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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

APPLICATION OF THE CHARTER IN DENMARK

Second 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 Denmark**

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

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

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

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

adopted by the Committee of Experts on 28 March 2007
and presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

Chapter 1 Background information

1.1. The Charter's ratification by Denmark

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

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

3. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers¹. The Danish authorities presented their second periodical report to the Secretary General of the Council of Europe on 26 April 2006.

4. In its previous evaluation report on Denmark (ECRML (2004) 2), the Committee of Experts of the Charter (hereinafter referred to as "the Committee of Experts") outlined particular areas where the legal framework, policy and practice could be improved. The Committee of Ministers took note of the report presented by the Committee of Experts and adopted recommendations (RecChL (2004) 2), which were addressed to the Danish authorities.

1.2. The work of the Committee of Experts

5. This second evaluation report is based on the information obtained by the Committee of Experts from the second periodical report of Denmark and through interviews held with representatives of regional or minority languages in Denmark and the Danish authorities during the "on-the-spot" visit, which took place on 24-26 October 2006. The Committee of Experts received a number of comments from bodies and associations legally established in Denmark, submitted pursuant to Article 16, paragraph 2 of the Charter.

6. The Committee of Experts was informed of a letter sent to the Secretary General of the Council of Europe concerning various issues relating to the Danish island of Bornholm, amongst them the wish for the language spoken on Bornholm to be defined as a separate language. However, the Committee of Experts received no other information during this monitoring round regarding this issue. Furthermore, the authorities informed that no such wish had been forwarded to them. On this background, the Committee of Experts decided not to deal with the issue in this report.

¹ MIN-LANG (2002) 1 Outline for 3-yearly periodical reports as adopted by the Committee of Ministers of the Council of Europe.

7. In the present second evaluation report the Committee of Experts will focus on the provisions and issues which were singled out in the first evaluation report as raising particular problems. It will evaluate in particular how the Danish authorities have reacted to the issues raised by the Committee of Experts and where relevant, to the recommendations made by the Committee of Ministers. The report will firstly recall the key elements of each issue. It will then refer to the paragraphs in the first report which set out the Committee of Experts' reasoning², before evaluating how the Danish authorities have reacted. The Committee of Experts will also look at the new issues which arose during the second monitoring round.

8. The present report contains detailed observations that the Danish authorities are encouraged to take into account when developing their policy on regional or minority languages. On the basis of these detailed observations, the Committee of Experts has also established a list of general proposals for the preparation of a second set of recommendations to be addressed to Denmark by the Committee of Ministers, as provided in Article 16, paragraph 4 of the Charter.

9. This report is based on the political and legal situation prevailing at the time of the Committee of Experts' on-the-spot visit to Denmark, save as otherwise expressly mentioned in the text of the report.

10. This report was adopted by the Committee of Experts on 28 March 2007.

1.3. The presentation of the regional or minority language situation in Denmark: up-date

11. The Committee of Experts refers to the relevant paragraphs of the first evaluation report (paragraphs 8-15) for the basic presentation of the situation of regional or minority languages in Denmark.

12. Denmark has adopted or amended a number of legal acts since the Committee of Experts' last evaluation, which have a bearing on the situation of the German-speakers. These have been detailed in Denmark's second periodical report as follows:

- Act no 374 of 28 May 2003 on Ethnic Equal Treatment;
- Act no 400 of 1 June 2005 on amendments of the Services Act and amendments of the Legal Rights and Administration in the Social Sector Act (Section 11 a in the Social Services Act has been incorporated in Consolidated Act no 1187 of 7 December 2005, appended to this report (Appendix 4));
- Act no 602 of 24 June 2005 on the promotion of trade and industry;
- Act no 576 of 24 June 2005 on the Daily Newspapers Board;
- Order no 828 of 29 August 2005 on municipal subsidies for day care for children, parents' own payment and special grants etc.;
- Order no 869 of 16 September 2005 on furtherance of the representation etc. of the German minority in South Jutland in the municipalities of Haderslev, Sønderborg, Tønder and Aabenraa;
- Order no 1439 of 15 December 2005 on local radio and television broadcasting;
- Act no 1426 of 21 December 2005 on amendments of the Act on the Private Independent Schools etc.

Municipal reform

13. In the framework of a municipal and administrative reform, which took effect on 1 January 2007, the 23 former municipalities in South Jutland were merged into four larger entities. The new municipalities are Aabenraa/Apenrade, Haderslev/Hadersleben, Tønder/Tønder and Sønderborg/Sønderborg.

14. At the same time, counties were abolished and five new regions were established, including the region of South Denmark which is relevant for the German-speakers. The regions will be

² The boxes which featured in the first evaluation report appear as underlined sentences in the present second report.

competent for healthcare and regional development. All other sectors will be administered either by the municipalities or directly by the State.

15. Many of the legislative changes referred to above relate to measures adopted by the Danish authorities in order to safeguard the interests of the German-speakers in South Jutland in the context of the municipal reform. These include arrangements regarding the political representation of the German minority in the four new municipalities (Order no. 869 of 16 September 2005), which fix the minimum number of municipal councillors exceptionally at 31 (instead of 25). In addition, the German minority has the right to one delegate if the minority does not obtain a mandate but obtains at least 25% of the number of votes corresponding to the lowest quotient that has given a mandate at the municipal election. While these delegates have no right to vote, they have all the other rights of a municipal councillor, such as presenting proposals. The minority also has an observer status at the regional growth forum.

16. The authorities have also taken measures to secure municipal grants to German social and cultural activities, and in particular to children's day care facilities (see paragraphs 57 – 62 below).

17. The Committee of Experts was informed during the on-the-spot visit that the setting up of the new municipalities was progressing smoothly. Nevertheless, the German-speakers were of the view that it would be challenging for the new municipalities to harmonise the very different levels of provision for the use of German in the former municipalities. The Committee of Experts hopes that the new municipalities will take this opportunity to improve services in German on their territory.

18. The Committee of Experts commends the Danish authorities for the positive measures taken during the reform process and for the sensitivity they have shown vis-à-vis the concerns of the German-speakers, a fact highly appreciated by the latter. The Committee of Experts finds that this is in full keeping with the spirit of the Charter and the Recommendations addressed by the Committee of Ministers of the Council of Europe to Denmark (RecChl(2004)2, no. 3).

