Part B: Article 18****18006 Increasing measures of cross-border cooperation between Germany and Denmark**

In recent years, there has been major progress on concrete cross-border cooperation between Germany and Denmark, which the Danish minority supports and welcomes. We also regard increased German-Danish cooperation as a key prerequisite for maintaining and improving contact between the minorities in the border area with the population of their respective mother country. Here we consider the minorities on either side of the border as building bridges between Germany and Denmark; they also play a decisive role

in strengthening cultural and economic ties in the Sønderjylland/Schleswig region. By establishing a joint German-Danish working group on the occasion of the 50th anniversary of the Bonn–Copenhagen Declarations, the Federal Government has also done a great deal to reduce bureaucratic obstacles to cross-border cooperation, affecting many members of the Danish minority as well. Yet there continue to be major differences between the tax and social insurance systems of the two countries. For this reason, the Danish minority proposes that the Federal Government and the Danish government set up a standing working group to address bureaucratic obstacles to cross-border cooperation which arise from differences in the tax and social insurance systems.

## **Part B: Article 13**

### **Financial support for the schools of the Danish minority**

As the providing body for Danish nursery schools and schools in the Schleswig region, *Dansk Skoleforening for Sydslesvig* fulfils public tasks deriving from both the Schleswig-Holstein *Land* constitution and various international instruments, e.g. the Bonn-Copenhagen Declarations, the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages. On the basis of the provisions of the Schleswig-Holstein *Land* constitution alone, the public sector would be obliged to provide a school system for the Danish minority if *Dansk Skoleforening for Sydslesvig* did not already provide such a system. Unfortunately, however, not all policy-making bodies are aware of this obligation.

With regard to school fees, the principle of equal treatment with public schools provided the basis for subsidies from the mid-1980s until 1997, when it was discontinued. Following several years of intensive negotiations, this principle has been included in the new Schools Act and will go into effect again starting with the 2008 budget year. Expenses not defined in the Schools Act will still not be taken into account, such as costs for school inspection, school psychological care and other services which *Land* or local authorities pick up in the case of public schools.

The cost of transporting non-local pupils is a special problem for the Schools Association. Under the Schools Act, the Danish Schools Association pays for more than two-thirds of the transport costs, compared to one-third for providers of public schools. And transport costs for minority schools are particularly high on account of the greater distances to be covered by non-local pupils. No solution to this problem is yet in sight. Even worse, the current arrangements based on voluntary subsidies granted by local authorities are in jeopardy. Should these voluntary subsidies be cut, *Dansk Skoleforening* will have to cut

back on instruction in order to make up the difference, leaving school pupils to suffer. Further, the difference between subsidies supplied by German and Denmark continues to widen. We would like to draw attention to the special provision made by the Kingdom of Denmark covering transport costs for the German minority. Such a voluntary obligation by the Federal Republic is clearly implied by the comments on B.4.2 (Obligation to promote equal living conditions). However, no government body has yet acknowledged this obligation. In this way, the *Land* and local authorities each seek to pass their responsibility to the children and parents from *Dansk Skoleforening* off on the other.

**Recognition for the Danish Health Care Service for South Schleswig (Dansk Sundhedstjeneste for Sydslesvig / Der dänische Gesundheitsdienst für Südschleswig) as provider of basic and advanced first-aid training**

In closing, we would like to draw attention to a problem with the equal treatment of the health care service responsible for the Danish and Frisian minority with regard to its recognition as a provider of basic and advanced first-aid training.

For a number of years now, the Danish Health Care Service has offered first-aid courses which comply with Danish regulations. As a result, the occupational accident insurance fund for the ceramics and glass industry (BG) has so far refused to recognize the Danish Health Care Service as a provider of basic and advanced first-aid training. Such recognition is crucial to the financing of first-aid courses.

Courses offered by the Danish Health Care Service conform to Danish regulations and training, which fulfil international requirements. The Federal Republic of Germany has adopted the same requirements. Thus the Danish Health Care Service fulfils all the same prerequisites for recognition as a provider of basic and advanced first-training as the German Red Cross. In the spirit of the Framework Convention, the Federal Government must use its influence with the occupational accident insurance fund of the ceramics and glass industry to ensure that the Danish Health Care Service receives equal treatment in this regard.

**Comments by Domowina - Bund Lausitzer Sorben for Part C of the Third State Report of the Federal Republic of Germany on the implementation of the Framework Convention for the Protection of National Minorities**

**Preliminary remarks:**

Final consultations on the present draft of the Third Report of the Federal Republic of Germany on the implementation of the Council of Europe Framework Convention took place at the Federal Ministry of the Interior on 26 and 27 November 2008. Ahead of these consultations, we corrected or added to 26 items. Overall, the draft of the Third Report updates the Second Report, correctly describing the current situation. For this reason, our comments largely concentrate on the following main points or articles in Part B where Domowina disagrees with the current text or sees fundamental shortcomings with regard to the necessary and long-term support for minorities. On the positive side, we would like to stress the fair dialogue and extensive transparency with regard to the contents at an implementation conference organized together with minority representatives and attended by representatives of the Council of Europe expert committee. As a result, we expressly welcome the instrument for implementing this Charter in Germany. In general, the monitoring procedure should continue to be used. We would also like to note that Domowina entirely supports the Strasbourg conference for the 10th anniversary of the Charter and the resulting declaration. The only shortcoming of this declaration is the fact that the Council of Europe has still not clearly defined national minorities or the scope for this Charter. In this respect, Domowina agrees with the position of the Federal Republic of Germany as expressed in no. 005. This position also meets the criteria for the definition of national minorities promoted by the Federal Union of European Nationalities (FUEN).

