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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

APPLICATION OF THE CHARTER IN BOSNIA AND HERZEGOVINA

1st monitoring cycle

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

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

To facilitate this task, the Committee of Ministers adopted, in accordance with Article 15, paragraph 1, an outline for periodical reports that a Party is required to submit to the Secretary General. The report should be made public by the State. This outline requires the State to give an account of the concrete application of the Charter, the general policy for the languages protected under Part II and, in more precise terms, all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee of Experts' first task is therefore to examine the information contained in the periodical report for all the relevant regional or minority languages on the territory of the State concerned.

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

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

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A. Report of the Committee of Experts on the application of the Charter in Bosnia and Herzegovina

adopted by the Committee of Experts on 28 February 2013
and presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

Chapter 1 Background information

1.1. The Charter's ratification by Bosnia and Herzegovina

1. When acceding to the Council of Europe in 2002, Bosnia and Herzegovina committed itself to signing and ratifying the European Charter for Regional or Minority Languages (hereafter referred to as "the Charter"). Bosnia and Herzegovina signed the Charter on 7 September 2005 and deposited the instrument of ratification with the Council of Europe on 21 September 2010. The Charter entered into force in Bosnia and Herzegovina on 1 January 2011.

2. Article 15.1 of the Charter requires States Parties to present their initial periodical report within the year following the entry into force of the Charter with respect to the Party concerned, in a form prescribed by the Committee of Ministers.¹ The initial periodical report by Bosnia and Herzegovina, which was due on 1 January 2012, was submitted to the Secretary General of the Council of Europe on 30 July 2012. It appears that this report has not yet been made public by the authorities, as required by Article 15.2.

1.2. The work of the Committee of Experts

3. This evaluation report is based on the information obtained by the Committee of Experts from the initial periodical report of Bosnia and Herzegovina and through interviews held with representatives of the minority language speakers as well as the authorities of Bosnia and Herzegovina during the on-the-spot visit, which took place from 6-9 November 2012. The report reflects the policies, legislation and practice prevailing at the time of the on-the-spot visit. Any changes will be taken into account in the next report of the Committee of Experts concerning Bosnia and Herzegovina.

4. Bosnia and Herzegovina has still not proposed candidates for the election by the Committee of Ministers of a national expert in the Committee of Experts. This has hampered the work of the Committee of Experts with regard to this report.

5. This report was adopted by the Committee of Experts on 28 February 2013.

1.3. Presentation of the regional or minority language situation in Bosnia and Herzegovina

6. Bosnia and Herzegovina is a federal state comprising two autonomous entities, the Federation of Bosnia and Herzegovina and Republika Srpska, as well as the Brčko District. The Federation of Bosnia and Herzegovina consists of ten cantons. According to the constitution, there are three constituent peoples: Bosniaks, Croats, and Serbs, and three official languages, namely Bosnian, Croatian and Serbian.

7. Bosnia and Herzegovina applies the Charter to 17 regional or minority languages which are all covered by both Parts II and III: Albanian, Czech, German, Hungarian, Italian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish. The numbers presented in the following listing reflect the situation of ethnic affiliation of the census of 1991. As a consequence of the disintegration of Yugoslavia and the resulting war, the demographic situation has changed dramatically. Therefore, the following numbers can only provide an orientation and do not reflect the current situation. In addition, they do not reflect the numbers of speakers of the respective minority languages. In most cases the number of speakers may be lower, in the case of Romani most probably much higher.

¹ MIN-LANG (98) 7, Outline periodical reports as adopted by the Committee of Ministers of the Council of Europe on 10 November 1998

Albanian

8. According to the initial periodical report, the Albanians came to Bosnia and Herzegovina during the Ottoman rule and settled across the country. Under Austro-Hungarian rule, the number of Albanians declined due to emigration and assimilation with the Bosnian population. According to the last census (1991), the total number of Albanians was 4 922. Most Albanians live in Sarajevo, Zenica, Tuzla and Mostar.

Czech

9. Czechs settled in Bosnia and Herzegovina in the 19th century inter alia near Banja Luka, for example in Nova Ves/Nová Ves (located in Srbac municipality) and Mačino Brdo/Mačino Brdo (Prnjavor municipality). According to the 1991 census, 590 people identified themselves as Czechs.

German

10. Germans began to settle in Bosnia and Herzegovina in 1869 and founded several settlements such as Nova Topola/Windthorst (Gradiška municipality). In 1910, there were 22 968 Germans, but after World War II their number decreased. In the 1991 census, 470 people identified themselves as Germans.

Hungarian

11. Hungarians arrived in Bosnia and Herzegovina in the 13th century. The most intense immigration of Hungarians to various parts of the country was recorded in the period from 1900 to 1910. In the 1991 census, 893 citizens declared themselves as Hungarians, but it is estimated that there are around 1 500 Hungarians in Bosnia and Herzegovina. Most of them live in Sarajevo and Banja Luka where their associations are active.

Italian

12. Italians settled in Bosnia and Herzegovina mainly in the Austro-Hungarian period. In 1910, there were approximately 2 500 Italians in the country. They lived mostly in towns such as Banja Luka, Konjic, Tuzla and Prnjavor, but also in the village of Štivor/Stivor (Prnjavor municipality). According to 1991 census, there were 732 Italians in Bosnia and Herzegovina.

Ladino (Judeo-Spanish)

13. Ladino-speaking Jews came to Bosnia and Herzegovina in the early 16th century when the country was part of the Ottoman Empire. There are nowadays Jewish communities in Sarajevo, Tuzla, Zenica, Dobo, Mostar and Banja Luka. In the 1991 census, 426 people identified themselves as Jews. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Jewish minority that Ladino is used only occasionally by a few (about a dozen) persons.

Macedonian

14. Macedonians began to settle in Bosnia and Herzegovina only in the 20th century. After World War II, there was a wave of immigration of Macedonians who mostly moved to urban centres such as Banja Luka, Sarajevo, Zenica, Bijeljina, Dobo, Derventa, Mostar, Zvornik and Prijedor. In the 1991 census, 1 596 citizens declared themselves as Macedonians. Associations of the Macedonian minority are active in Sarajevo and Banja Luka.

Montenegrin

15. Montenegrins migrated to Bosnia and Herzegovina in the 20th century and mainly inhabit the eastern parts of the country and larger cities. According to the 1991 census, there were 10 048 Montenegrins.

Polish

16. Poles began to settle in Bosnia and Herzegovina under Austro-Hungarian rule. They came mainly from Galicia and settled around Derventa, Prnjavor, Gradiška, Banja Luka, Prijedor and Bosanski Novi. In 1930, the number of Poles was about 30 000. Later, that number declined and in the 1991 census, 526 people declared themselves as Poles.

Romani

17. Roma settled in Bosnia and Herzegovina under Ottoman rule. In the 1991 census, 8 864 people identified themselves as Roma. According to field research carried out by the Ministry of Human Rights and Refugees in 2009 and 2010, the number of Roma is currently estimated at between 25 000 and 30 000.

Romanian

18. Romanians began to settle in Bosnia and Herzegovina under Austro-Hungarian rule. In the 1991 census, 162 people declared themselves as Romanians. There is currently no association representing the Romanian national minority.

Ruthenian

19. Most Ruthenians came to Bosnia and Herzegovina in the 19th and early 20th centuries and settled in the area between Derventa and Banja Luka as well as around Prnjavor. After World War II, 7 883 Ruthenians were registered. However, according to the 1991 census, there were only 133 Ruthenians in Bosnia and Herzegovina.

Slovak

20. Slovaks began to settle in Bosnia and Herzegovina in the late 19th century. They mainly inhabited the area of Semberija around Bijeljina and Brčko. In the 1991 census, 297 people identified themselves as Slovaks.

Slovenian

21. Slovenians began to settle in Bosnia and Herzegovina in the 20th century. They mainly inhabited larger cities like Sarajevo, Banja Luka, Prijedor and Mostar. According to the 1991 census, 2 190 citizens declared themselves as Slovenians.

Turkish

22. The Turks settled in Bosnia and Herzegovina since the 15th century under the Ottoman rule. Many Turks emigrated under Austro-Hungarian rule. According to the 1991 census, there were 267 persons belonging to the Turkish national minority.

Ukrainian

23. Ukrainians immigrated in Bosnia and Herzegovina under the Austro-Hungarian rule and settled mainly in Derventa, Prnjavor, Čelinac, Srbac, Prijedor and Gradiška. In the 1991 census, 3 929 people identified themselves as Ukrainians.

Yiddish

24. Yiddish-speaking Jews came to Bosnia and Herzegovina in the late 19th century, when the Austro-Hungarian Empire began to rule. It is not clear whether some of the 426 Jews (1991 census) speak Yiddish. According to information received from a representative of the Jewish community of Sarajevo during the on-the-spot visit, the Yiddish language seems to be extinct in Bosnia and Herzegovina.

25. According to the second report by Bosnia and Herzegovina about the implementation of the Framework Convention for the Protection of National Minorities, the Macedonian, Montenegrin and Slovenian national minorities are not traditional minorities of the country.² This information implies that the Macedonian, Montenegrin and Slovenian languages lack a traditional presence as well. However, the definition of the concept of “regional or minority languages” contained in Article 1.a of the Charter requires such a traditional presence. The Committee of Experts asks the authorities to clarify, in the next periodical report, whether Macedonian, Montenegrin and Slovenian are traditionally used in the country and consequently “regional or minority languages” in the sense of the Charter. Nevertheless, since the languages are dealt with in the initial periodical report by Bosnia and Herzegovina, and awaiting further clarification, the Committee of Experts will also deal with them in this report.