1.4. General issues arising in the evaluation of the application of the Charter in Denmark

19. The Committee of Experts appreciates the excellent co-operation it enjoyed with the Danish authorities in the organisation of its "on-the-spot" visit. It also welcomes the fact that overall Denmark's second periodical report reacts to the observations and recommendations made in the Committee of Experts' first evaluation report. However, it would welcome more detailed information on Denmark's compliance with individual Part II undertakings in the next periodical report.

Scope of application of the Charter

20. The Danish authorities maintain the position that the Charter applies only to the German language in South Jutland. In its first evaluation report, the Committee of Experts raised the question as to whether the definition of regional or minority languages under Article 1.a of the Charter applies to the Greenlandic, Faeroese and Romani languages, which would entail the obligation for Denmark to apply the provisions of Part II of the Charter to these languages in accordance with Article 2, paragraph 1 of the Charter.

21. With respect to Greenlandic and Faeroese, the Committee of Experts refers to the relevant sections of its first evaluation report (see paragraphs 13 to 14 and 22 to 27).

22. The Home Rule Arrangements have created a special status for Greenland and the Faeroe Islands, which is similar to the status of Åland in the Finnish context. It is, for example, normally possible to accede to international agreements with effect solely for mainland Denmark, so that Greenland and the Faeroe Islands can independently take a decision on the extent to which the agreement concerned should apply to them³. Furthermore, Greenland and the Faeroe Islands have, through democratically elected assemblies and institutions, a great degree of self-government. Greenlandic and Faeroese are official languages spoken by a large majority in the respective regions. At the moment of ratification, the Home Rule Authorities decided that the degree of protection afforded to the Faeroese and Greenlandic languages by virtue of the respective Home Rule Acts was already

³ Notes on the Faeroe Islands and Greenland Home Rule Arrangements, Prime Minister's Office, 10 March 2006

sufficient. Denmark therefore declared at the moment of ratification that the Charter shall not apply to these two languages.

23. In its first evaluation report, the Committee of Experts encouraged the Danish authorities to renew consultations with the Home Rule Authorities of the Faeroe Islands and Greenland on a possible extension of the application of the Charter in the Home Rule areas.

24. During its second on-the-spot visit, a representative of the Danish Ministry of Foreign Affairs informed the Committee of Experts that following renewed contact, the Faeroese authorities expressed no interest in the possible extension of the application of the Charter to the Faeroe Islands, whereas the Greenland authorities communicated that they would reconsider this issue. The Danish authorities will follow Greenland's decision in this matter. While respecting the decision of the Home Rule authorities, the Committee of Experts hopes that Greenland will accept the extension of the Charter to the Greenlandic language. In the opinion of the Committee of Experts, the inclusion of Greenland's experience of language protection would enrich the Charter system and be an asset for the protection of regional or minority languages in Europe.

25. There is no precise information in relation to the traditional presence of the Greenlandic and Faeroese languages in mainland Denmark. According to supplementary information submitted by the Danish Government, Greenlanders started taking temporary residence in Denmark for educational purposes from the 19th century in very limited numbers, whereas there is no information as to when the Faeroese started coming to Denmark. At present, the available statistical data reflects the number of persons born in Greenland (13 134) and the Faeroe Islands (9 510) living in Denmark and not the number of speakers of these languages. The Committee of Experts was also informed of a number of educational and cultural offers in Greenlandic and Faeroese. However, the Committee of Experts has not received sufficient information to be able to assess whether or not Greenlandic and Faeroese should be considered Part II languages in mainland Denmark, and it encourages the authorities to provide such information in their next periodical report.

26. In its first evaluation report, the Committee of Experts also raised the question of the traditional presence of Romani in Denmark, on which it had received contradictory information in the first monitoring cycle.

27. In their second periodical report, although they state that they are not able to provide further factual information on the presence of Roma in Denmark owing to a lack of statistical information, the Danish authorities affirm that they do not consider the language of the Roma to be a minority language covered by the Charter due to a lack of historical or long term and continuous affiliation to Denmark. However, given the lack of statistical information, the factual basis of this assessment is not clear to the Committee of Experts, which notes that Romani has been recognised as a minority language by all other States Parties in the region.

28. Unfortunately, due to unforeseen circumstances, the Roma representative invited by the Committee of Experts was not able to meet it during the on-the-spot visit. According to supplementary information provided by the Danish authorities after the visit, Roma people have been living in Denmark from around the year 1500. They were not considered welcome in the Kingdom and the majority since left the country, leaving only a small group of an estimated number of 200 by the end of the 1960s. The Roma people residing in Denmark today have arrived from different countries and at different times. Some arrived as guest workers around 1970, while others came as refugees during the war in the former Yugoslavia. An unofficial estimate indicates that 2000 Roma are living in Denmark. Some of these Roma people have been granted Danish citizenship.

29. Following this presentation, the Committee of Experts is of the view that the issue of the traditional and continuous presence of the Romani language in Denmark depends on whether the estimated 200 Roma by the end of the 1960s spoke Romani or were linguistically assimilated. The Committee of Experts encourages the Danish authorities to examine this question thoroughly, if necessary with the help of experts, and to return to it in the next periodical report.

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

30. The Committee of Experts will focus on the provisions of Part II which were singled out in the first report as raising particular problems. It will therefore not comment in the present report on provisions about which no major issues were raised in the first evaluation report and for which the Committee of Experts has not received any new information requiring it to reassess their implementation. These provisions are as follows:

Article 7, paragraph 1.a (see paragraph 32 of the first evaluation report)
Article 7, paragraph 1.e (see paragraph 38 of the first evaluation report)
Article 7, paragraph 1.f (see paragraph 39 of the first evaluation report)
Article 7, paragraph 1.g (see paragraph 40 of the first evaluation report)
Article 7, paragraph 1.h (see paragraph 41 of the first evaluation report)
Article 7, paragraph 1.i (see paragraphs 42 of the first evaluation report)
Article 7, paragraph 2 (see paragraph 43 of the first evaluation report)
Article 7, paragraph 5 (see paragraph 49 of the first evaluation report)

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:

“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;”

31. In its first evaluation report (see paragraphs 33-34), the Committee of Experts had been informed of plans for local and regional administrative reform in Denmark and concerns of the German-speakers regarding the repercussions of this change on their cultural identity and on the transfrontier exchanges with Germany.