**Our comments on the individual paragraphs and articles are as follows:** Overall, when reading the Third Report, it is apparent that the political will to continue expanding and provide long-term support for minorities in line with the framework conditions has decreased. This is reflected already in **Part A, no. 0018**, where the report states: "With regard to increasingly limited public funds, which has to be taken into account in the implementation of the Framework Convention". We cannot understand this statement, as we find no factual basis for it anywhere in the entire report. **Part B, no. 05005** continues in the same style, stating "that federal funding is permissible only to the degree required by national interests." Here one should ask whether support for minorities does not belong to national interests in general, especially as it is permanently on the agenda of external relations in the process of globalization in Europe and rightly demanded by Germany of third countries.

In this context, we must once again note that, as a result of the division of responsibilities in a federal state, federal responsibility for support for minorities is not clearly defined. Although the Unification Treaty granted the Sorbs the right to preserve and advance their language and culture, the Federation does not consider itself directly responsible. We have come to this conclusion based on the annual discussion of reducing federal subsidies and on the federal support strategy, with which we are not familiar and which supposedly calls for cutting all federal aid for education. This leads one to conclude that clear legislation is needed to define more precisely the national responsibility for support for minorities while taking the federal division of responsibilities into account.

***Part B.10.2.2.1 The present scope for using the Sorbian language in relations with public authorities, nos. 10034 et seqq.***

Please refer also to our comments on the Second State Report regarding this matter. In our view, it is still not possible for all those who wish to use the Sorbian language when dealing with public authorities to do so freely, as allowed by law. In a recent conversation, the interior minister of Saxony acknowledged Domowina's wishes in this regard. As a result, consultations were held at the mayors' offices to point out this right and to ask that policy-makers pay greater attention to this issue in the future. In the process, it became apparent that in some bilingual communities, no public employees speak the Sorbian language; as a result, it is impossible to use that language when dealing with government authorities. This issue will therefore continue to be a subject of evaluation in future.

***Part B.11.3.1.1 Status as regards provision of bilingual topographical indications in the Sorbian settlement area in the Länder of Brandenburg and Saxony, no. 11016***

Regarding the traditional settlement area of the Sorbian people in Brandenburg: After the *Sorbenrat* at the Brandenburg parliament had devoted eight years of intensive efforts to amend Section 3 of the *Sorben/Wenden-Gesetz* (SWG) on the grounds of logical and national considerations, these efforts were discontinued in June 2006, because the *Land* Government decided against amending the legislation for reasons of cost. The *Sorbenrat's* most important demand was to amend Section 3 (2) as follows: The decision as to whether an area belongs to the traditional settlement area or not should be based not on linguistic and cultural traditions, but rather on the presence of linguistic or cultural prerequisites. This was intended to take into account the current trend in Brandenburg towards a growing sense of national identity. Precisely in those places where assimilation, as indicated by objective factors, is so far advanced that only fragments of the spoken language remain, the amended legislation was intended to reinforce the bi-national character by showing that an area was part of the traditional settlement area. The wording "or" is by no means intended to neglect or weaken the Sorbian language as a criterion; on the contrary, only by including those communities which maintain a strong

Sorbian cultural (though not linguistic) tradition can the SWG be applied to revitalize the language using the Foundation's funding mechanisms. Accusations of a legal technicality to separate language and culture should be strictly rejected. The community of Gross Leine is the best example of how the law withdraws support for Sorbian roots and leaves them to waste away.

The council believes that requiring cost neutrality of a legislative amendment was the wrong approach and got in the way of a creative solution from the very beginning. Initially, the principle of concomitant financing did not seem to threaten cost neutrality. But the *Land* Government had to rethink this position after the 14 February 2002 ruling of the *Land* Brandenburg constitutional court significantly expanded the scope of the constitutional provision. At present, all local authorities within the traditional settlement area are responsible for all costs arising from their obligations pursuant to the SWG. If the SWG were amended, thereby expanding the traditional settlement area, as the *Land* Government fears, then the *Land* would have to assume the additional costs, according to the ruling of the constitutional court. This is the only real reason for Brandenburg's strict opposition to amending the SWG. Following local government reforms and numerous mergers between local authorities, there are now 28 cities and municipalities (down from 50) in the traditional settlement area.

***Part B.13.2, nos. 13014 and 13015***

In our comments on the Second State Report, we already noted the different procedures used by Saxony and Brandenburg to cover additional expenses for bilingual child day-care centres. This situation has not changed. Inter-state coordination has obviously not been successful in this area, making procedures and grant applications more complicated for operators of child day-care centres in more than one *Land*. As a result, every additional child day-care centre with bilingual offerings means less funding for established branches of cultural institutions in Brandenburg. This situation leads to financial constraints and does not encourage positive opinion-formation among policy-makers.

***Part B.14.2.3.2.2 Status as regards opportunities for learning Sorbian in pre-school education, no. 14028***

Anticipating the results of an evaluation of the Foundation for the Sorbian People, it is assumed that "necessary structural reforms recommended by the evaluation will not be detrimental to the tasks which all assess positively, as the WITAJ Project demonstrates." We do not agree with this assessment, especially since the evaluation identifies a need for increased annual funding for the Foundation. Thus we reiterate our view that expanding the WITAJ Project to promote preschool acquisition of the Sorbian language would be

detrimental to unique and essential institutional areas of the cultural field if the funding framework is not sufficient to meet the identified need.