1.4. General issues arising in the evaluation of the application of the Charter in Bosnia and Herzegovina

1.4.1 Structured approach and flexible measures implementing the Charter

26. An important feature of the Charter is that it does not as such set out individual rights for speakers of minority languages whose implementation would largely depend on whether or not the speakers invoke such rights. Rather, the Charter places legal obligations on its States Parties which need to be implemented in practice, taking account of the situation of each language. Implementation of the Charter’s legal obligations thus requires that its States Parties take positive measures, on their own initiative, with a view to protecting and promoting the minority languages.

27. The number of speakers of most minority languages in Bosnia and Herzegovina is relatively low. Furthermore, there does not at present exist an infrastructure necessary to ensure an immediate implementation of the Charter. In such a situation it is clear that individual and flexible measures need to be taken in order to make the provisions of Part III operational. The Committee of Experts therefore considers

² See ACFC/SR (2004) 001, p. 34

that the authorities should draw up a mid-term strategy on the implementation of the Charter in respect of the minority languages.³

28. This strategy should first of all define the territories in which the languages concerned have their historical bases and where the Charter undertakings will be implemented as a matter of priority. For several languages included in the ratification, the defined territory would most likely comprise only a few local communities.

29. Furthermore, the authorities need to devise flexible and innovative measures for the actual application of the Charter undertakings. Such measures could comprise teachers serving several schools, bilingual or multilingual classes, the establishment of one or several central educational institution(s) for each language at higher secondary education or education at university level, the use of the internet for the promotion of the language in the media and co-operation with the private sector in the municipalities concerned regarding the implementation of Article 13.

30. In addition, the Committee of Experts considers that the application of the Charter by Bosnia and Herzegovina could benefit from co-operation with kin-states of minority languages in Bosnia and Herzegovina, or with other states where the minority languages are used. In cases where the setting up of a completely new infrastructure in the media, education or culture represents a major challenge for Bosnia and Herzegovina because of the very low number of speakers of the language concerned, it could be envisaged that the respective minority language speakers in Bosnia and Herzegovina benefit, with the necessary adaptation, from the already existing infrastructure for the same language in a neighbouring country (e.g. regarding teacher and journalist training/exchanges, import of textbooks, exchange of cultural works, retransmission of television and radio programmes). In other cases, neighbouring states of Bosnia and Herzegovina may currently be in a process of setting up an infrastructure for certain languages in specific fields, for example launching television programmes or newspapers. Such measures could be jointly implemented, where feasible.

31. The Committee of Experts also points to the Law on Protection of Rights of Members of National Minorities in the Federation of Bosnia and Herzegovina (Article 6) and the Law on Protection of Rights of National Minorities of the Republika Srpska (Article 5) according to which the respective authorities shall facilitate and financially assist relations between the national minorities in their respective entity and the same national minorities in other countries as well as relations of the national minorities with their kin-states.

The Committee of Experts encourages the authorities to establish a structured policy and take flexible measures facilitating the application of the Charter.

1.4.2 Percentage thresholds potentially hampering the application of the Charter

32. According to provisions of the 2003 Law on Rights of National Minorities of Bosnia and Herzegovina, the 2005 Law on Protection of Rights of National Minorities of the Republika Srpska and the 2008 Law on Protection of Rights of Members of National Minorities in the Federation of Bosnia and Herzegovina, several linguistic rights in the fields of administrative authorities, education and cultural activities depend on whether persons belonging to a national minority make up a certain share of the population of a city, municipality or local community. The thresholds applied are: “a majority of the population”, “an absolute or relative majority of the population”, “at least one third of the population”, “more than one third of the population”, “a considerable number of the population”, “one fifth [of the pupils of a school combined with] the majority of parents”.

33. In its instrument of ratification, Bosnia and Herzegovina made the following declaration: “In accordance with Article 1, paragraph b, of the Charter, Bosnia and Herzegovina declares that the term ‘territory in which the regional or minority languages are used’ refers to areas in which regional or minority languages are in official use in accordance with the laws of Bosnia and Herzegovina.”

34. The Committee of Experts notes that this declaration, if interpreted literally, would amount to a territorial reservation which is incompatible with the Charter and would render the implementation of the Charter provisions impossible. Therefore, it concludes that the provisions of the Charter apply also to those municipalities where the minority languages are not in official use but where there are a sufficient number of speakers for the purpose of the Charter provisions.⁴

³ See for example 3rd Report of the Committee of Experts on Hungary, ECRML(2007)5, paragraph 17

⁴ See for example 2nd Report of the Committee of Experts on Slovakia, ECRML 2009 8, paragraph 12

35. Given that several minority languages covered by the Charter have a low number of speakers and/or low degree of local concentration of these speakers, the aforementioned thresholds are not reached by most national minorities. However, the ratification means that each undertaking shall be implemented for each language, in at least one administrative unit. The Committee of Experts encourages the authorities to ensure that the undertakings chosen are implemented, even if the thresholds in domestic legislation are not met.

36. In the initial periodical report, the authorities state that the Charter is directly applicable in Bosnia and Herzegovina and has precedence over domestic legislation, in this case the minority laws. However, the Committee of Experts is nonetheless concerned that the conflicting provisions of the minority laws and the Charter could in the administrative practice lead to a situation where local authorities do not apply the Charter provisions, or are not aware of them. In order to ensure the implementation of the Charter in practice, the Committee of Experts encourages the authorities to lower the thresholds stipulated in the minority laws and to encourage local authorities to apply the Charter irrespective of thresholds.⁵

1.4.3 *Census*

37. Bosnia and Herzegovina intends to conduct a census in 2013 which will also contain questions about the respondents' affiliation with national minorities. This will be the first census organised in Bosnia and Herzegovina since 1991. During the on-the-spot visit, the Committee of Experts was informed by representatives of the authorities that many persons belonging to national minorities, as a result of historical experience, are reluctant to state their minority affiliation. Furthermore, representatives of the minority language speakers informed the Committee of Experts that almost all minority language users are bilingual and since they may only choose one language many of them would choose the majority language instead of their minority language. The Committee of Experts would also like to draw the attention to paragraphs 11 and 17 of this report, which show that for Hungarian and Romani, the census figures are much lower than reliable estimates. As a result, the census is likely to produce inaccurate results which would limit the possibilities of the authorities to plan and take consistent and constant action for the protection and the promotion of the minority languages.⁶ The Committee of Experts therefore encourages the authorities to take steps to collect, in co-operation with the representatives of the national minorities, reliable data concerning the number of users of the minority languages and their geographic distribution.

1.4.4 *Application of the Charter to Ladino and Yiddish*

38. According to information that the Committee of Experts has received from representatives of the Jewish national minority, there are only about a dozen of people who are able to speak Ladino. In addition, Yiddish appears to be no longer spoken in Bosnia and Herzegovina at all. This raises the questions of how Bosnia and Herzegovina will apply the Charter to Ladino and Yiddish. On the other hand, the Committee of Experts has in its monitoring practice dealt with regional or minority languages undergoing a successful process of revitalisation. This is notably the case for Manx Gaelic and Cornish in the United Kingdom. Considering such examples of international good practice, the Committee of Experts encourages the authorities to support the Jewish minority in their efforts to give their languages and culture awareness among the younger generation, which could lead to language revival. Nevertheless, since the situation seems to be unclear and the languages are dealt with in the initial periodical report, and awaiting further clarification, the Committee of Experts will also deal with Ladino and Yiddish in this report in accordance with the instrument of ratification.

⁵ See 1st Report of the Committee of Experts on Romania, ECRML(2012)3, paragraph 37

⁶ See for example 1st Report of the Committee of Experts on the Slovak Republic, ECRML(2007)1, paragraph 45

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

2.1. Evaluation in respect of Part II of the Charter

39. Bosnia and Herzegovina applies Part III to all minority languages. The Committee of Experts will therefore concentrate its examination of Part II to those provisions which do not correspond to undertakings chosen under Part III for these languages.

Article 7

Paragraph 1

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

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

40. The minority laws applying at national and entity levels (see under 1.4.2) explicitly mention and recognise the national minorities using the 17 languages covered by the Charter and set out similar linguistic rights in the fields of administrative authorities, education, media, culture, economic and social rights. The Committee of Experts commends the authorities for this high level of recognition for the national minorities and their languages.

41. The Cantons of Sarajevo and Tuzla have also adopted minority laws. In the Bosnia-Drina Canton-Goražde, such a law is currently under preparation. The Committee of Experts asks the authorities to provide specific information about these cantonal minority laws in the next periodical report.

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

42. Considering the demographic situation of the national minorities using the languages covered by the Charter, the Committee of Experts notes that at present there are no problems that would be relevant in the context of this provision. New administrative divisions do not seem to constitute an obstacle to the promotion of the minority languages.

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

43. The Committee of Experts underlines that resolute action to promote minority languages in order to safeguard them covers, among other things, the following aspects: the creation of a legal framework for the promotion of minority languages, the establishment of bodies which are responsible for the promotion of these languages, and the provision of financial resources.⁷

44. As regards the creation of a legal framework, the Committee of Experts refers to its examination of Article 7.1.a, underlining a high level of recognition for national minorities and their languages in Bosnia and Herzegovina.

45. As regards administrative responsibilities, the Committee of Experts has got the impression that measures promoting minority languages are currently mainly carried out by the authorities of the entities and some local authorities, but without an overall co-ordination. Given that a proactive and structured approach is necessary to implement the undertakings under the Charter, the central authorities should provide the necessary guidance in this respect. The Committee of Experts encourages the authorities to clarify the concrete administrative responsibilities for implementing the Charter to all the minority languages, and to adopt an action plan in order for the relevant undertakings to be implemented.