32. The planned municipal reform has now been implemented (see paragraphs 13 – 18 above). The Committee of Experts observes that the German-speakers have been consulted throughout this process and that their needs and wishes have been carefully considered by the authorities. This has led to special solutions in order to safeguard the interests of the German-speakers in Southern Jutland. The Committee of Experts welcomes these developments and commends the Danish authorities for their exemplary attitude during this process.

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

33. Resolute action to promote regional or minority languages in order to safeguard them covers several aspects, including the creation of a legal framework for the promotion of regional or minority languages, the establishment of bodies which have responsibility in this field and provision of adequate financial resources (see also the second evaluation report on the implementation of the Charter in Germany, ECRML (2006) 1, paragraph 24).

34. Denmark does not have a formal language policy regarding the protection and promotion of German in Denmark. However, the Committee of Experts observes that the legal and institutional framework in Denmark, as well as the financial resources at the disposal of the organisations of the German-speakers in Denmark, allow these organisations to take appropriate action for the maintenance of this language. The special treatment of the German-speaking minority in the context

of the municipal reform also shows that Denmark recognises the need for resolute action in order to safeguard German in Southern Jutland.

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

35. In its first evaluation report (see paragraphs 36-37), the Committee of Experts stated that the use of German in public life outside the organisations of the German minority appeared to be very limited in Denmark. The Committee of Experts had not been informed of any measures adopted or envisaged by the Danish authorities to actively promote such use. The Committee of Experts therefore encouraged the Danish authorities to adopt measures with a view to facilitating and/or encouraging the use of German in public life in Southern Jutland.

36. In the second monitoring cycle, the Committee of Experts received information from the speakers and the authorities that a number of measures had been taken in order to facilitate the use of German in public life in South Jutland, including those taken by the State County of South Jutland (see paragraphs 73 – 76 below).

37. The Committee of Experts has been informed that in June 2006 the Minister of the Interior and Health sent letters to the four committees responsible for establishing the new municipalities in South Jutland and the County of South Jutland, encouraging them to make provision for the use of the German language in the context of the municipal reform and in accordance with Denmark’s international obligations. While the Committee of Experts understands that the letters are not binding, it nonetheless welcomes the involvement of the central authorities in providing guidance to local and regional authorities and hopes that this encouragement will lead to concrete results regarding the promotion of German in public life.

38. A particularly commendable initiative in the Sønderjylland/Schleswig region is the project sprogfokus/sprachfokus⁴ which seeks to promote the use of German in South Jutland and Danish in South Schleswig. This project is financed with EU funds for the period between July 2005 and June 2008. During the on-the-spot visit, the Committee of Experts was informed that, in the framework of this project, civil servants of the new municipality of Haderslev would receive conversation courses in German, as well as specific language courses relating to the specific areas of marriage, social security, and planning permits, etc. The project also involves exchanges with civil servants’ counterparts in Germany.

39. A particularly noteworthy initiative in the framework of this project is a campaign week, which was organised in November 2006 under the patronage of Princess Benedikte of Denmark and the president of the Schleswig-Holstein Landtag and with the involvement of the organisations of German-speakers in Denmark. This campaign, entitled “Tysk på en uge” (German in a week), included activities in cities, administrations, companies, schools and kindergartens, encouraging participants to learn German.

40. One important area of public life where the use of the German language remains limited in Denmark is the broadcasting media. The Committee of Experts refers to its evaluation under the relevant articles of Part III (see paragraphs 77 – 87 below).

Paragraph 3

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

41. The Committee of Experts recalls that the extent to which a minority language is protected or promoted is, in many respects, a reflection of the majority language speakers’ approach and perception and that awareness-raising within the majority is therefore of the utmost importance. As

⁴ <http://www.sprogfokus.dk>

this provision indicates, education and the media are especially relevant in this respect (see the first evaluation report on the implementation of the Charter in Spain, ECRML (2005) 4, paragraph 182).

42. In its first evaluation report (see paragraphs 44-47), the Committee of Experts considered that the general public in Denmark was not sufficiently aware of the status of German as a regional or minority language of Denmark. It found that awareness, respect and understanding vis-à-vis regional or minority languages was not clearly defined as an objective of mainstream education in Denmark and that there was no encouragement of the mass media in this respect. The Committee of Experts therefore encouraged the authorities to adopt appropriate measures to promote mutual understanding between linguistic groups.

43. While there is awareness in South Jutland of German as a regional or minority language of Denmark, in other parts of Denmark such awareness appears to be very limited. The second periodical report states that “teaching about the culture, history, language and religion of the German minority and other ethnic and religious groups forms part of the curricula primarily in Social Science and History”. However, according to the information provided by the Ministry of Education, school curricula in Denmark are intended as a framework, rather than a detailed list of what has to be taught. Accordingly, it is largely up to the schools and teachers to decide on the extent to which respect, tolerance and understanding vis-à-vis different language groups is included in teaching. For example, while teachers in South Jutland appear to include the history and culture of the German-speakers in their teaching to some extent, this is usually not the case elsewhere. Similarly, only teaching materials available in South Jutland include information regarding the German minority.

44. During the on-the-spot visit, the Danish authorities expressed the view that it would be contrary to the Danish tradition to provide schools with more detailed instructions to teach about the German minority. The Committee of Experts is nevertheless of the view that more efforts are needed to promote awareness of and understanding for German as a minority language in Denmark. Possible measures may include clearer guidelines for the implementation of the relevant sections of school curricula, the inclusion of this aspect in the monitoring of the Folkeskole, as well as an increased attention to this issue in the context of teaching materials and mainstream teacher training, or similar measures of a general nature.

The Committee of Experts encourages the Danish authorities to take measures to promote awareness of and understanding for German as a minority language in Denmark.

45. The Committee of Experts received no information as to how the Danish authorities encourage the mass media to pursue the objective of promoting respect, understanding and tolerance in relation to regional or minority languages.

46. Also, the Committee of Experts received information suggesting that, among the languages that it looked at, speakers of Greenlandic and Romani suffer from negative prejudices and a degree of stigmatisation. The Committee of Experts emphasises that this undertaking requires States Parties to promote mutual understanding between all linguistic groups. It would therefore welcome further information in Denmark’s next periodical report regarding measures taken to comply with this undertaking.

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.”

47. As noted by the Committee of Experts in its first evaluation report, there are several mechanisms for the German-speakers to be consulted by the Danish authorities. These include the “Liaison Committee concerning the German Minority”, which brings together representatives of the German minority, the Government and members of the Folketing, as well as a special working group for the evaluation of the measures taken under Part III of the Charter. The Danish authorities also finance through a special grant the Secretariat of the German Minority in Copenhagen, which represents the German minority in contacts with the Parliament and the Government.