**Re no. 14046:** In this context, we refer to our comment on the Second State Report, Part B, 14.2.3.2.3, nos. 748 – 752.

The appeal lodged by parents to oppose the closing of the Crostwitz middle school is now final: After examining the decision in the first instance, the Higher Administrative Court saw no prospects for success, which ended the appeal before it could go to the constitutional court. The closing of the Panschwitz-Kuckau middle school, as described in **no. 14046**, was a further blow to the Sorbian school system which will have devastating effects for the future. The decision to close the school was the responsibility of the district councils in the former district of Kamenz, which did not take into account the common position of Domowina, the Sorbian Schools Association and the *Sorbenrat*. The negative impact on the flow of pupils is now apparent. After completing a solid preschool and primary education in the Sorbian language, more and more pupils are leaving the catchment area of Sorbian middle schools due to distance or social, material or technical reasons. Thus not all pupils are able to continue with Sorbian language instruction after primary school. The information in the final paragraph of no. 14046, namely that the necessary adjustment of the schools network to cope with demographic change has been achieved for the foreseeable future, cannot hide the negative impact of earlier decisions.

**No. 14051:**

The alternative solutions for a self-administered Sorbian schools network discussed in recent years have not yet been successfully finalized. It is true that there is currently no application lodged with Saxony's State Ministry which has the support of the municipalities as providers of Sorbian schools. Nonetheless, intensive discussions were held last year with school providers to the effect that current framework conditions do not allow for successfully continuing the 2plus strategy especially in middle schools and university-preparatory schools, and that additional thought was needed to develop new strategies. A lively exchange of experience is currently under way which includes representatives of the municipalities; participants are seeking their own alternative solutions based on model approaches taken by the German minorities in Belgium, Hungary and Denmark. It remains to be seen whether the dialogue with representatives of the municipalities yields a new quality for the framework conditions of bilingual instruction in the bilingual areas of Lusatia.

**Part B.15.2.2: Participation of members of the Sorbian people in policy-making by election to parliaments and local councils nos. 15014–15018:**

The situation regarding the creation of the Foundation Board and the distribution of votes continues unchanged. With regard to the report on the evaluation of the Foundation, the

issue of the division of responsibilities between the decision-making bodies should be addressed and resolved. The head of the institute responsible for the report has already remarked that the constitution of the Foundation Board is unusual and can best be described as a foundation **for**, rather than **of**, the Sorbian people, the latter being one in which only Sorbs and local authority representatives have the authority to make decisions. Although the recommendations of the evaluation report cannot be anticipated, we believe it is necessary to amend the constitution and to strengthen the policy-making process on the basis of an orderly financial framework.

***Part B.15.4: Special bodies to promote the participation of persons belonging to national minorities in cultural, social and economic life and in public affairs – no. 15031***

The explanation in footnote 9 of the activity and constitution of the Minority Council differs from the way the four recognized autochthonous national minorities in Germany view themselves; the last sentence of the footnote in particular contradicts this sense of identity. When there are differences of opinion within a minority group in an umbrella organization, these differences should not be used to subvert the form chosen by the group itself to represent its interests. If Germany recognizes these four minorities pursuant to the Framework Convention with a certificate of ratification, then their umbrella organizations are the legitimate representatives of the interests of all four groups.

***No. 15032:***

The limited possibilities of the minority associations to take part in decision-making processes, as represented in no. 15032, reflects the current situation, and the minority associations must accept this. As a result, they cannot participate in the process of deciding to close Sorb public schools, as they can participate in the process of deciding to close cultural institutions due to a lack of public funding. Thus the current decision of the Sorb representatives in the Foundation Board not to take part in such decision-making processes is understandable.

***Part B.15.5: Promoting participation of persons belonging to national minorities in cultural life through cultural self-management – no. 15033***

The statements under no. 15033 contradict the actual working methods of the Board of the Foundation for the Sorbian People as well as the statements under ***no. 15032***.

***Part B.16.2.1 and 16.2.2: Territorial changes caused by relocation to allow for open-cast lignite mining***

Please refer to our comments on the Second State Report, no. 834. The situation in Brandenburg and Saxony remains topical.

In Lower Lusatia, a popular initiative opposing new lignite quarrying has been launched, which members of the Domowina regional association in Lower Lusatia have joined.

In the Schleife region of Saxony, contentious negotiations are being held with municipalities and popular initiatives on the planning process for lignite quarrying with additional impact on Sorb settlements.

**Comments by the *Friesenrat Nord* on the Third State Report submitted by the  
Federal Republic of Germany in accordance with Article 25 (2) of the Framework  
Convention for the Protection of National Minorities**

**Preliminary remarks:**

The *Friesenrat* (Frisian Council) welcomes the efforts undertaken by the Federal Republic of Germany in implementing the Framework Convention for the Protection of National Minorities. The Frisian Council in particular welcomes the fact that the national minorities in the Federal Republic of Germany were given the opportunity to comment on the report. The Frisian Council sees this as an important step towards mutual communication between the national minorities and the government authorities.

In this context, the Frisian Council refers to its “Nordfriesland Model” describing the Frisians’ suggestions, requests and wishes regarding most of the subjects that are also addressed in the Framework Convention and listing specific options for action and measures to be taken by the government actors.

The Frisian Council regrets the fact that the monitoring reports have not been translated into the minority languages of Sorbian, Danish and Frisian (no. 0023). At the same time, the Frisian Council acknowledges that, for pragmatic reasons, translation into the minority languages is not always absolutely necessary. However, arguing that a Frisian-language translation is unnecessary due to a lack of language skills among the Frisian ethnic group goes against the spirit of the Framework Convention and an enlightened policy on minorities.