46. In light of the information that the Committee of Experts received during the on-the-spot visit, the authorities do not provide regular and stable financial support to the promotion of the minority languages. Rather, minority associations have to apply for projects, mainly to municipalities and cantons (for example

⁷ See for example 2nd Report of the Committee of Experts on Germany, ECRML(2006)1, paragraph 24; 2nd Report of the Committee of Experts on Sweden, ECRML(2006)4, paragraph 28; 3rd Report of the Committee of Experts on Norway, ECRML (2007) 3, paragraph 34; 2nd Report of the Committee of Experts on Spain, ECRML(2008)5, paragraph 103

the support provided by the City of Banja Luka to the Czech language). Support concerns usually only the field of culture or extra-curricular educational activities. While the Committee of Experts acknowledges the difficult economic situation of Bosnia and Herzegovina, it encourages the authorities to significantly increase the financial support for the promotion of the minority languages and to provide a comprehensive overview of the financial means available for the implementation of the Charter in the next periodical report.

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

47. The Committee of Experts refers to its evaluation of Part III.

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

48. According to the minority laws of the Federation of Bosnia and Herzegovina (Article 6) and the Republika Srpska (Article 5), the respective authorities shall facilitate and financially assist the maintenance and development of relations between the national minorities in their respective entity and the same national minorities in other parts of Bosnia and Herzegovina and in other countries as well as with the kin-states. The Committee of Experts asks the authorities to provide, in the next periodical report, information about the practical implementation with regard to each minority language.

49. The Councils of National Minorities, which comprise representatives of several national minorities (see under Article 7.4), contribute to the establishment of cultural relations between different linguistic groups within the country.

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

50. The provision of appropriate forms and means for the teaching of the minority languages at pre-school, primary and secondary levels is regulated in the minority laws of Bosnia and Herzegovina (Article 14), the Federation of Bosnia and Herzegovina (Article 10), and the Republika Srpska (Article 11), including the provision of textbooks. These laws do not deal with technical, vocational and higher education. With the exception of teaching German, Italian and Ukrainian at some levels of education (see under Article 8), however, the minority languages of Bosnia and Herzegovina are absent from ordinary education. There are neither trained teachers who would be able to teach the minority languages at all the levels relevant for the implementation of the Charter, nor textbooks for these levels. In light of the information contained in the initial periodical report and provided by representatives of the minority language speakers during the on-the-spot visit, the authorities at present largely limit themselves to supporting language courses initiated and organised by minority associations. However, the Committee of Experts underlines that the Charter puts obligations on its States Parties to organise minority language education within the ordinary education system. While language courses organised by associations may complement the offer in ordinary education, they usually do not meet the pedagogical standards required by the Charter for minority language education.⁸

51. The provision of minority language teaching in conformity with the obligations under the Charter requires that the educational offer needs to precede the demand, i.e. that the education has to be organised before the authorities are approached by parents or pupils. Such organisational measures comprise teacher training, curricula development, textbook production or import, a stable financial framework and the selection of schools where the languages will be taught. In addition, the authorities refer in the initial periodical report to the need to organise transport for pupils/students to and from the schools. The educational offer also needs to ensure continuity from one level of education to the next one in the geographical areas concerned. The Committee of Experts is of course aware that the development of minority language education will constitute a major medium-term task. It is therefore all the more important that, in the meantime, Bosnia and Herzegovina co-operates closely with other countries, including the kin-states of the national minorities concerned, with a view to gradually complying with its undertakings under the Charter (see under 1.4.1).

52. In addition to the organisational measures referred to above, it is important that the authorities inform the local population about the future possibilities to learn the minority languages. According to the initial periodical report, persons belonging to the national minorities are often not familiar with the possibility to

⁸ See for example 2nd Report of the Committee of Experts on Hungary, ECRML(2004)5, paragraph 27

obtain minority language education and the procedures to apply for it. This was confirmed by representatives of minority associations during the on-the-spot visit. The Committee of Experts therefore considers that awareness-raising about the virtues of, and opportunities for, minority language education is needed. It could be envisaged, for example, that the local authorities in the traditional language areas regularly provide parents of newly-born children with an information package about the opportunities of teaching the given minority language.⁹

53. German is taught as a foreign language in Bosnia and Herzegovina. As part of the teaching of German, the history and culture of Germany is taught, which was confirmed by the authorities of the Republika Srpska during the on-the-spot visit. In addition, Italian is taught as a foreign language mainly in Banja Luka. The Committee of Experts considers that the authorities should also develop and implement educational models for German and Italian as minority languages which take the traditional character of these languages, in particular the local history and cultures of both national minorities, into account. The implementation of such models is particularly relevant in and around Banja Luka. Regarding Slovenian, Slovenia finances a teacher who gives courses in Slovenian primarily directed at persons belonging to the Slovenian minority. In the teaching, textbooks provided by Slovenia are used.

54. The revised Action Plan of Bosnia and Herzegovina on the Educational Needs of Roma of 2010 defines the preservation and promotion of the Romani language, culture and history as one of its objectives. However, the initial periodical report states that there is no information that the education authorities would have taken any steps to implement this objective. During the on-the-spot visit, the authorities stated that Romani has not yet been standardised and that different varieties of Romani are taught. The Committee of Experts encourages the authorities to adopt an appropriate approach to teach the Romani varieties used on the territory of Bosnia and Herzegovina at all levels of education the Charter has been ratified for.

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

55. Several associations of national minorities offer language courses for all ages which are often also attended by persons who do not belong to the given minority. The initial periodical report refers to the following language courses:

56. The association of the Czech minority (Češka Besjeda) in the Republika Srpska offered language courses until 2006, when they were integrated into the regular programme of the University of Banja Luka. The courses are held by a lecturer paid by the Czech Republic and the university. The Committee of Experts welcomes the good local co-operation regarding the promotion of Czech.

57. With support from the authorities of Hungary (provision of books and teaching aids) and the City of Banja Luka, the "Magyar Szó" Association of Hungarians of Banja Luka is organising Hungarian courses.

58. The Association of Italians of Banja Luka organises courses of Italian which are supported by the City of Banja Luka.

59. Macedonian courses are organised by the Association of Macedonians of Banja Luka. They are supported by the authorities of the "The former Yugoslav Republic of Macedonia" and the City of Banja Luka.

60. The Association of Poles of Banja Luka is organising Polish courses which receive assistance from the authorities of Poland and the City of Banja Luka.

61. The Associations of Slovenians of the Republika Srpska is organising Slovenian courses with support from the authorities of Slovenia. Furthermore, persons belonging to the Slovenian minority are also attending summer schools to learn Slovenian, which take place in Slovenia.

62. Summer schools of the Ukrainian language are organised in Ukraine for children and students.

63. The Committee of Experts is pleased to observe a wide offer of courses in minority languages. On the other hand, this offer seems to be limited to the Republika Srpska. In addition, according to information received, it depends almost exclusively on support provided by the kin-states of the national minorities concerned, and it is not in all cases clear to what extent the authorities (other than those of the City of Banja

⁹ See for example 1st Report of the Committee of Experts on the United Kingdom, ECRML(2004)1, paragraph 68; 2nd Report of the Committee of Experts on the Slovak Republic, ECRML(2009)8, paragraph 55; 4th Report of the Committee of Experts on Hungary, ECRML(2010)2, paragraph 66

Luka) contribute to this offer. In addition, there is no information about the application of this provision to the Albanian, German, Ladino, Montenegrin, Romani, Romanian, Ruthenian, Slovak, Turkish and Yiddish languages. The Committee of Experts therefore asks the authorities to provide more specific information in their next periodical report about the existence of such courses and any financial support to them by the authorities.

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

64. According to the initial periodical report, the authorities issued a Romani-Bosnian dictionary in 2010. As the periodical report does not contain additional information relevant for this provision, the Committee of Experts asks the authorities to provide, in their next periodical report, information about how they promote study and research on the other minority languages.

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

65. The initial periodical report does not contain information concerning this provision. The Committee of Experts asks the authorities to provide, in their next periodical report, information about how they apply this provision to all minority languages, for instance in the framework of interregional co-operation projects in a wider European context.

Paragraph 2

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

66. The initial periodical report does not contain information concerning this provision. The Committee of Experts asks the authorities to eliminate any discrimination related to the use of minority languages from legislation or any other regulation, if such exists, and provide information in their next periodical report.

Paragraph 3

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

67. The Committee of Experts has not been informed if the promotion of tolerance, respect and understanding in relation to minority languages is included among the objectives of education, and asks the authorities to provide information concerning this in the next periodical report.

68. According to the initial periodical report, the public service broadcaster "Republika Srpska Radio-Television" broadcasts the television programme "Banjaluka Panorama" devoted to national minorities in Banja Luka, with an emphasis on the minority languages. This show has inter alia dealt with the Czech minority. Furthermore, the "Ognjišta" (Hearths) documentary featured villages where national minorities live (e.g. Štivor/Stivor for the Italian minority). A documentary was also devoted to the German minority.

69. In 2011, the Radio and Television of the Federation of Bosnia and Herzegovina broadcast a series of 16 shows (one show concerning each minority, lasting about 30 minutes) exploring the culture, traditions and rights of the national minorities. The aim of this series was to contribute to fighting stereotypes and improving understanding, acceptance and tolerance in respect of national minorities. Documentaries about national minorities are also broadcast by the State Television of Bosnia and Herzegovina.