48. The representatives of the German-speakers informed the Committee of Experts that they highly appreciate their contacts with the authorities and that all relevant documents, including Denmark's second periodical report under the Charter, were transmitted to the speakers in advance for their comments. The Committee of Experts notes that these consultation mechanisms have significantly contributed to the authorities' awareness of the problems of the German-speakers in Denmark and led to positive results, in particular in connection with the municipal reform (see paragraphs 13 – 18 above).

2.2. Evaluation in respect of Part III of the Charter

49. The Committee of Experts has examined in greater detail the protection of the German language, which is the only language identified by Denmark for the purposes of the protection mechanism of Part III of the Charter.

50. Following the focused approach which was explained above (see paragraph 6), the Committee of Experts will concentrate on the provisions of Part III in relation to which a number of issues were raised in the first report. It will evaluate in particular how the Danish authorities have reacted to the observations made by the Committee of Experts in the first monitoring round. In the present report, the Committee of Experts will proceed by recalling each time the key elements of each issue, and by referring to the paragraphs of the first report containing the details of its reasoning, before evaluating how the Danish authorities have reacted.

51. Consequently, for the purposes of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. These provisions are listed below.

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

For these provisions, the Committee of Experts refers to the conclusions reached in its first report but reserves the right to evaluate the situation again at a later stage.

52. Finally, the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Denmark.

Article 8 – Education

53. The Committee of Experts refers to the relevant sections of its first evaluation report (see notably paragraph 51) regarding the provision for education in German in Denmark, which remain valid. Since the first monitoring round, the Danish authorities have adopted two legislative changes which have had an effect on German-language schools.

54. Firstly, the transport grant scheme for pupils of independent and private schools who attend a school outside the local school district they normally belong to has been abolished as from the 2006/2007 school year. As this has a considerable effect on the pupils of the German-language schools, the Danish authorities adopted a special arrangement for these schools according to which parents do not have to pay more than 100 DKK per pupil per month or 175 DKK per family per month (about €13.5 and €23.5 respectively).

55. Secondly, the principles for the distribution of running cost grants for independent and private schools have been modified with effect from 1 January 2007. In order to ensure that the schools of the German minority are not adversely affected by this change, the Danish authorities adopted amendments to the Act on Private and Independent Schools on 21 December 2005. Article 14 of this Act (*Bekendtgørelse af lov om friskoler og private grundskoler m.v.*, LBK nr 764 of 03/07/2006) provides that the State gives supplementary funds to the schools of the German minority with a yearly grant, to be distributed by the Deutsche Schul- und Sprachverein für Nordschleswig (DSSV). 1.9 million DKK (about €255 000) were allocated in this respect in the Finance Act for 2006, as a permanent arrangement.

56. The Committee of Experts commends the Danish authorities for having taken account of the special needs of the German-language schools in the context of these two reforms.

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;**

57. In its first evaluation report (see paragraphs 52-55), the Committee of Experts considered this undertaking fulfilled. Nevertheless, it had received reports that German kindergartens which also catered for children from neighbouring municipalities did not always receive additional funds normally offered by local authorities, despite the existence of government guidelines in this matter. The Committee of Experts therefore requested further information on this matter.

58. The Committee of Experts observes that in the framework of the municipal reform (see paragraphs 13 -18 above), the rules applying to children’s day care institutions have been changed. In this context, the Danish authorities adopted special arrangements in order to ensure the continuation of grants which German-language day care facilities received from the municipalities in South Jutland and the County of South Jutland.

59. Under the new arrangements (following from the amended Social Services Act), municipalities are obliged to recognise private day care institutions that meet certain quality requirements. The financial support of such institutions no longer depends on an agreement with the municipality, as was the case previously. In order to compensate for any reductions that this change may occasion, Article 11.a, paragraph 6 of the Social Services Act authorises the Minister for Family and Consumer Affairs to lay down special rules concerning the German Minority.

60. Such rules were adopted with the Order on municipal subsidies for day care services for children, parents’ own payment and special grants etc. (*Bekendtgørelse om kommunens tilskud til brug for dagtilbud til børn, forældrenes egenbetaling og fripladstilskud m.v.*), the latest version being BEK no. 1114 of 6 November 2006. Article 6 of this Order provides that on becoming private institutions, the grant received by the day care facilities of the German minority for buildings and running costs should be no smaller than the grants they received previously. The Committee of Experts commends the Danish authorities for the special attention that they gave to the German day care facilities in the context of the municipal reform.

61. According to the information provided by Deutscher Schul- und Sprachverein für Nordschleswig in its 2005 report, 144 children attended pre-school classes at German schools and the German day care facilities catered for 533 children in 2005.

62. The Committee of Experts considers this undertaking fulfilled.

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

63. In its first evaluation report (see paragraph 66); the Committee of Experts stated that it had not received sufficient information to evaluate whether the history and culture of the German-speakers in South Jutland were reflected in the teaching. The Committee of Experts therefore could not comment on the fulfilment of this undertaking and requested more information from the Danish authorities.

64. The second periodical reports states that “teaching about the culture, history, language and religion of the German minority and other ethnic and religious groups forms part of the curricula

primarily in Social Science and History”. However, according to the information provided by the Ministry of Education and the representatives of the German-speakers, school curricula in Denmark are intended as a framework, and the actual content of teaching depends largely on independent teachers. Although it appears that the history and culture which is reflected by German is taught to a certain extent in public schools in South Jutland, it is not possible to ascertain whether it is systematic. Nevertheless, the German-speakers informed the Committee of Experts that there was an increasing interest in the German minority in school excursions and projects.

65. The Committee of Experts is of the view that there is scope for ensuring the teaching of German history and culture more systematically, notably through measures such as clearer guidelines for the implementation of the relevant sections of school curricula, the inclusion of this aspect in the monitoring of the Folkeskole, as well as an increased attention to this issue in the context of teaching materials and mainstream teacher training.