**Article 3**

The Frisian Council views the national minority status of the Frisians in Germany as the basis for protecting and promoting the Frisian ethnic group. The national minority status in Germany has decisively improved the basis for the protection and promotion of the Frisian ethnic group since 1998 (when the Framework Convention entered into force), with the most noticeable impact coming from measures of federal support.

With reference to the term “Frisian ethnic group”, the Frisians suggest that all German legal texts which use the term “national minority” should make it quite clear that this term automatically includes the entire “Frisian ethnic group”. In our view, this is necessary in order to avoid terminological confusion. We would also like to note that other Frisian groups, for example the Frisian Forum, also view themselves as a national Frisian

minority. Thus part of the Frisian ethnic group in the Ostfriesland region also considers itself a national minority (no. 0048).<sup>12</sup>

#### **Article 4**

As regards according equal status to the majority and the minority populations in economic and social terms, the Frisian Council points out that any measures taken to promote the economy in the Nordfriesland area benefit both the majority population and the Frisian ethnic group and that, in view of Nordfriesland's weak economic base, more needs to be done to promote economic growth.

#### **Article 5**

The Frisian Council welcomes the Federation's financial support for the Frisian ethnic group in Nordfriesland. However, the Frisian Council notes that providing support exclusively in the form of project funding leads to significant administrative costs and undermines the long-term viability of promising developments. On the positive side, since budget year 2007 federal support has increased by €30,000 to €280,000, and the administration of funds has taken into account the small scale of the ethnic group. The Frisian Council therefore recommends that a specific budget item be designated in the federal budget for the promotion of the Frisian ethnic group and that project funds be replaced with longer-term institutional funding.

In the *Land* Government of Schleswig-Holstein, the functions of Commissioner for Minorities and of Commissioner for Culture have been carried out by the same person since 2005. Cooperation with the current commissioner is constructive and very trusting. Nonetheless, the Frisian Council feels that the concerns of minorities have not received as much attention since the two commissioners' offices were merged.

The Frisian Act, passed by Schleswig-Holstein in 2004, and the ordinance governing Frisian in the schools of Nordfriesland and Helgoland, which entered into force in October 2008, are two important legal measures to promote the Frisian language in Schleswig-Holstein. The Frisian Council expressly welcomes both the Frisian Act and the ordinance. Now it is important for both measures to be put into practice with the help of incentives and coordinated action.

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<sup>12</sup> The final sentence of No. 004 fulfils the request of *Friesenrat Nord* for clarification.

**Article 9**

Since the last report, there has unfortunately been no progress in the media field, neither in the print media nor in radio or television. The Frisian Council adheres to the position that the Frisian minority, as an autochthonous ethnic group in Schleswig-Holstein, has the right to basic provision from the public-service media, which are paid for through licensing fees. The Frisian Council therefore suggests that the necessary legal basis be created to provide media services to the Frisian ethnic group. In addition, it is crucial for Frisian representatives to serve on the responsible broadcasting boards, as experience has shown that representatives of the majority population do not perceive Frisian concerns as relevant. The Frisian Council will continue its efforts to increase the media presence on commercial broadcasters and the Open Channel.

**Article 10**

The Frisian Council suggests that, along the lines of provisions applying to the Sorbian people, the Federal Employment Agency should also include knowledge of the Frisian language as an additional qualification in the job placement process.

**Article 12**

The Frisian Council suggests that the school curriculum and instruction should pay even more attention to the Frisian language, history and culture in order to do justice to the spirit of the Framework Convention. It is not enough to refer to the possibility of Frisian topics in various subjects of study; the necessary framework conditions and resources also need to be provided, such as up-to-date teaching guides and classroom materials as well as teachers' seminars.

**Article 14**

The introduction of masters and bachelors degrees in teacher education at institutions of higher education in Kiel and Flensburg has caused a great deal of unrest in general, but a very small department like Frisian suffers disproportionately as a result. In order to ensure the appropriate quality of teacher training in Frisian, the Frisian Council believes it is essential to have a separate department for Frisian at both higher-education institutions. In the view of the Frisian Council, it makes sense to share and coordinate teaching resources available in Kiel, Flensburg and Bredstedt in order to take advantage of synergies.

Unlike the public authorities, the Frisian Council does not see the issue of non-local pupils as the real problem in connection with Frisian instruction at secondary schools. Much bigger problems arise from the fact that no credits are earned for taking Frisian, which pupils then perceive as an additional burden. It is hoped that the ordinance covering Frisian in schools will bring improvement in this area.

With regard to kindergartens, the Frisian Council plans to establish an organization to sponsor Frisian child and youth work which will be better able to manage the organizational and substantive challenges and take some of the burden off the voluntary associations. The Frisian Council hopes for close cooperation with the district of Nordfriesland.

**Article 15**

The body established at the Schleswig-Holstein parliament to deal with matters related to the Frisian population group has helped ensure that the Frisian ethnic group can submit its problems and questions directly to the *Land* parliament and government. The Frisian Council welcomes the plans to set up a similar body to deal with Frisian matters at the federal level. The Frisian Council is also working to set up a consultative council for the regional level with the Nordfriesland local government.

**Comments by the Sater Frisian minority on the Third State Report of the Federal Republic of Germany on the implementation of the Framework Convention for the Protection of National Minorities**

The comments by the *Seelter Buund* on the Third State Report are as follows:

Unfortunately, the *Land* Government refused the Sater Frisians' application for institutional funding again in 2007. Nonetheless, after numerous conversations with the state chancellery and Ministry for Culture in Hanover, we were granted funding of €10,000 for the first time, so that we were able for the first time to reimburse our volunteers for some of their expenses incurred in their efforts to preserve the language. We are also able to buy some technical equipment for the archive. This year, we were also able to offer a training seminar for the teacher and volunteer language instructors.