70. The Committee of Experts welcomes these efforts and encourages the authorities to pursue them.

Paragraph 4

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

71. In Bosnia and Herzegovina, Councils of National Minorities shall ensure the participation of the national minorities in law and policy making. They shall comprise representatives of all national minorities and provide opinions, advice and proposals on all matters concerning the rights, status and interest of the national minorities. In 2008, the Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina was set up. Similar councils were set up in 2007 at the level of the Republika Srpska and in 2009 at the level of the Federation of Bosnia and Herzegovina.

72. In the Republika Srpska, an important role is also played by the Alliance of National Minorities, which is an umbrella organisation of the Czech, German, Hungarian, Italian, Jewish, Macedonian, Montenegrin, Polish, Roma, Slovak, Slovenian and Ukrainian national minorities. The authorities have consulted the Alliance (among other minority associations) when preparing their initial periodical report, which the Committee of Experts considers a commendable practice. The Alliance receives financial support inter alia from the City of Banja Luka. During the on-the-spot visit, representatives of several minority associations underlined the good co-operation they are having with local authorities in the Republika Srpska, in particular with the authorities of Banja Luka and Prnjavor.

73. The Committee of Experts considers that the system of Councils of National Minorities can provide a suitable framework for the implementation of the present provision. However, this presupposes that all groups using the minority languages covered by the Charter are actually represented in such councils. During the on-the-spot visit, the Committee of Experts was informed that the Romanian and Ruthenian national minorities have neither an association representing them, nor any other representative in the Councils of National Minorities. In addition, the seats reserved for the representatives of the German and Slovak minority associations in the Council of National Minorities of the Republika Srpska are currently vacant, owing to procedural difficulties. The Committee of Experts wishes to underline that a dialogue between the authorities and the associations representing the minority language speakers about the application of the Charter is indispensable for a state in determining its policy regarding minority languages. Consequently, the Committee of Experts encourages the authorities to take all the necessary measures so that the composition of the Councils of National Minorities can be completed without further delay.¹⁰ The Committee of Experts encourages the authorities to take steps ensuring that representatives of the speakers of all 17 minority languages are represented in the Councils of National Minorities.

Paragraph 5

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

74. Bosnia and Herzegovina has not specified any non-territorial languages in its instrument of ratification.

2.2. Evaluation in respect of Part III of the Charter

75. Bosnia and Herzegovina has ratified 39 undertakings for Romani and 35 undertakings for Albanian, Czech, German, Hungarian, Italian, Ladino, Macedonian, Montenegrin, Polish, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish. Four undertakings apply to Romani only, which the Committee of Experts will specifically indicate under each of them (Articles 8.1.eiii, fiii; 11.1.d, g). Since the situation in most cases is the same for all Part III languages in relation to compliance with the undertakings chosen, the Committee of Experts will deal with all languages under each undertaking. If one or more languages are in a different position than the others, or where there is specific information, that will be mentioned explicitly.

Article 8 – Education

76. The Committee of Experts notes that Article 8 applies also on the territory of those local authorities where persons belonging to a national minority do not attain the thresholds contained in the minority laws (see under 1.4.2 above), but represent nevertheless a sufficient number for the purpose of the respective undertakings.¹¹

¹⁰ See the recommendation by the Advisory Committee of the Framework Convention for the Protection of National Minorities, 2nd Opinion on Bosnia and Herzegovina, ACFC/OP/II(2008)005, paragraph 211

¹¹ See for example 1st Report of the Committee of Experts on the Slovak Republic, ECRML(2007)1, paragraphs 592-593

Paragraph 1

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

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

77. According to the initial periodical report, the Framework Law on Pre-school Upbringing and Education of Bosnia and Herzegovina stipulates in Article 10 that "... the languages and cultures of ... each national minority living in Bosnia and Herzegovina shall be respected and integrated into the pre-school institutions in accordance with the Constitution of Bosnia and Herzegovina, the European Convention on Protection of Human Rights and Fundamental Freedoms, the Framework Convention for Protection of National Minorities, and the Convention on the Rights of the Child."

78. According to both the authorities and representatives of minority associations, no minority language in Bosnia and Herzegovina is used in pre-school education. During the on-the-spot visit, the authorities of the Republika Srpska stated that there are no pre-school teachers who could use minority languages, and that no relevant curricula have been established.

79. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to make available a substantial part of pre-school education in all Part III languages at least to those pupils whose families so request and whose number is considered sufficient.

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

80. According to the initial periodical report, Italian has been taught in the Šibovska-Štivor primary school (Prnjavor municipality) since 1968. This school, which is attended by most of the primary school pupils of the Italian minority, teaches Italian as an optional subject from the third grade onwards. At present, about 150 pupils learn Italian in primary education. However, Italian is taught as a foreign language rather than as a minority language. The Committee of Experts encourages the authorities to take the traditional character of the Italian language into account (see under Article 7.1.f above). Furthermore, it asks the authorities to provide, in the next periodical report, more specific information about the teaching of Italian in primary education, including an overview of the available textbooks for the different grades and the organisation of teacher training.

81. Turkish is taught at the private Sarajevo College which is financed by a business foundation from Turkey. The authorities neither contribute financially to this college, nor do they provide the teaching of Turkish in regular primary education, or facilitate the education in any other way. The Committee of Experts encourages the authorities to assess how they could contribute to the teaching of Turkish in primary education in conformity with their undertaking under the Charter.

82. Ukrainian is taught as an optional subject and on the basis of a curriculum at primary schools in Prnjavor, Hrváčani, Potočani and Lišnja (all part of Prnjavor municipality) as well as in Trnopolje (Prijedor municipality). In addition, Ukrainian has been taught in Trn (Laktaši municipality) since 2010, following an initiative by the Ukrainian national minority in co-operation with the authorities of Ukraine. The teaching of Ukrainian has also been initiated in Banja Luka, but not yet started. The Committee of Experts welcomes that Ukrainian is taught in various places in the Republika Srpska. However, it asks the authorities to provide, in the next periodical report, more specific information about the teaching of Ukrainian in primary education, including the number of pupils enrolled, an overview of the available textbooks for the different grades, and the organisation of teacher training.

83. As the Committee of Experts learned during the on-the-spot visit, the Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian and Yiddish languages are not taught in primary education. In addition, there seem to be no teachers who could teach the aforementioned languages in primary education.

84. The Committee of Experts considers this undertaking fulfilled for Ukrainian, partly fulfilled for Italian and not fulfilled for Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish and Yiddish.

85. The Committee of Experts encourages the authorities to make available teaching of Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish and Yiddish in primary education at least to those pupils whose families so request and whose number is considered sufficient.

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

86. According to the initial periodical report, the Framework Law On Secondary Vocational Education and Training of Bosnia and Herzegovina foresees in Article 8 that the education of a child belonging to a national minority shall be carried out in the language and script of that minority.

87. According to representatives of the Czech national minority, the Czech language is only taught as an optional course (see under Article 7.1.g), but not as an integral part of the curriculum in secondary education. These courses are organised twice a week in the afternoon. The Committee of Experts notes that this offer does not fulfil the requirements of Article 8.1.civ, according to which the State Party shall at least provide, within secondary education, for the teaching of the relevant minority language as an integral part of the curriculum.

88. According to the initial periodical report, German and Italian are taught as first or second (optional) foreign languages rather than as minority languages. The Committee of Experts refers in this context to its observations and recommendations made above (see under Article 7.1.f above). The Committee of Experts asks the authorities to provide, in the next periodical report, more comprehensive information about the teaching of German and Italian in secondary education, including the number of students enrolled, an overview of the available textbooks for the different grades and the organisation of teacher training.

89. As the Committee of Experts learned during the on-the-spot visit, the Albanian, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish languages are not taught in secondary education. In addition, there seems to be no teachers who could teach the aforementioned languages in secondary education.

90. The Committee of Experts considers this undertaking partly fulfilled for Czech, German and Italian and not fulfilled for Albanian, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish.

91. The Committee of Experts encourages the authorities to make available teaching of Albanian, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish in secondary education at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient. It furthermore asks the authorities to provide more comprehensive information regarding the teaching of Czech, German and Italian.

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

92. Representatives of the Italian national minority informed the Committee of Experts during the on-the-spot visit that their language is taught at vocational schools specialising in music and tourism in the Republika Srpska. No other minority language is used in technical and vocational education.

93. The Committee of Experts considers this undertaking fulfilled for Italian and not fulfilled for Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish.

94. The Committee of Experts encourages the authorities to provide, within technical and vocational education, at least for the teaching of Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish as an integral part of the curriculum.

The Committee of Experts encourages the authorities
- to provide appropriate forms and means for the teaching of the minority languages at all stages concerned by the ratification;
- to inform pupils/students and parents actively about the offer and encourage them to make use of it.

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

95. This undertaking applies only to the Romani language.

96. According to the initial periodical report, Romani can be studied at the University of Sarajevo. The Committee of Experts welcomes this offer, which constitutes the basis for the development of Romani-language education in conformity with Bosnia and Herzegovina's undertakings under the Charter. However, the Committee of Experts has not received up-to-date information about the number of students.

97. The Committee of Experts considers this undertaking fulfilled. It nonetheless asks the authorities to provide, in the next periodical report, additional information about facilities for the study of this language as an university or higher education subject, including the number of students enrolled.

f ...

- iii ***if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;***

98. This undertaking applies only to the Romani language.

99. The initial periodical report states that courses for adults and supplementary education offered mainly or wholly in minority languages are provided for in the Framework Law On Secondary Vocational Education and Training of Bosnia and Herzegovina (Article 4.3) and that Romani is taught as a subject in adult education and supplementary training.