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

Article 9 – Judicial authorities

Paragraph 1

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

“b in civil proceedings:

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

if necessary by the use of interpreters and translations;”

“c in proceedings before courts concerning administrative matters:

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

if necessary by the use of interpreters and translations;”

Paragraph 2

“ The Parties undertake:

a not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or

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

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

67. In its first evaluation report (see paragraphs 74-80), the Committee of Experts observed that the right to submit documents and evidence in German was guaranteed under Danish legislation. The

Committee of Experts was however unable to obtain information on the use made of this right by German-speakers in practice. It therefore considered that these undertakings were only formally fulfilled.

68. As in its first evaluation report, the Committee of Experts observes that Danish legislation allows documents and evidence to be produced in German in court proceedings. When all parties agree to it, the judge can authorise the use of such documents without a translation. If that is not the case, a translation is required. The translation costs are added to the overall costs of the proceedings and are borne by the losing party.

69. The Committee of Experts received some evidence of documents being submitted in German, although this rarely happens. According to the judge in Aabenraa whom the Committee of Experts met during the on-the-spot visit, this is partly due to a lack of German competence within the court staff and partly to a lack of demand.

70. For the German-speakers, the most important issue in connection with these undertakings is the possibility for German organisations to submit documents in German to courts for registration. The representatives of the German-speakers informed the Committee of Experts of a case where a court had initially rejected a German document submitted by the Deutscher Schul- und Sprachverein für Nordschleswig (DSSV), but after considering Denmark's undertakings under the Charter, finally accepted it without a translation.

71. The Ministry of Justice informed the Committee of Experts that it had discussed the implementation of the Charter with judges in South Jutland. The Committee of Experts is of the view that this dialogue with the judicial authorities should be pursued with a view to encouraging them to take practical or organisational measures to improve the implementation of these undertakings in practice. The measures taken by the State County of South Jutland could serve as a model in this respect (see paragraphs 73 – 76 below).

72. The Committee of Experts nevertheless considers these undertakings fulfilled.

Article 10 – Administrative authorities and public services

Paragraph 1

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

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

73. In its first evaluation report (see paragraphs 81-84), the Committee of Experts observed that the use of German with the local branches of State administration had no legal basis. It had also been informed that, while it was occasionally possible to use German with the authorities, the lack of proactive measures on the part of the government to encourage public service employees to use the German language hampered the practical implementation of this undertaking. The Committee of Experts therefore considered this undertaking not fulfilled and encouraged the authorities to take the necessary measures in order to ensure that German-speakers may submit documents in German.

74. During the second on-the-spot visit, the Committee of Experts met a representative of the State County of South Jutland (*Statsamtet Sønderjylland*), the regional branch of State administration based in Aabenraa⁵. According to the information provided during this meeting, one third of the employees of the State County Office are fluent in German. For documents in German, English and other Nordic languages, no translation is required from applicants. E-mails received in German are answered in German.

75. A number of application forms and information documents relating to family law have been made available in German. Special attention is given to the German skills of applicants in the

⁵ The number of regional State administration entities was reduced to five starting from 1 January 2007; the one relevant for South Jutland will be *Statsforvaltningen Syddanmark*, which will also be based in Aabenraa.

recruitment procedure. The representative also informed the Committee of Experts that when planning for holidays, the office makes sure that at all times there is at least one staff member who speaks German.

76. The Committee of Experts welcomes these proactive measures which go even beyond the scope of this undertaking, and which could serve as a model for other judicial and administrative authorities. It considers this undertaking fulfilled.

Article 11 – Media

77. Regarding sub-paragraph b and c of paragraph 1, the Danish authorities are of the view that the general support measures laid down in Danish media legislation concerning private local radio and television stations, such as the rules regarding licence attribution and technical support, constitute sufficient encouragement and/or facilitation.

78. As is clearly stated in the Explanatory Report of the Charter (paragraphs 2, 10 and 107), the media sector as a whole tends to disadvantage regional or minority languages, given their economic and political weakness. By accepting undertakings in this area, a State Party generally commits itself to redressing this situation with positive measures (see the second evaluation report on the implementation of the Charter in Germany, ECRML (2005) 7, Finding S). In this context, it would be in conformity with the spirit of the Charter for the authorities to take special measures to enable stations in regional or minority languages to receive licences, especially in situations where no sufficient supply in the regional or minority language is available. As observed by the Committee of Experts elsewhere, bodies representing minority languages often have difficulties in meeting the same technical standards as commercial networks (first evaluation report on the implementation of the Charter in Hungary, ECRML (2001) 4, paragraph 64, where the Committee of Experts suggested that “a bonus system for such applications would be in the spirit of Article 11.1.b of the Charter”).

Paragraph 1

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

- “b i to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or***
- ii to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis;”***

79. As underlined by the Committee of Experts in its first evaluation report, these two paragraphs are alternative options, which makes paragraph b.ii redundant. However, in view of the ratification, the Committee of Experts has also looked at measures taken to encourage the broadcasting of radio programmes in German.

80. In its first evaluation report (see paragraphs 87 and 88), the Committee of Experts considered this undertaking not fulfilled. There was no radio station in Denmark broadcasting in German and no specific measures had been taken in this respect. The Committee of Experts encouraged the Danish authorities to take steps to encourage and/or facilitate the creation of at least one radio station in German.

81. There is still no German-language radio station in Denmark. The Committee of Experts therefore maintains its previous conclusion that this undertaking is not fulfilled.

82. However, the Committee of Experts was informed during the on-the-spot visit that the German-speakers had initiated a project with a private radio station, with the support of the Ministry of Culture. The Ministry has undertaken to provide a yearly 250 000 DKK grant (about €33 500) for a trial period of three years. The German-speakers use these funds to buy airtime from a popular local

private radio station (Radio Mojn). According to the information provided by the representatives of the German-speakers, this radio station broadcasts three news bulletins in German every day (a one-minute programme and two three-minute programmes). In addition, five minutes are used each month for announcements concerning the German minority.

83. Although this provision is very limited, it is considered a good start by the speakers. The Committee of Experts encourages the Danish authorities to maintain and increase their support for the provision of radio programmes in German.

The Committee of Experts encourages the Danish authorities, in close co-operation with the speakers, to take steps towards the full implementation of this undertaking and to take interim measures to increase the level of radio broadcasting.

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

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

84. These two paragraphs are alternative options, which makes paragraph c.ii redundant. However, in view of the ratification, the Committee of Experts has also looked at whether any measures were taken to encourage the broadcasting of television programmes in German.