And some funds will be spent again this year on producing some teaching materials.

Professor Jörg Peters, who has good relations with the Sater Frisians, was hired to fill the position for Saterland Frisian and Low German at the University of Oldenburg. Professor Peters has already taken a course in Saterland Frisian in the Saterland. A number of projects are being planned.

Ms. Evers, our Saterfrisian representative at the University of Bremen, conducted a course on Sater Frisian which included a field trip for language study. Dr Stolz is very interested in working with the Saterland Frisians.

Radio: Our own radio station, operated with assistance from Ems-Vechte-Welle, can now be heard world-wide on the Internet.

**Comments by the Central Council of German Sinti and Roma on the Third State Report submitted by the Federal Republic of Germany in accordance with Article 25 (2) of the Framework Convention for the Protection of National Minorities**

**Re no. 01018:**

The Act on Equal Treatment (AGG) sends an important political signal to prevent discrimination in civil and labour law. Because the law clearly prohibits discriminatory practices, in most cases it prevents discrimination before it takes place. Nonetheless, a few members of our minority were recently affected by discrimination, for example by a branch of an electronics company in northern Germany, a petrol station in Baden-Württemberg and a car company in southern Germany. Each case was satisfactorily resolved without recourse to the courts after contacting the company management. The companies apologized to the persons concerned and took steps to ensure that they could continue to do business with the electronics company and the petrol station and to prevent bullying at the car company.

However, it is of central importance that the AGG does not currently protect against discrimination by public authorities under public law. The Central Council calls for adding provisions to the AGG to prohibit discrimination against minorities by identifying suspects as members of minorities in databases and reports issued by public authorities.

It should be noted that in 2007, the European Commission wrote two letters to the Federal Government criticizing several points of the new law (preliminary to initiating infringement proceedings concerning the implementation of an EU Directive). In particular, the Central Council shares concerns regarding the provisions of Section 19 (3) of the AGG, which can foster covert discrimination in the housing market (allowing “different treatment” to preserve “social stability among the resident population”, etc.).

**Nos. 03007, 04002 et seqq., 06060**

Another cause for concern is the continued existence of discriminatory attitudes towards Sinti and Roma among certain parts of the German police. The German government has not yet taken sufficient steps to address this problem.

Not least as the result of a decision by the UN Committee on the Elimination of Racial Discrimination (CERD, C/72/D /38/ 2006, no. 9) of 3 March 2008, the Central Council of German Sinti and Roma called on the Bund Deutscher Kriminalbeamter (Federation of German Police Detectives, BDK) for an official rejection of racial discrimination expressed in an article published in the BDK journal *der kriminalist*. The BDK is a professional

organization of the German police to which nearly 20,000 police detectives belong. In an article published in the BDK journal in October 2005, the organization's deputy chair for Bavaria referred to "crime by Sinti and Roma" using discriminatory generalizations and accused the minority of seeing itself as a "maggot feeding off the fat of the welfare society" and "using the fact of persecution under the Third Reich to justify theft, fraud and social parasitism". In the above-mentioned decision, the CERD found that the published material was "discriminatory, insulting and defamatory" and "especially serious" for having been written by a police officer, "whose true responsibility is to help and protect people". As a signatory state, Germany was asked to pay special attention to this circumstance and was reminded of CERD General Recommendation XXVII on discrimination against Roma. If the BDK does not distance itself from utterances of this kind, then the signatory state Germany must condemn its action in an official statement in order to guarantee that the police uphold the rule of law.<sup>13</sup>

On the positive side, it should be noted that a delegation with high-ranking officials of the Federal Criminal Police Office (BKA) headed by BKA President Jörg Ziercke visited the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg on 14 March 2008 to view the exhibition on the National Socialist genocide of Sinti and Roma. In 2007, the BKA conducted a series of public colloquia on the origins of the BKA and possible after-effects of National Socialism. The presentation by Romani Rose, chair of the Central Council, as part of this series was widely praised in the German media. The inclusion of the Central Council of German Sinti and Roma was regarded favourably as signalling awareness of responsibility on the part of today's democratic state and its police in dealing with minorities including German Sinti and Roma. The Central Council praised the BKA's willingness to place greater emphasis on teaching police cadets about the persecution of Sinti and Roma during the Holocaust, as well as the fact that the leadership of the *Land* police in Hesse and Baden-Württemberg visited the Documentation and Cultural Centre.

The Central Council also invited the Federal Minister of the Interior, Dr Wolfgang Schäuble, to visit the Documentation and Cultural Centre in Heidelberg. In the current situation, this would send an unmistakable signal that the government will oppose every form of discrimination against this minority.

**No. 04009, 04012:**

The Central Council has long called for a legal ban on discrimination by public authorities and officials; to this end, it held talks last year with the Standing Conference of Interior Ministers (IMK) and Justice Ministers (JuMiKo) of the *Länder* and with the Federal Ministry

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<sup>13</sup> See also the footnote to Section B.6.1.2.5.

of Justice. It was agreed that a nation-wide ban should be introduced; the Central Council proposes adding to the Act on Equal Treatment (AGG), whereas the federal and *Land* governments prefer to amend the Guidelines for Criminal Proceedings and Administrative Fines (RiStBV) for the judiciary and issue a nation-wide ordinance for the police and public administration. But such an ordinance would be merely an internal rule and would not be legally binding, nor would compliance be subject to verification in court. On 16 August 2007, State Secretary Lutz Diwell at the Federal Ministry of Justice indicated it would be possible to amend the Guidelines for Criminal Proceedings and Administrative Fines to include a specific ban on discrimination, but this has not yet been carried out.