100. The Committee of Experts considers this undertaking fulfilled. It nonetheless asks the authorities to provide, in the next periodical report, additional information about the offering of Romani as a subject of adult and continuing education, including the approximate number of persons attending such courses.

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

101. The authorities, with support from the OSCE, have published a textbook¹² portraying the culture, history, customs, traditions and contributions of each national minority in the country. The Committee of Experts considers that this textbook constitutes best practice in the context of the implementation of this undertaking. It therefore all the more regrets that, in light of the information obtained during the on-the-spot visit, this book is not yet systematically used.

102. In fact, during the on-the-spot visit, representatives of several national minorities, in particular Albanians and Roma, stated that the history and the culture which is reflected by their minority languages is not taught. The history of the Ukrainian national minority is only occasionally taught during language classes, depending on initiatives of teachers. With regard to German and Italian, the Committee of Experts refers to its observations and recommendations made above (see under Article 7.1.f above).

¹² Valenta Leonard: Upoznajmo se: nacionalne manjine u Bosni i Hercegovini ("Lets Get to Know Each Other - National Minorities in Bosnia and Herzegovina"), Sarajevo 2009

103. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to make arrangements to ensure, in a structured way, the teaching of the history and the culture which is reflected by the minority languages.

Article 9 – Judicial authorities

Implementation in practice

104. Representatives of the Italian national minority informed the Committee of Experts during the on-the-spot visit that the Italian language is used before courts by former migrant workers and persons belonging to the minority, and that there are court interpreters for Italian. Furthermore, representatives of the Macedonian national minority confirmed that there are translators for the Macedonian language. No other minority language appears to be used in practice before judicial authorities. This is to some extent confirmed in the initial periodical report where the authorities of the Canton of Central Bosnia state that minority languages have not been used before judicial authorities during the reporting period.

105. In light of the above, the Committee of Experts is of the view that the authorities should ensure that minority language speakers have the possibility to use their language in court proceedings in accordance with the undertakings chosen, either by ensuring that the court officials master the minority language, or by ensuring that court interpreters are available. It also encourages the authorities to inform the minority language users of their right to use minority languages before judicial authorities. For example, the judicial staff could encourage the use of minority languages through bi- or multilingual notices and signs in/on court buildings, and information in public announcements or court forms.¹³

Paragraph 1

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

a in criminal proceedings:

...

ii to guarantee the accused the right to use his/her regional or minority language;

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

106. The initial periodical report states that, according to the Criminal Procedure Code of Bosnia and Herzegovina, parties, witnesses and other participants in criminal proceedings have the right to use the mother tongue or the language they understand. If the person concerned does not understand one of the official languages, interpretation of what she/he or any other person states and translation of documents and other written evidence will be provided. Pursuant to a decision of the Council of Ministers of Bosnia and Herzegovina, the costs of translation are paid in advance by the prosecutor or the court, and later are charged to the individuals.

107. The Committee of Experts notes that according to the undertaking the accused has the right to use his/her minority language during criminal proceedings, irrespective of whether or not the accused masters one of the official languages. While the legislation of Bosnia and Herzegovina creates an individual right to use the mother tongue or the language he or she understands (for example a minority language), interpretation and translation will only be available if the person concerned does not understand one of the official languages. Considering that the overwhelming majority of persons belonging to national minorities in Bosnia and Herzegovina master one of the official languages, the current regulation renders this undertaking largely inoperative.

108. Furthermore, the Committee of Experts observes that the accused are charged the expense for translations. This is incompatible with this undertaking, according to which interpretation and translation shall not involve extra expense for the persons concerned.

¹³ See for example 4th Report of the Committee of Experts on Hungary, ECRML(2009)13, paragraph 112

109. The Committee of Experts has not received any information as to whether the cost for interpretation is covered by the authorities. It asks the authorities to clarify this issue in the next periodical report.

110. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to amend the existing legislation with the aim to bring it in harmony with the Charter undertaking. That means guaranteeing the accused the right to use his/her minority language in criminal proceedings irrespective of whether or not he/she understands one of the official languages, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned.

iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language;

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

111. In light of the evaluation regarding Article 9.1.iii above, there does not exist an unambiguous legal basis for the implementation of Article 9.1.iii either.

112. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to provide that in criminal proceedings requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a minority language, if necessary by the use of interpreters and translations involving no extra expense for the persons concerned.

b in civil proceedings:

...

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

if necessary by the use of interpreters and translations;

113. The initial periodical report states that, pursuant to Article 255 of the Law of Civil Procedure of Bosnia and Herzegovina, parties and other participants who do not know one of the official languages shall provide interpretation and translation of requests and evidence at their expense. Pursuant to the Law of Civil Procedure of the Brčko District (Article 64.1), "[p]arties and interveners who do not know any of the [official] languages [...] shall provide at their expense orally or in writing, translation of procedural actions undertaken and other oral and written translation for their own purposes."

114. The aforementioned provisions are not in conformity with Article 9.1.bii as they do not guarantee the use of a minority language irrespective of whether or not the person concerned masters an official language. Furthermore, the cost of the use of interpreters and translators is not covered by the State.

115. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to amend the existing legislation so as to allow, whenever a litigant has to appear in person in civil proceedings, that he or she may use his or her minority language without thereby incurring additional expense.

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

116. The initial periodical report refers to Article 255 of the Law of Civil Procedure of Bosnia and Herzegovina (see under Article 9.1.bii above). In addition, pursuant to the Law of Civil Procedure of the Brčko District (Article 64.2), "[t]he parties and interveners shall ensure translation relating to examination of evidence they are presenting."

117. The Committee of Experts has not been informed if there are interpreters or translators for all minority languages included in the ratification. It is therefore not in a position to conclude on this undertaking and asks the authorities to provide the relevant information in the next periodical report.

c in proceedings before courts concerning administrative matters:

...

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

if necessary by the use of interpreters and translations;

118. The initial periodical report states that proceedings before courts concerning administrative matters are regulated by the Law on Administrative Disputes of Bosnia and Herzegovina. However, as far as the substance of Article 9.1.cii is concerned, the information given with regard to civil proceedings applies.

119. The relevant legal provisions of Bosnia and Herzegovina (see under Article 9.1.bii) are not in conformity with Article 9.1.cii either as they do not guarantee the use of a minority language irrespective of whether or not the person concerned masters an official language. Furthermore, the cost of the use of interpreters and translators is not covered by the State.

120. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to amend the existing legislation so as to allow, whenever a litigant has to appear in person before a court concerning administrative matters, that he or she may use his or her minority language without thereby incurring additional expense.

iii to allow documents and evidence to be produced in the regional or minority languages,

if necessary by the use of interpreters and translations;

121. According to the initial periodical report, the information provided with regard to civil proceedings applies also concerning this undertaking. The Committee of Experts therefore refers to its observations made under Article 9.1.biii above.

122. The Committee of Experts has not been informed if there are interpreters or translators for all minority languages included in the ratification. It is therefore not in a position to conclude on this undertaking and asks the authorities to provide the relevant information in the next periodical report.

Paragraph 2

The Parties undertake:

c not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.

123. The information provided in the initial periodical report about this undertaking is not sufficiently clear.

124. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the authorities to submit more specific information in the next periodical report.

Article 10 – Administrative authorities and public services

Implementation in practice

125. Representatives of several national minorities informed the Committee of Experts during the on-the-spot visit that their languages are not used in practice by administrative authorities, or in contacts with them. The use in practice of a minority language by administrative authorities internally and in contacts with the public requires both organisational measures such as ensuring that public service employees have a sufficient knowledge of the given minority language (as provided by Article 10.4.c) and measures encouraging the minority language speakers to avail themselves of the possibility to use their language in contacts with the authorities. Measures of encouragement are particularly needed where minority language speakers are not accustomed to use their language in dealings with the authorities. Such measures could avoid the assumption on the part of the speakers that they might be perceived as “trouble-makers” when using their language.

126. The Committee of Experts encourages the authorities to take concrete measures to promote the use of minority languages by local and regional authorities and to create favourable conditions for minority language speakers to use their language in dealings with those authorities. Such measures could include strengthening minority language competence among the staff through recruitment and training, making official documents in minority languages more automatically available (also on websites), informing in minority languages about obligations arising from the Charter, and ensuring that signs on administrative

buildings as well as plates/doorplates used in administration offices also have inscriptions in minority languages. Such measures are particularly relevant in the area around Banja Luka where several national minorities are traditionally present.

Paragraph 1

127. In light of the administrative structure of Bosnia and Herzegovina and in line with the Committee of Experts' practice regarding federal states parties, the administrative authorities in Bosnia and Herzegovina which are relevant for the application of Article 10.1 are the local branches of the State administration as well as the authorities of the Federation of Bosnia and Herzegovina, the Republika Srpska, and the Brčko District.¹⁴

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

a ...

iv ***to ensure that users of regional or minority languages may submit oral or written applications in these languages;***

128. The minority laws of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska concern the use of minority languages in contacts between minority language speakers and *local* authorities; State authorities are not covered by the three laws. According to the initial periodical report, the Law on Organisation of the Administration of the Federation of Bosnia and Herzegovina (Article 6) states that minority languages can be used during administrative proceedings at all levels of government in the Federation if the person concerned cannot speak any of the official languages. However, the Committee of Experts observes that this undertaking applies irrespective of whether or not the person concerned speaks an official language (see in this context the evaluation regarding Article 9). The Committee of Experts has no information whether there are other laws at national or entity levels relating to the matter dealt with in this Charter undertaking.