85. In its first evaluation report (see paragraphs 87 and 88), the Committee of Experts considered this undertaking not fulfilled. There was no television station in Denmark broadcasting in German and no specific measures had been taken in this respect. The Committee of Experts encouraged the Danish authorities to take steps to encourage and/or facilitate the creation of a television channel in German.

86. In the light of its observations above (see paragraphs 77 - 78) and the lack of any development regarding the implementation of this undertaking in Denmark, the Committee of Experts maintains its previous assessment and considers this undertaking not fulfilled.

87. The Committee of Experts has not been informed of any measures taken by the Danish authorities to encourage and/or facilitate the broadcasting of television programmes in German.

The Committee of Experts encourages the Danish authorities to take steps towards the implementation of this undertaking in close 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;

88. In its first evaluation report (see paragraph 91), the Committee of Experts was not in a position to conclude on this undertaking owing to a lack of information.

89. In their second periodical report, the Danish authorities only make reference to general promotion measures applicable to the creation of local radio and television stations.

90. The Committee of Experts observes that to fulfil this undertaking, it is not sufficient to allow works in regional or minority languages to benefit from the general promotion measures, this being already covered by the principle of non-discrimination enshrined in Article 7, paragraph 2, as well as in Article 11, paragraph 1.f.ii of the Charter (also chosen by Denmark with respect to German). Consequently, this provision necessitates pro-active measures by the authorities (see the second evaluation report in respect of Germany ECRML (2001) 2, regarding the promotion of Danish in Schleswig-Holstein, paragraph 74). Although the Charter does not specify what form the measures of encouragement and/or facilitation should take, they should be effective and not purely symbolic or formal. It could be envisaged, for example, that they take the form of technical support, direct or indirect financial support (such as the acquisition of works in regional or minority languages by schools, public libraries, cultural institutions or public broadcasters), etc.

91. To the Committee of Experts' knowledge, no such specific promotion measures exist with respect to German in Denmark. The Committee of Experts considers, therefore, that this undertaking is not fulfilled.

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

92. In its first evaluation report (see paragraph 93), the Committee of Experts considered that this undertaking was not fulfilled, as it had not been made aware of any measures for financial assistance being applied to audio-visual productions in German.

93. In their second periodical report (see page 24), the Danish authorities refer to the support scheme of the Danish Film Act. The Committee of Experts has received no evidence, however, that the existing measures of financial assistance are designed in such a way that programmes in German could qualify for them in practice. Moreover, according to the Danish Film Institute there has been no special allocation of support to the German minority. The German-speakers also informed the Committee of Experts that the existing measures for financial assistance had not been applied to audiovisual productions in German.

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

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

95. In its first evaluation report (see paragraph 94), the Committee of Experts was not in a position to conclude on this undertaking, as it had no information on the extent to which the general State Education Grant and Loan Scheme was used for training German-speaking journalists in practice.

96. In their second evaluation report (see pages 24-25), the Danish authorities refer to three possibilities for journalists using German to be trained in Denmark. This may take place through a stay in Germany as part of the journalism programme, through combining journalism and German at Roskilde University or, as from 1 September 2006, combining a bachelor degree in German including optional journalism with the master's level journalism programme at the University of Southern Denmark. The authorities also refer to the fact that a number of journalists of the German minority's newspaper “Der Nordschleswiger” were trained in Denmark.

97. The Committee of Experts considers this undertaking fulfilled regarding journalists.

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.”

98. In its first evaluation report (see paragraph 95), the Committee of Experts considered this undertaking fulfilled. It has been informed by the German-speakers, however, that it is becoming increasingly difficult in South Jutland to receive programmes broadcast from Germany, due to digitalisation. The Committee of Experts is conscious of the fact that many regional or minority language speakers across Europe face this problem. While maintaining its assessment that this undertaking is fulfilled, the Committee of Experts would like to draw the attention of the Danish

authorities to the fact that this undertaking may require some positive action on the part of the authorities in the future. As stated in paragraph 111 of the Charter's explanatory report, "the undertaking to guarantee freedom of reception relates not only to obstacles deliberately placed in the way of the reception of programmes broadcast from neighbouring countries but also to passive obstacles resulting from the failure of the competent authorities to take any action to make such reception possible".

Article 12 – Cultural activities and facilities

Paragraph 1

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

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;***
- 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;”***
- f to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;***

99. In its first evaluation report (see paragraphs 98-100), the Committee of Experts was not in a position to conclude on these undertakings, as it lacked information regarding bodies which organise cultural activities and the way in which they incorporated German into such activities.

100. In their second periodical report, the authorities refer to the cultural activities of the Euroregion Sønderjylland-Schleswig. The German-speakers are directly represented in the region and contribute to several cultural activities. The Euroregion of Sønderjylland-Schleswig is however the only body relevant to these undertakings of which the Committee of Experts is aware, and the information provided in the second periodical report mainly refers to the direct financial support of the central and local authorities to German cultural organisations, but not to the participation of the German-speakers in cultural activities in South Jutland in general. According to the German-speakers, the representation of the German minority in bodies organising cultural activities is not sufficient. Although they organise their own activities, they are rarely involved in broader cultural events.

101. The Committee of Experts considers these undertakings partly fulfilled at present. It would welcome information on concrete examples, if they exist, of the participation of the German-speakers in cultural activities in South Jutland in general.

Paragraph 3

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

102. Based on the information received from the Danish authorities, the Committee of Experts considered this undertaking not fulfilled in its first evaluation report (see paragraph 103), and requested further information regarding planned consultations between the relevant cultural body and the German-speakers.

103. According to the information provided by the Danish authorities, the Danish Arts Agency, which is responsible for Danish cultural policy abroad, held discussions with the German-speakers in 2004 concerning activities in connection with the 50th anniversary of the Copenhagen-Bonn Declarations. The Danish Arts Agency also invited the German-speakers to consider and present possible projects for consideration. However, the authorities reported that the Agency had not received any such proposals.

104. The Committee of Experts welcomes the initiative taken by the Danish Arts Agency and looks forward to receiving more information in the next periodical report on the inclusion by the Danish authorities of the language and culture of the German-speakers in South Jutland in pursuing their cultural policy abroad.

Article 13 – Economic and social life

Paragraph 1

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

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

105. In its first evaluation report (see paragraph 105), the Committee of Experts was not in a position to conclude on this undertaking owing to a lack of information.

106. According to the Danish authorities, no practices within the meaning of this undertaking exist in Denmark and therefore no specific information with respect to this undertaking can be provided. No practice to discourage the use of German in connection with economic activities was brought to the attention of the Committee of Experts by the German-speakers.