The Central Council regards as a positive development the fact that complaints to the German Press Council led a large number of newspapers to print corrections, which was a good way to help raise public awareness of the harmful impact of identifying the minority status of criminal suspects. Equally positive were talks with the management of ZDF television, which agreed to take steps to further raise awareness among editorial staff. In July, the ZDF Television Board, the broadcaster's supervisory body, met with the Central Council of German Sinti and Roma for the same reason.

**No. 06091:**

On 4 July 2008, the Bundesrat adopted legislation proposed by Brandenburg, Saxony-Anhalt and Mecklenburg-Western Pomerania (572/2/07) to amend the Criminal Code (StGB). The proposed amendment is intended to ensure that when sentencing persons convicted of crimes, their motivation is taken into account if it has to do with the victim's political beliefs, nationality, ethnicity, skin colour, religion, personal beliefs, origin, appearance, sexual orientation or disability. Amending the Criminal Code is intended to make it easier for judges to impose custodial sentences of less than six months in such cases. Under the current law, a judge may impose a custodial sentence of less than six months only "when special circumstances exist, either in the act or the personality of the perpetrator, which make the imposition of imprisonment indispensable to exert influence on the perpetrator or to defend the legal order" (Section 47 (1) Criminal Code). The usual punishment is a fine. The Bundesrat wishes to make it a legal requirement to impose custodial sentences for crimes based on hate and prejudice.

The chamber of the *Länder* demands an additional amendment in the case of custodial sentences longer than six months. Under the current law, such sentences are usually suspended. "To defend the legal order", however, the chamber wants to prohibit the suspension of sentences for such crimes. According to the legislative draft, because these acts, which are based on contempt for others, on xenophobia and other prejudices, are (unlike most other offences) intended to seek approval and imitation, short custodial sentences and the regular enforcement of custodial sentences of more than six months

should be used to show perpetrators and those who might imitate their offences the consequences of their actions. The initiative is a response to a rise in politically motivated crime. The 2006 Report on the Protection of the Constitution counted 18,142 offences in the category of right-wing politically motivated crime, including 1,047 violent offences with an extremist background.

**No. 12178, 13000 et seqq. on Article 12 (3) and (13)**

At the follow-up seminar to the second monitoring cycle on 27 October 2008, the educational division of the Documentation and Cultural Centre of German Sinti and Roma provided extensive comments on issues related to the schools situation.

*(Text follows)*

The *Land* associations of German Sinti and Roma in Hesse and Rhineland-Palatinate provided additional comments on this state report. More information is available from the Central Council of German Sinti and Roma.

***Comments by the educational division of the Documentation and Cultural Centre of German Sinti and Roma on Item 1 of the Discussion Paper for the follow-up seminar to the 2nd Monitoring Cycle for the Framework Convention for the Protection of National Minorities, Berlin, 27 November 2008***

As far as individual cases have been brought to our attention, we can concur with the Advisory Committee in noting that Sinti and Roma children are disproportionately represented at special schools for children with learning difficulties. In addition, we find further examples in the relevant literature of the past 20 years. We also know that in the decades following World War II and into the 1970s, in many areas Sinti and Roma children were sent directly to special schools before having a chance to attend regular schools. Years of discrimination have left a deep impression on the current generation of parents and continue to have an impact on their children's opportunities. The findings of the PISA studies, that the educational experience and degrees of parents and grandparents are highly relevant for children's educational careers, apply especially to minorities.

The trauma resulting from genocide and renewed exclusion and discrimination after the war forced members of the minority to rely on their own networks of family and relatives, which often made it difficult for them to entrust their children to other networks, such as the school system; this is partly still true today.

So when we become aware today that Sinti and Roma children are transferred to special schools at an early stage, we must take into account these historical research findings. But it would be wrong to conclude from this historical experience that the minority opposes education in general. Those concerned must be given a chance to find out what education has to offer and need support which takes their specific circumstances into account. Compulsory schooling alone is not enough.

As the individual *Länder* have described in the draft State Report, a number of school-related projects and measures tailored to the specific local situation have been initiated in cooperation with Sinti and Roma *Land* associations in recent years. Whether and to what extent these measures will succeed over the long term is something which can be assessed only after a certain amount of time. The symptoms of unequal educational opportunities will therefore continue to be apparent in the coming years.

Negative clichés and classic stereotypes of "gypsies" are still powerful and continue to be a significant factor contributing to inequality in education. They often influence how the minority is treated in pedagogical practice, thereby playing a major part in creating an unfavourable school atmosphere for Sinti and Roma children. This result was confirmed in

a nation-wide representative survey of secondary-school teachers which was conducted by the Documentation and Cultural Centre of German Sinti and Roma. The teachers found that Sinti and Roma faced greater prejudices at school than any other group or minority.

The survey also revealed that knowledge of the history and current situation of Sinti and Roma is very limited and comes almost entirely from readings in German class and from the treatment of National Socialism in history and civics classes. On the positive side, survey respondents were very interested in learning more about this topic and were very willing to undergo additional training in this area.