129. As mentioned above, there does not seem to exist any practice regarding the submission of oral or written applications in minority languages to State authorities.

130. Considering the contradictions between the domestic legislation and the scope of this undertaking as well as the absence of practical implementation, the Committee of Experts encourages the authorities to harmonise the domestic legislation with the chosen Charter undertakings. In addition, the relevant State authorities at national and entity levels should be specifically informed of this undertaking.

131. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to ensure that users of all Part III languages may validly submit oral or written applications in these languages to State authorities.

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

132. The Committee of Experts has no information whether there are legal provisions at national or entity levels relating to the matter dealt with in this undertaking.

133. In light of the information obtained during the on-the-spot visit, the State authorities do not draft documents in the minority languages in practice.

134. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to allow the State authorities to draft documents in all Part III languages and to ensure that the undertaking is implemented in practice.

¹⁴ See for example 2nd Report of the Committee of Experts on Switzerland, ECRML(2004)6, paragraphs 90-93

Paragraph 2

135. In its evaluation of the implementation of Article 10.2, the Committee of Experts considers the cantons to be the regional authorities referred to by this paragraph and municipalities to be the local authorities.

136. The Committee of Experts notes that Article 10.2 applies also to those local authorities where persons belonging to the national minorities represent a sufficient number for the purpose of the respective undertakings,¹⁵ even if they do not attain the thresholds contained in the minority laws (see under 1.4.2 above).

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

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

137. The use of minority languages within the framework of the regional or local authority covers the communication between the public service employees of a given authority as well as the external communication of that authority.¹⁶

138. The minority laws of Bosnia and Herzegovina (Article 12), the Federation of Bosnia and Herzegovina (Article 9) and the Republika Srpska (Article 12) stipulate that local authorities “shall ensure that the minority language is used between such members and the authorities.” According to the initial periodical report, the Law on the Protection of Members of National Minorities of Sarajevo Canton (Article 9) provides for an obligation of all cantonal authorities, public institutions and public companies to take all necessary measures and action to hire an interpreter, as required, in order to ensure the exercise of the right of members of national minorities to use their own language. The aforementioned legal provisions concern only the external communication of local authorities and the regional authorities of Sarajevo canton, but not the internal communication of local and regional authorities as well as the external communication of other cantons. The Committee of Experts has no information whether there are other legal provisions in cantonal laws or local statutes relating to the matter dealt with in this undertaking.

139. There are at present no cantonal and local authorities in Bosnia and Herzegovina that regularly use minority languages in the framework of their work. A very limited level of practical implementation seems to exist with regard to Italian which is, according to representatives of the Italian national minority, occasionally used in bilingual documents (Serbian/Italian), for example birth certificates. In addition, Prnjavor municipality has translated parts of its official website into Czech, Italian, Polish and Ukrainian.

140. The Committee of Experts considers that the competent authorities should address relevant cantonal and local authorities on whose territory minority languages have a traditional presence, and encourage them to use the minority languages in the framework of their work. These measures should be co-ordinated at national level and, if necessary, be facilitated through financial assistance. In light of the information that the Committee of Experts has received from representatives of the minority language speakers, the Gradiška and Prnjavor municipalities¹⁷ appear (among others) to be particularly relevant for the implementation of this undertaking. Important parts of the traditional settlement areas of the speakers of Czech, German, Hungarian, Italian, Polish, Romani, Romanian, Ruthenian, Slovak and Ukrainian are located on the territories of these municipalities. In addition, both municipalities already take action supporting minority languages in co-operation with the relevant minority associations and also refer to the presence of these languages in the context of municipal marketing activities (“Little Europe”).

141. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to take active steps encouraging the use of Albanian, Czech, German, Hungarian, Italian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish within the framework of regional or local authorities.

¹⁵ See for example 1st Report of the Committee of Experts on the Slovak Republic, ECRML(2007)1, paragraphs 592-593

¹⁶ See for example 2nd Report of the Committee of Experts on Ukraine, paragraph 190

¹⁷ See also Advisory Committee of the Framework Convention for the Protection of National Minorities, Opinion on Bosnia and Herzegovina, ACFC/INF/OP/I(2005)003, paragraph 58

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

142. As mentioned under the preceding undertaking, the minority laws of Bosnia and Herzegovina (Article 12), the Federation of Bosnia and Herzegovina (Article 9) and the Republika Srpska (Article 12) stipulate that local authorities “shall ensure that the minority language is used between such members and the authorities.” As regards regional authorities, the initial periodical report states that the Law on the Protection of Members of National Minorities of Sarajevo Canton provides for an obligation of all cantonal authorities, public institutions and public companies to take all necessary measures and action to hire an interpreter, as required, in order to ensure the exercise of the right of members of national minorities to use their own language. The right to have an interpreter is also guaranteed by the Law on Administrative Procedure of the Federation of Bosnia and Herzegovina (Article 16). The Committee of Experts has no information whether there are other legal provisions in cantonal laws or local statutes relating to the matter dealt with in this undertaking.

143. In light of the information obtained during the on-the-spot visit, this undertaking seems not to be implemented in practice.

144. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to encourage the possibility for users of all minority languages to submit oral or written applications in these languages.

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

145. The minority laws of Bosnia and Herzegovina (Article 12), the Federation of Bosnia and Herzegovina (Article 9) and the Republika Srpska (Article 12) foresee that local names, street names and other topographic signs be also written and displayed in the language of the minority requesting that.

146. During the on-the-spot visit, however, the Committee of Experts was informed by representatives of national minorities that place-names in the minority languages have not been adopted and that their use is at best emblematical. The competent authorities should therefore address such municipalities and local communities for which there are traditional place-names in the minority languages (e.g. the Gradiška, Laktaši and Prnjavor municipalities) and establish which place-names shall be officially used or adopted. It should be borne in mind that the use of place-names in minority languages is a relatively simple promotional measure with a nevertheless considerable impact for the public awareness and prestige of minority languages.¹⁸ Apart from official place-name signs, the authorities may also consider to promote place-names in minority languages by displaying them on public signs for touristic or information purposes (e.g. welcome and farewell signs at the entrance and exit of a municipality) or in a similar form.¹⁹

147. After the on-the-spot visit, the Alliance of National Minorities has asked various minority associations to specify the local communities where this undertaking could be applied to their respective language and submitted the result to the Committee of Experts.

148. According to representatives of the speakers, the Czech place-names relevant for this undertaking are Nová Ves (in Serbian: Nova Ves; located in Srbac municipality), Mačino Brdo (Mačino Brdo; Prnjavor municipality) and Hradištka (Gradiška; Gradiška municipality), but they are not yet officially used. In the City of Banja Luka, five street names relate to the Czech national minority, but they are not in the Czech language.

149. The relevant German place-names are Windthorst (Nova Topola), Karlsdorf (Vrbaška), Königsfeld (Dubrave), Hohenberg (Prosara; all in Gradiška municipality), Rudolfstal (Aleksandrovac; Laktaši), Schutzberg (Glogovac; Prnjavor), Franzjosefsfeld (Novo Selo; Bijeljina) and Franzferdinandshöhe (Ularice; Usora). They are not yet used on signs. In Sarajevo, a touristic publication edited by the local authorities use some historical street names in German.

150. The Hungarian place-name Orbászvár (Banja Luka) is not in official use.

151. The local community of Štivor/Stivor (Prnjavor municipality) has a bilingual place-name sign and also uses the Italian language on other signs, for example the welcome sign at the entrance of the village.

¹⁸ See for example 2nd Report of the Committee of Experts on Croatia, ECRML(2005)3, paragraph 152

¹⁹ See for example 1st Report of the Committee of Experts on Poland, ECRML(2011)5, paragraph 588

152. There are plans to introduce bilingual place-name signs in Čelinovac/Celinowacz (Gradiška municipality), a place inhabited by Polish speakers.

153. While there are no Slovenian place-names for municipalities, the Committee of Experts has been informed during the on-the-spot visit that a street in Prnjavor municipality has received an official name in Slovenian.

154. According to representatives of the speakers, relevant Ukrainian place-names are Прњавор (Prnjavor), Брезік (Brezik), Бошковиці (Boškovići), Гаєва (Gajeva; all in Prnjavor municipality), Девятина (Devetina), Яблан (Jablan; Laktaši municipality), Церовляни (Серовљани), Камяниця (Каменица), Лужани (Lužani; all in Gradiška municipality). However, they are not yet officially used.

155. Representatives of the Roma in the Republika Srpska stated during the on-the-spot visit that there are no place-names in Romani that could be officially used. The same seems to apply to Albanian, Ladino, Macedonian, Montenegrin, Romanian, Ruthenian, Slovak, Turkish and Yiddish. The Committee of Experts asks the authorities to clarify whether this undertaking can be applied to the aforementioned languages.

156. The Committee of Experts considers this undertaking partly fulfilled for Italian and only formally fulfilled for Albanian, Czech, German, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Turkish, Ukrainian and Yiddish. The Committee of Experts encourages the authorities to use traditional place-names in all minority languages.

Paragraph 3

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

...

c to allow users of regional or minority languages to submit a request in these languages.

157. According to the initial periodical report, the Law on the Protection of Members of National Minorities of Sarajevo Canton (Article 9) provides for an obligation of all public institutions and public companies to take all necessary measures and actions to hire an interpreter, as required, in order to ensure the exercise of the right of members of national minorities to use their own language. The Committee of Experts has no information whether there are other legal provisions in cantonal laws or local statutes relating to the matter dealt with in this undertaking.