107. The Committee of Experts has not received any information regarding practices designed to discourage the use of German in connection with economic and social activities in these first two monitoring rounds, neither from the authorities nor from the speakers themselves. In the absence of reports of such practices, the Committee of Experts considers this undertaking fulfilled at present.

Paragraph 2

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

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

108. In its first evaluation report (see paragraphs 108-110), the Committee of Experts considered that this undertaking was only partly fulfilled. While welcoming the authorities' support to the German-speakers' organisation “Sozialdienst Nordschleswig”, it was of the view that a more systematic approach encompassing regional or local authorities was necessary in order to fulfil this undertaking.

109. In their second periodical report, the Danish authorities refer to the fact that transfrontier co-operation with Germany in the health sector has been extended in recent years, notably through the establishment of a German private hospital in South Jutland and the inclusion of a German rescue helicopter as part of pre-hospital services. The Committee of Experts was also pleased to hear that the Minister of the Interior and Health sent a letter to the County of South Jutland in June 2006, drawing attention to Denmark's obligations under the Charter in the context of the municipal reform.

110. The Committee of Experts notes that it is possible to use German in hospitals and other social care facilities in the majority of cases, even though local and regional authorities do not have a policy

to systematically ensure that German can be used in such facilities. The German-speakers were of the view that the existing potential of German-speaking staff is not fully exploited. There also seems to be some confusion as to the possibility for German-speaking doctors to treat patients in German, as the German-speakers reported examples of doctors of German origin refusing to speak German for fear of being reprimanded. The authorities may wish to clarify this issue with the hospitals.

111. Regarding social care for the elderly, the Committee of Experts was informed that it would be a challenge for the new, bigger municipalities to harmonise the regulations of the former municipalities regarding home help, which used to vary considerably. In social care matters, the municipalities rely extensively on the organisations of the German-speakers.

112. The Committee of Experts considers that this undertaking is partly fulfilled. Considering that this undertaking requires the authorities to *ensure* the use of German, a more systematic approach is needed at the level of the municipalities and the new region of South Denmark. A bilingual human resources policy, such as the one adopted by the State County of South Jutland (see paragraphs 73 – 76), should be an integral component of this approach (see the second evaluation report in respect of Germany ECRML (2001) 2, paragraph 163).

The Committee of Experts encourages the Danish authorities to strengthen their efforts to ensure that German can be used in social care facilities, in particular with regard to social care for the elderly.

Article 14 – Transfrontier exchanges

“ **The Parties undertake:**

“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.”

113. In its first evaluation report (see paragraph 112), having taken note of the Border Region Sønderjylland-Schleswig, the Committee of Experts considered this undertaking fulfilled.

114. The Euroregion Sønderjylland-Schleswig continues to make a significant contribution to the promotion of the German language in South Jutland despite its limited resources. One very positive example is the involvement of the region in the sprogfokus/sprachfokus project (see paragraph 38 above). Although the number of members of the regional assembly has been reduced from 42 to 22, the German minority continues to be represented there. Interpreters are present at the meetings of the regional assembly and participants can use German or Danish.

115. The Committee of Experts welcomes the activities of the Sønderjylland-Schleswig Region and considers that this undertaking is fulfilled.

Chapter 3. Conclusions

3.1. Conclusions of the Committee of Experts on how the Danish authorities reacted to the recommendations of the Committee of Ministers

Recommendation no. 1:

“adopt a more structured policy for the protection and promotion of German in order to achieve a practical implementation of the provisions of the Charter, especially in the fields of administration, justice and the media;”

There are several indications that the Danish authorities' approach to the protection and promotion of German has become more proactive, a fact reflected in the adoption of a number of legislative texts making specific provision for the needs of the German-speakers (see paragraph 12 above). A more structured policy is still needed in the media field.

Recommendation no. 2:

“renew consultations with the Home Rule Authorities of the Faeroe Islands and Greenland on the possible application of the Charter in the two Home Rule areas;”

Denmark has complied with this recommendation. The Danish authorities informed the Committee of Experts that contacts were renewed with the Home Rule Authorities on the extension of the scope of the Charter's application to Faeroese and Greenlandic in the Home Rule territories. The Danish authorities reported that the Faeroese authorities expressed no interest in the possible application of the Charter to Faeroese, whereas the Greenland authorities communicated that they would reconsider the issue (see paragraph 24 above).

Recommendation no. 3:

“consider the protection of the German language in the context of the possible reform of administrative structures which could affect Southern Jutland County;”

An administrative reform entered into force on 1 January 2007. During the elaboration of the reform, the Danish authorities were very sensitive to the concerns of the German-speakers and took several measures to ensure that the protection of the German language was not negatively affected as a consequence (see paragraphs 13 -18 above). This is in full keeping with this recommendation and with the spirit of the Charter.

Recommendation no. 4:

“ensure that German-speakers have the possibility to use their language before administrative authorities in practice;”

In the present monitoring cycle, the Committee of Experts was informed of several measures taken by the regional branch of the State administration in South Jutland with a view to ensuring the possibility for German-speakers to use their language (see paragraphs 73 - 76 above). Denmark did not choose Part III undertakings under Article 10 regarding local and regional authorities. However, in order to implement Denmark's undertakings in the health and social care sector, there is a need for the four new municipalities and the Region of South Denmark (see paragraphs 110 – 112 above) to develop a more structured policy vis-à-vis the German language. Letters sent by the Minister of the Interior and Health to these authorities in June 2006 (see paragraphs 37 and 109 above), although legally non-binding, are a step in the right direction.

Recommendation no. 5:

“implement the undertakings chosen in the field of the broadcasting media.”

Development in the media sector has been limited and the presence of the German language in the Danish broadcasting media remains very weak, including in South Jutland. While a new radio project

supported by the Ministry of Culture is encouraging (see paragraph 82 above), more decided efforts are needed for Denmark to implement its Part III undertakings in this field.

3.2. *Findings of the Committee of Experts in the second monitoring round*

A. Denmark is to be commended for its continued commitment to the protection and promotion of the German language in South Jutland. It has taken steps to address many issues that were identified in the Committee of Experts' first evaluation report and in Recommendation RecChL(2004)2 of the Committee of Ministers. Danish legislation increasingly reflects the Danish authorities' consciousness of the need to protect and promote German through special measures.