Based on the survey results, we may assume that the information and awareness provided in initial and advanced teacher training as well as the range and availability of teaching materials are inadequate and fail to leave a lasting impression. A textbook study published two years ago as part of the publication series of the Georg-Eckert-Institut confirms this assumption. The author of that study concluded that the National Socialist genocide of the minority was rarely portrayed in current textbooks and when it did appear, it was more likely to reinforce prejudices and stereotypes than reduce them.

One example of how little attention current – and otherwise welcome – projects pay to the Sinti and Roma minority is the project “Schools Without Racism”, referred to in no. 06025 in the current draft report, in which Sinti and Roma *Land* associations are also participating. Entering the terms “Sinti”, “Roma” or “anti-Gypsyism” into the search function on the project website yields a total of 15 hits, whereas entering “anti-Semitism” comes up with 16,915.

As a result, the Documentation and Cultural Centre and the Stiftung Lesen foundation in Mainz teamed up to launch a nation-wide school campaign against racism and discrimination which focuses on Sinti and Roma as a national minority. In addition to information on the history of the Sinti and Roma, on racism and minorities, the package of classroom materials will contain a reader including brief biographies of interest to school pupils. These biographies are intended to show the forms discrimination and prejudice take in the lives of their peers and the fear associated with them. The campaign is aimed at all secondary schools and will be presented at approximately 13,000 facilities. To carry out the project, however, the Documentation and Cultural Centre depends on approval of grant funding.

In late August 2008, the Documentation and Cultural Centre began inviting Sinti and Roma parents to familiarize themselves with the centre and its civil rights activities. Part of the orientation consisted of informing parents of how important it is for their children to finish

school. These meetings are to be continued and, following a planning phase in Heidelberg, conducted in other cities as well.

Although the minority organization of German Sinti and Roma offers regional measures and support in the field of education, policy-makers are obliged to make it absolutely clear once and for all that discrimination and exclusion in Germany must cease. This is a crucial step not only to promote educational opportunities for Sinti and Roma, but also for their equal participation in the labour market. We hear from individual *Land* associations that even those members of the minority with higher education degrees have difficulty finding work. Often their only chance for success is to hide their minority identity. With future perspectives like these, it is very difficult to promote the value of schooling.

Lastly, the Documentation and Cultural Centre believes that issues of schooling for Sinti and Roma children should be handled only in a qualitative context. In our view, the lack of socio-economic data mentioned in the report on the 2nd Monitoring Cycle (p. 2 under the heading "Problem fields") is not relevant for the planning and execution of measures to improve equal opportunities. On the contrary, statistics based on ethnic criteria would stigmatize the minority and lead to exclusion for its members. As demonstrated above, the discrimination of Sinti and Roma in education represents a qualitative problem which cannot be contained or resolved through the collection of statistical data.

**Comments by the Sinti Allianz Deutschland on the Third Report submitted by Germany on the implementation of the European Charter for Regional or Minority Languages in accordance with Article 25 (2) of the Framework Convention for the Protection of National Minorities**

**A. General Part**

1. The Sinti Allianz Deutschland e.V. (Sinti Alliance of Germany, reg'd society) refers to its comments on the Second Report of the Federal Republic of Germany, Parts A and B of which continue to represent the view of the Alliance. The Sinti Alliance is of the view that the statements concerning education and language in particular should be considered in all government decision-making on the support and promotion of minorities.
  
2. In order to make it easier for German Sinti to get along with the majority population, the Sinti Alliance attempts to increase understanding for the traditional Sinti cultural order with its many taboos (for an example, see no. 4032), which the Sinti community has abided by since the beginning of its existence. The Alliance also hopes that the public administration will take this issue into account in its decisions on employment and housing offers for Sinti. Respecting these rules is difficult, also for public authorities and institutions, due to the fact that their traditional cultural order does not allow the Sinti to talk about the manners and customs or to disclose their traditional order to the public. The Sinti Alliances asks that, in their reports, governments and other institutions show consideration for the taboos governing their Sinti neighbours and respect this attitude which is an integral part of their identity. Both the authorities and Sinti representatives should continue to look for ways, through mutual consultations and trust, to protect this traditional way of life also in a uniform legal framework and in a globalized world.
  
3. The Sinti Alliance of Germany welcomes the increased willingness on the part of federal and *Land* government representatives and especially in the parliament during the reporting period to include the Sinti Alliance in consultations on minority protection issues and for example on the issue of a memorial to the European gypsies persecuted and murdered by the National Socialists. On the other hand, the Alliance regrets the fact that in appointing a representative of the national minorities and autochthonous ethnic groups on the board of the Anti-Discrimination Office, the Federal Government has taken a decision which practically rules out the Sinti Alliance's participation in this body. The Alliance hopes that the new proposal, in

which the deputy appointed by the Federal Government is responsible for cooperation, proves workable in practice.