158. In light of the information obtained during the on-the-spot visit, this undertaking seems not to be implemented in practice.

159. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to allow users of minority languages to submit a request in all Part III languages to public service providers and to ensure that the undertaking is implemented in practice.

Paragraph 4

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

...

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

160. The Committee of Experts has not been made aware of any scheme ensuring the implementation of this undertaking by the authorities.

161. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to create the possibility for public bodies to comply as far as possible with requests from public service employees having a knowledge of minority languages to be appointed in the territory in which these languages are used, and to ensure that this possibility is used in practice.

Paragraph 5

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

162. The minority laws of Bosnia and Herzegovina (Article 11), the Federation of Bosnia and Herzegovina (Article 8) and the Republika Srpska (Article 8) guarantee the right of a person belonging to a national minority to use his/her name in the minority language and to request it to be used as such in public.

163. Representatives of several national minorities informed the Committee of Experts during the on-the-spot visit that family names in their languages can be adopted and used. However, not necessarily all of the diacritics of the language concerned can be reproduced correctly in documents, which seems to be a mainly technical problem. In addition, it was stated that the procedure for changing a family name is relatively cumbersome and requires the payment of a fee. Also, many persons belonging to national minorities refrain from re-adopting a family name in a minority language as this would reveal their ethnic affiliation.

164. The Committee of Experts is aware that practical difficulties (e.g. software not adapted to diacritics) may render the use of minority language names in documents difficult. It nevertheless considers that the correct use of names is a basic aspect of the protection of minority languages which directly affects their speakers. It is therefore necessary to take practical measures allowing the use of family names in conformity with the tradition and orthography of the languages concerned.²⁰ Furthermore, the authorities should raise awareness among responsible civil servants (e.g. through internal circulars) that family names in minority languages must be used or adopted at the request of those concerned. The relevant public should also be made aware of this possibility (for example by informing minority associations) so as to encourage the implementation of this undertaking in practice.

165. The Committee of Experts considers this undertaking partly fulfilled. It encourages the authorities to take practical measures facilitating the use or adoption of family names in the minority languages in conformity with the orthography of the languages concerned.

Article 11 – Media

Paragraph 1

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

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

...

iii to make adequate provision so that broadcasters offer programmes in the regional or minority languages;

166. The minority laws of Bosnia and Herzegovina (Article 16), the Federation of Bosnia and Herzegovina (Article 12), and the Republika Srpska (Article 13) foresee that public service broadcasters shall offer television and radio programmes in the minority languages at least once a week.

167. According to the initial periodical report, the public service broadcaster “Republika Srpska Radio-Television” broadcasts twice a month a television programme (“In Focus”) during which representatives of national minorities can promote their language and culture. In 2011, this show featured the Czech, German, Jewish, Roma, Romanian and Ukrainian national minorities. The “Sviraj nešto narodno” (Play Some Folk Music) show featured popular singers who sang the songs in minority languages. Furthermore, activities related to minority language education for primary and secondary school pupils belonging to national minorities were supported. Representatives of the Italian national minority informed the Committee of Experts during the on-the-spot visit that there has been a special feature about the Italian minority on public television. However, Italian has no regular presence on public television in the Republika Srpska.

²⁰ See 1st Report of the Committee of Experts on Norway, ECRML(2001)6, paragraph 79; 2nd Report of the Committee of Experts on Norway, ECRML(2003)2, paragraphs 129-130

168. "Republika Srpska Radio" has been airing the "Korijeni" (Roots) show about national minorities which, according to the initial periodical report, often discusses the application of the Charter in practice. The show also had a feature in the Ukrainian language and a feature about a school where Romani is taught.

169. The Committee of Experts notes that this undertaking requires the authorities to make adequate provision so that broadcasters offer programmes in the minority languages. However, the television and radio programmes referred to above use the minority languages only to some extent, have a relatively short duration, and are not broadcast at regular intervals. In their current format, these programmes are unlikely to make an impact on the situation of the minority languages and are rather a measure raising awareness of the existence of minority languages. Such awareness-raising, however, is relevant under Article 7.3. In order to fulfil this present undertaking, it is important to use the language in the programmes, ensure an adequate broadcasting time and content, as well as frequency of time-slots. In addition the Committee of Experts underlines the importance of programmes for children in minority languages to support language maintenance.

170. According to information received, Albanian, Hungarian, Ladino, Macedonian, Montenegrin, Polish, Ruthenian, Slovak, Slovenian, Turkish and Yiddish are not used by public broadcasters at all.

171. The Committee of Experts considers this undertaking not fulfilled.

The Committee of Experts encourages the authorities to make adequate provision so that public broadcasters offer programmes in the Part III languages according to the situation of each language, including programmes for children.

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

172. The initial periodical report does not contain information concerning this undertaking.

173. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Czech national minority that there is no private radio station in this language. However, there used to be a radio programme in Czech in the recent past.

174. According to representatives of the Turkish national minority, there are private radio programmes in Turkish. However, the authorities do not support these programmes. In addition, the present undertaking concerns the creation of at least one radio *station* in the minority languages whereas the current offer is limited to programmes.

175. There are no private radio stations broadcasting in Albanian, German, Hungarian, Italian, Ladino, Macedonian, Montenegrin, Polish, Romani, Romanian, Ruthenian, Slovak, Slovenian, Ukrainian and Yiddish either.

176. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to strengthen the presence of the Part III languages in private radio broadcasting in co-operation with the speakers.

c ...

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

177. The initial periodical report does not contain information concerning this undertaking.

178. In light of the information obtained during the on-the-spot visit, there are no private television programmes in the minority languages.

179. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to strengthen the presence of the Part III languages in private television broadcasting in co-operation with the speakers.

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

180. This undertaking applies only to the Romani language.

181. The initial periodical report does not contain information concerning this undertaking.

182. The Committee of Experts is not in a position to conclude on the fulfilment and asks the authorities to provide the relevant information in the next periodical report.

e ...

ii ***to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;***

183. The Committee of Experts underlines that, in conformity with its regular interpretation, a “newspaper” in the sense of this undertaking has to be published at least weekly.²¹

184. The initial periodical report does not contain information concerning this undertaking.

185. In light of the information obtained during the on-the-spot visit, there are no newspapers publishing articles in the minority languages. Nevertheless, several national minority associations publish bulletins using also the respective minority languages. The publications the Committee of Experts is aware of appear monthly (Romani), bi-monthly (Italian), quarterly (Czech) and yearly (Hungarian, Slovenian).

186. While the aforementioned publications do not appear sufficiently frequent in order to qualify as a “newspaper” in the sense of the Charter, the Committee of Experts notes that they could form the basis of the production of newspaper articles in the respective minority languages. In the opinion of the Committee of Experts, the authorities should take measures to encourage existing newspapers to include on a regular basis articles in the respective minority languages that are used in their areas of distribution.

187. The Committee of Experts considers this undertaking not fulfilled.

The Committee of Experts encourages the authorities to facilitate the publication of newspaper articles in the Part III languages on a regular basis.

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

188. This undertaking applies only to the Romani language.

189. The initial periodical report does not contain information concerning this undertaking. During the on-the-spot visit, the authorities of the Republika Srpska acknowledged a lack of journalists who could use minority languages and the relevant training regarding all minority languages. The same seems to apply to the Federation of Bosnia and Herzegovina and the Brčko District.

190. The Committee of Experts considers this undertaking not fulfilled. It encourages the authorities to support the training of journalists and other staff for media using Romani.

Paragraph 2

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

191. The initial periodical report does not contain information concerning this undertaking.

192. During the on-the-spot visit, representatives of several national minorities confirmed that broadcasts in their languages can be received from the kin-states, via cable, satellite or internet. Representatives of the Roma stated that terrestrial broadcasts in Romani cannot be received from Serbia.

²¹ See for example 1st Report of the Committee of Experts on Romania, ECRML(2012)3, paragraph 174

193. The Committee of Experts considers this undertaking fulfilled and asks the authorities to provide specific information regarding the reception of broadcasts in Romani.

Paragraph 3

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

194. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking in the next periodical report.

Article 12 – Cultural activities and facilities

195. The Committee of Experts notes that Article 12 applies also on the territory of those local authorities where persons belonging to the national minorities represent a sufficient number for the purpose of the respective undertaking, even if they do not attain the threshold contained in the minority laws (see under 1.4.2 above).²²

Paragraph 1

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

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

196. According to the initial periodical report, the public service broadcaster “Republika Srpska Radio-Television” has organised international events promoting songs of national minorities (Dukat fest, international folk festivals and festivals of choirs). However, the languages that have benefited from these measures are not specified. In the initial periodical report it is also stated that the authorities have supported the publication of fairy tales and poems in Romani.

197. During the on-the-spot visit, the Committee of Experts was informed that Prnjavor municipality has hosted and financed a Festival for National Minorities. Besides, this municipality regularly provides financial support to different national minorities, which is a commendable practice. However, the Committee of Experts has no information about the languages that have benefited from such support. Furthermore, there exists a Turkish Cultural Centre in Sarajevo which is financed by Turkey. The Committee of Experts is not aware of support by the authorities to this institution. In addition, the locality of Nova Topola hosts a photo exhibition in German about the foundation of this place by Germans, an exhibition financed by Germany.

198. In general, representatives of several national minorities have stated that there does not exist a dedicated scheme providing regular and stable financial support to cultural activities and facilities using the minority languages. Rather, minority associations have to apply for each project, mainly to municipalities and cantons. The Committee of Experts has not been informed of any structured approach from the authorities or any established system to support cultural expressions and initiatives regarding works produced in minority languages and encourages the authorities to provide information in this respect in the next periodical report.

199. The Committee of Experts considers this undertaking partly fulfilled for Romani and is not in a position to conclude on the fulfilment of this undertaking for the other Part III languages. It asks the authorities to encourage types of expression and initiative specific to minority languages and foster the different means of access to works produced in these languages.

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

²² See for example 1st Report of the Committee of Experts on the Slovak Republic, ECRML(2007)1, paragraphs 592-593

200. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude. It asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

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

201. The initial periodical report does not contain information concerning this undertaking.

202. During the on-the-spot visit, the Committee of Experts has received positive reports by representatives of some national minorities concerning their involvement in the planning of cultural activities, for example as far as the authorities of Banja Luka and Prnjavor are concerned. However, the Committee of Experts lacks comprehensive information about which languages have benefited from such measures. As a result, the Committee of Experts is not in a position to conclude. It asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

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

203. The initial periodical report does not contain information concerning this undertaking.

204. During the on-the-spot visit, representatives of the Albanian national minority informed the Committee of Experts that there is a library of 3 000 books in Albanian. The premises of the Alliance of National Minorities of Republika Srpska, for which this umbrella association receives financial support from the City of Banja Luka, keep collections of books in Czech and Polish. Books in Polish are also kept by the National Library of the Republika Srpska. The Committee of Experts has not received any information about bodies responsible for collecting, keeping a copy of and presenting or publishing works other than books produced in Albanian, Czech and Polish. With regard to the other Part III languages, the Committee of Experts has not received any information.

205. The Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking regarding all minority languages in the next periodical report.

Paragraph 2

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

206. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

Article 13 – Economic and social life

Paragraph 1

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

...

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

207. The initial periodical report does not contain information concerning this undertaking. During the on-the-spot visit, the Committee of Experts was informed by representatives of several minority associations that they had not come across practices designed to discourage the use of minority languages in connection with economic or social activities.

208. Nevertheless, in light of the lack of information in the initial periodical report, the Committee of Experts asks the authorities to provide specific information about the implementation of this undertaking regarding all Part III languages in the next periodical report.

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

209. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

Article 14 – Transfrontier exchanges

The Parties undertake:

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

210. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

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

211. The initial periodical report does not contain information concerning this undertaking. As a result, the Committee of Experts is not in a position to conclude and asks the authorities to provide specific information about the implementation of this undertaking to all Part III languages in the next periodical report.

Chapter 3 Findings of the Committee of Experts in the initial monitoring cycle

A. The Committee of Experts expresses its gratitude to the authorities of Bosnia and Herzegovina and the minority associations for the excellent co-operation it has enjoyed in the context of the on-the-spot visit. Bosnia and Herzegovina has through its ratification decided to protect and promote a high number of minority languages, which constitutes a significant political objective to safeguard the linguistic diversity in the country. The Committee of Experts commends the authorities of Bosnia and Herzegovina for having complied with their post-accession commitment to the Council of Europe to ratify the Charter.

B. The 17 languages covered by the ratification enjoy a high level of recognition in the minority laws at national and entity levels. As part of the establishment of the legal basis for the protection and promotion of these languages, Bosnia and Herzegovina has also initiated the creation of Councils of National Minorities having the status of consultative bodies to the parliaments at national level, in the Federation of Bosnia and Herzegovina, and in the Republika Srpska as well as in some cantons.

C. The number of speakers of most minority languages in Bosnia and Herzegovina is low. Furthermore, there does not at present exist an infrastructure necessary to ensure implementation of the Charter. There seems to be a need for the authorities to draw up a mid-term strategy on the implementation of the Charter in respect of the minority languages. In view of the present lack of implementation of many of the undertakings chosen, the authorities need to devise flexible and innovative measures.

D. With the exception of teaching German, Italian and Ukrainian at some levels of education, the minority languages of Bosnia and Herzegovina are absent from the regular educational system. There are neither trained teachers who would be able to teach the minority languages at all the levels relevant for the implementation of the Charter, nor textbooks. The authorities at present largely limit themselves to supporting language courses initiated and organised by minority associations.

E. As far as the use of the minority languages before judicial authorities and by administrative authorities is concerned, the domestic legal set-up is not in conformity with the Charter. In addition, there is almost no practice in using minority languages before judicial and administrative authorities.

F. The Committee of Experts has received evidence that traditional place-names exist in several minority languages covered by the Charter. There is, however, almost no official use of such place-names. The public use of place-names in minority languages is a relatively simple promotional measure with a nevertheless considerable impact on the prestige of minority languages. Therefore, it deserves special attention by the authorities.

G. Television and radio programmes use the minority languages only to a limited extent. There is an evident need to increase the use of the minority languages in broadcasting, ensuring the regularity of programmes in these languages. In addition, there seem to be no newspapers publishing articles in minority languages. Active measures by the authorities of Bosnia and Herzegovina are needed with a view to ensuring the use of minority languages in newspapers.

H. There does not exist a dedicated scheme providing regular and stable financial support to cultural activities and facilities relating to the minority languages. Rather, minority associations have to apply for each project, mainly to municipalities and cantons. The Committee of Experts has not been informed of any structured approach from the authorities or any established system to support cultural expressions and initiatives regarding works produced in the minority languages.

I. With regard to economic and social life, the initial periodical report of Bosnia and Herzegovina does not contain any relevant information. However, information received from minority associations indicates that there is no discrimination against the use of minority languages in economic and social settings.

J. Although the Committee of Experts has received little information regarding transfrontier co-operation with other states, the information received indicates that a number of activities involving kin-states take place with some support by the authorities of Bosnia and Herzegovina. The protection and promotion of the minority languages would benefit from further co-operation with the kin-states of the minority languages in Bosnia and Herzegovina, or with other states where the respective minority language is used. In cases where the setting up of a completely new infrastructure in the media, education or culture represents a major challenge for Bosnia and Herzegovina because of the very low number of speakers of the language concerned, it could be envisaged that the respective minority language speakers in Bosnia and Herzegovina

benefit, with the necessary adaptation, from the already existing infrastructure for the same language in a neighbouring country, or from the joint development of infrastructure for certain languages in specific fields.

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

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

At its 1176th meeting on 10 July 2013, the Committee of Ministers adopted its Recommendation addressed to Bosnia and Herzegovina, which is set out in Part B of this document.

Appendix I: Instrument of ratification



Bosnia and Herzegovina:

Declaration contained in the instrument of ratification deposited on 21 September 2010 - Or. Engl.

In accordance with Article 1, paragraph b, of the Charter, Bosnia and Herzegovina declares that the term 'territory in which the regional or minority languages are used' refers to areas in which regional or minority languages are in official use in accordance with the laws of Bosnia and Herzegovina.

Period covered: 1/1/2011 -

The preceding statement concerns Article(s): 1

Declaration contained in the instrument of ratification deposited on 21 September 2010 - Or. Engl.

In accordance with Article 2, paragraph 2, of the Charter, Bosnia and Herzegovina declares that, the following provisions shall apply to the Albanian, Montenegrin, Czech, Italian, Hungarian, Macedonian, German, Polish, Romanian, Rysin, Slovak, Slovene, Turkish, Ukrainian and Jewish (Yiddish and Ladino) languages:

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

The following articles, paragraphs and sub-paragraphs shall apply to the Romani language:

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

Period covered: 1/1/2011 -

The preceding statement concerns Article(s): 2

Declaration contained in the instrument of ratification deposited on 21 September 2010 - Or. Engl.

In accordance with Article 3, paragraph 1, of the Charter, Bosnia and Herzegovina declares that, it shall apply the Provisions of Part III of the Charter in relation to the following languages: Albanian, Montenegrin, Czech, Italian, Hungarian, Macedonian, German, Polish, Romani, Romanian, Rysin, Slovak, Slovene, Turkish, Ukrainian and Jewish (Yiddish and Ladino).

Period covered: 1/1/2011 -

The preceding statement concerns Article(s): 3

Appendix II: Comments from the authorities of Bosnia and Herzegovina

Bosnia and Herzegovina is willing to improve and continue the implementation of the Charter. Following Bosnia and Herzegovina's initial report after ratification, it will have more information to provide in the second cycle in 2016.

Based on the recommendations of the Committee of Experts, we have provided grant means for the financing of cultural activities for Roma this year. We have organised several workshops in order to promote and facilitate the learning of minority languages. We have employed Roma mediators/coordinators to assist the local Roma population to exercise their rights, including the right to use their minority language.

Each week, several public broadcasters offer programmes in minority languages, mainly Romani.

B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Bosnia and Herzegovina

Recommendation CM/RecChL(2013)6 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Bosnia and Herzegovina

*(Adopted by the Committee of Ministers on 10 July 2013
at the 1176th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Having regard to the instrument of ratification submitted by Bosnia and Herzegovina on 21 September 2010;

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

Bearing in mind that this evaluation is based on information submitted by Bosnia and Herzegovina in its first periodical report, supplementary information given by the authorities of Bosnia and Herzegovina, information submitted by bodies and associations legally established in Bosnia and Herzegovina and information obtained by the Committee of Experts during its on-the-spot visit;

Having taken note of the comments made by the authorities of Bosnia and Herzegovina on the contents of the Committee of Experts' report,

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

1. establish a structured policy and take flexible measures facilitating the application of the Charter;
2. provide appropriate forms and means for the teaching of the minority languages in co-operation with the speakers;
3. establish a scheme for financing cultural activities and facilities relating to the minority languages;
4. make adequate provision so that public broadcasters offer programmes in the minority languages;
5. use traditional forms of place-names in the minority languages.