4. It should be stressed that, again in the third reporting period, neither the Sinti Alliance nor any of its *Land* affiliates has received any funding from the federal or *Land* governments for its work. In view of the long-term institutional support for the Central Council of German Sinti and Roma and its *Land* associations, this should be regarded as discrimination against the Sinti Alliance and its member organizations. The willingness to provide support expressed by numerous federal presidents at their annual meetings with the Sinti Alliance and by members of the German Bundestag at the round table on minority issues has so far had no practical consequences.
5. To better understand this contradictory practice, we would point out that the highest political level has always signalled understanding and support on this issue. The Sinti Alliance of Germany and its *Land* associations have been asked repeatedly to submit funding applications. After submitting applications, the Alliance was informed by lower ministerial levels, such as division heads, that no budget funds were available, that the Central Council was already receiving institutional funding and that that could not be changed or that in accordance with the Budget Committee's decision no new institutional funding would be set up. From the response to all applications for financial support, it was clear that, in view of the Central Council's rejection and opposition to the work of the Sinti Alliance, there is so far no political will to support the Alliance. Our work has repeatedly been praised by the government, but unlike all other organizations with comparable legal status, the Sinti Alliance is the only umbrella organization that has never received public funds.
6. At federal and *Land* level, the Sinti Alliance of Germany, its *Land* associations and affiliated groups are occasionally asked to submit applications for project funding, but none of these applications has ever been successful. The reason is that to receive public funding, organizations are required to put up at least 50% of their own funding. Project applications are submitted in order to expand efforts in fields where the Sinti ethnic group especially need the Sinti Alliance or its organizations to take action. However, we are able to cover the costs of our association's necessary work only by making sacrifices and with help from private donations. We do not charge membership fees, because we want the Sinti Alliance of Germany to be open to all members of the Sinti ethnic group regardless of their social status or economic circumstances. All of our services are paid for entirely by the volunteers responsible for the activities out of their own pockets. We are therefore unable to

provide additional capital for supplementary projects. Given the extensive public funding for the Central Council and its associations which is not subject to this condition, we regard this requirement as discriminatory treatment as well. The government should also take into account the social situation in which we volunteer.

7. The Federal Government provides 90% of the budget for the Documentation and Cultural Centre of German Sinti and Roma in Heidelberg in the form of institutional funding. The remaining 10% of the total budget is paid for by the *Land* Baden-Württemberg. Thus this institution is completely paid for by public funds. According to the Centre's statutes, all interested autochthonous German gypsies are welcome to participate in the Centre's work, as it is not affiliated with a particular association. Due to the choice of personnel, however, the Central Council's influence is so great that the Sinti Alliance and its organizations have no possibility to participate. Although written and oral reminders to solve this problem have been repeatedly provided, the Federal Government has failed again in this reporting period to include representatives of our association or Sinti experts sympathetic to our organization.
8. The Sinti Alliance is pleased to see that during this reporting period the Federal Government has increasingly identified comments by the Sinti Alliance with reference to the name of our organization. The practice of referring to statements by "other organizations" out of consideration for the sensitivities of the Central Council of German Sinti and Roma is on the wane and we hope it will soon cease entirely.
9. The Sinti Alliance regrets the fact that the Central Council of German Sinti and Roma continues its refusal to have anything to do with the Sinti Alliance. Not only does this attitude make it more difficult to resolve issues affecting all German Sinti and Roma, or at least the Sinti in both organizations, it also affects the associations of the other national minorities and autochthonous ethnic groups in Germany. And it makes cooperation with the publicly funded Secretariat for Minorities more difficult. We especially regret the fact that the Central Council even refuses joint participation in important discussions, such as the annual meeting with the president of the Bundesrat and the *Länder* representatives. The Central Council's blanket refusal to work with the Sinti Alliance has made it impossible to establish a consultative committee at federal level to address issues concerning the German Sinti and Roma. This attitude does not advance our common aims. The Sinti Alliance of Germany therefore appeals to the Central Council of German Sinti and Roma once again to reconsider its position. Despite differences between the objectives of the

two umbrella organizations, in representing the interests of German gypsies the Sinti Alliance is open to every form of cooperation based on equality.

## **B. Comments on specific sections of the draft Report with regard to the respective articles of the Framework Convention**

### Nos. 04041 – 04047:

Like other national minorities and autochthonous ethnic groups, the Sinti Alliance of Germany opposes the collection of statistical data related to ethnicity. It expressly supports the Federal Government's position on this issue.

### Nos. 05110 – 05112:

With regard to these items dealing with state support, it should be noted that the Sinti Alliance of Germany, an umbrella group of German Sinti, has never received direct or indirect state support. Nor have the *Land* associations of the Sinti Alliance and other affiliated groups received any funding from *Land* governments. Only the Central Council of German Sinti and Roma, its *Land* associations and some independent organizations have received state support.

With his response, quoted in no. 05112, to a comment by the Council of Europe Advisory Committee, the Federal Government Commissioner for Culture and the Media obscures this situation, which we regard as discriminatory. The Commissioner refers to budgetary law requirements that funding for national minorities be disbursed to central institutions; as previous contacts indicate, however, he is aware that the Sinti Alliance is an independent umbrella organization of the autochthonous ethnic group of German Sinti. He states that the umbrella organizations of national minorities "then forward these funds". It is clear from no. 05111 that this is a response to a recommendation which refers only to support for Roma/Sinti communities. Thus we ask the Commissioner for Culture and the Media to clarify how he envisions possible joint institutional funding for the Central Council and the Sinti Alliance from a single budget item, to be distributed by the Central Council. The Federal Commissioner is also well aware that the Central Council refuses all contact with the Sinti Alliance.

### No. 12129:

Concerning school pilot projects for Sinti and Roma children which draw on their cultural traditions and language, the Sinti Alliance would like to point out a problem usually overlooked by the government authorities: When projects in which the Sinti language Sintetickes is used also involve persons who do not belong to the Sinti community, the

Sinti view this as a serious violation of their community's cultural precepts. In most cases, traditional Sinti must then sever their contacts with these children and their parents. The children and their parents then lose contact to their ethnic group and gradually their identity as Sinti. Thus support measures intended by the authorities to strengthen ethnic identity in these cases instead end up weakening the ethnic group. Government agencies planning such projects should take these consequences seriously, and minority language projects for Sinti children should not employ non-Sinti teachers or mediators. The same applies to the projects listed in nos. 05114 and 12192.