B. This positive attitude has been notably demonstrated by the measures adopted in order to safeguard the interests of the German-speakers in South Jutland in the context of Denmark's reform of municipal and administrative structures. In full keeping with the spirit of the Charter, the Danish authorities gave serious consideration to the concerns of the German-speakers during the preparation of this reform and took several measures to ensure that the protection of the German language was not negatively affected as a consequence (see paragraph 22 above). The Committee of Experts finds that the exemplary consultation mechanisms set up by the Danish authorities were instrumental in bringing about this satisfactory outcome.

C. The Committee of Experts appreciates the excellent co-operation it enjoyed with the Danish authorities in the organisation of its "on-the-spot" visit. It also welcomes the fact that, overall, Denmark's second periodical report reacts to observations and recommendations made in the Committee of Experts' first evaluation report. However, it would welcome more detailed information on Denmark's compliance with individual Part II undertakings in the next periodical report.

D. Regarding the scope of application of the Charter in Denmark, the Danish authorities informed the Committee of Experts that contacts were renewed with the Home Rule Authorities of Greenland and the Faeroe Islands in this connection. They reported that the Faeroese authorities expressed no interest in the possible application of the Charter to the Faeroese language, whereas the Greenland authorities communicated that they would reconsider the issue (see paragraph 24 above). The Danish authorities will follow Greenland's final decision in this matter. In the opinion of the Committee of Experts, the possible inclusion of Greenland's experience of language protection would enrich the Charter system and be an asset for the protection of regional or minority languages in Europe.

E. It is still unclear to the Committee of Experts whether there has been a continuous traditional presence of the Romani language in Denmark (see paragraphs 27 - 29). The Committee of Experts is of the opinion that there is a need for the Danish authorities to examine this question thoroughly, if necessary with the help of experts.

F. The provision of German-medium education through the private schools of the German minority remains satisfactory. The Danish authorities have ensured that new rules applying to private and independent schools take account of the special needs of the German-language schools.

G. The South Jutland branch of the State administration has taken commendable measures with a view to ensuring that German can be used in dealings with this authority (see paragraphs 73 – 76). Although Denmark did not choose any Part III undertakings with respect to municipalities, the central authorities encouraged them to make specific provision for German in the context of the preparation of the municipal reform (see paragraph 13 - 18).

H. Development in the media sector has been limited and the presence of the German language in the Danish broadcasting media remains very weak. While a new radio project supported by the Ministry of Culture is encouraging (see paragraph 82 above), more decided efforts are needed for Denmark to implement its Part III undertakings in this field, which include the encouragement and/or facilitation of the creation of at least one radio station and one television channel in German (see paragraphs 79 - 87).

I. The range of cultural activities in German remains wide and varied in South Jutland. The Danish Ministry of Culture, as well as the relevant local authorities, actively support such activities through funds provided to the German-speakers' organisations. It is not clear to the Committee of Experts, however, to what extent other bodies organising cultural activities in South Jutland make provision for German (see paragraphs 99 - 101).

J. Opportunities to use German in economic life are improving, notably due to the economic context in the border region. The Euroregion Sønderjylland-Schleswig is contributing significantly to this development through its work, with which the German-speakers are closely associated (see paragraph 114).

K. While it remains possible to use German in the health and social care sectors to a large extent, Denmark's undertakings in this field are far-reaching and require a more systematic provision. Therefore, there is a need for the four new municipalities in South Jutland and for the Region of South Denmark to develop a more structured policy in order to ensure that German can be used in social care facilities. Letters sent by the Minister of the Interior and Health to these authorities in June 2006 (see paragraphs 37 and 109), although legally non-binding, are a step in the right direction.

L. Finally, there is a need to increase awareness of and understanding for German as a regional or minority language of Denmark among the Danish population at large (see paragraphs 41 - 44).

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

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

At its 1005th meeting on 26 September 2007, the Committee of Ministers adopted its Recommendation addressed to Denmark, which is set out in Part B of this document.

Appendix I: Instrument of Ratification



Denmark :

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

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

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

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

Period covered: 1/1/2001 -

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

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

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

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

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

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

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

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

Period covered: 1/1/2001 -

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

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

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

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

Period covered: 1/1/2001 -

The preceding statement concerns Article(s) : -

Appendix II: Comments by the Danish authorities

With reference to the second report on Denmark the Danish Government is pleased to respond to the invitation of the Committee of Experts of the European Charter for Minority Languages to comment on the following proposal for recommendation to the Committee of Ministers:

- take steps towards the full implementation of Denmark's undertakings in the field of radio and television, in close co-operation with the German-speakers.

Danish comment:

The Committee of Experts notes in its second report that development in the media sector and the presence of German in the Danish broadcasting media remains very weak. The Committee recommends that the Danish authorities take steps towards the full implementation of Denmark's undertakings in the field of radio and television, in close cooperation with the German-speakers.

The report mentions the support given to a new radio project in Southern Jutland by the Ministry of Culture, and the Committee encourages the Danish authorities to maintain and increase their support for the provision of radio programmes in German.

On this issue the Ministry of Culture is currently in the process of talking with the German minority with a view to a continuation of the support for the radio project after the three-year trial period.

The Committee repeats its recommendation that the Danish authorities encourage and/or facilitate the creation of at least one radio station. The Ministry of Culture would like to point out that the German minority has indicated that it is not interested in having its own radio station, but prefers to buy airtime on a local Danish radio, which is very popular in the area and therefore offers a much larger audience than a German radio station is likely to get.

Concerning the Committee's conclusions that more decided efforts are needed for Denmark to implement its undertakings in the media field, the Ministry of Culture would like to refer to previous comments by the Danish government in connection with the 2004-report. In these comments the government argues that Denmark's undertakings under the charter are adequately implemented with respect to encouraging and/or facilitating the creation of a radio or a television station in the regional or minority language. With respect to German programmes on national public service channels it points to the public service obligations of the broadcasters as sufficient protection, taking the principle of the independence and autonomy of the media into consideration.

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

Recommendation RecChL(2007)6 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Denmark

*(Adopted by the Committee of Ministers on 26 September 2007
at the 1005th 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 Denmark on 8 September 2000;

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

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

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

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

1. take steps towards the full implementation of Denmark's undertakings in the field of radio and television, in close co-operation with the German-speakers;
2. take measures to increase awareness of and understanding for German as a regional or minority language of Denmark among the Danish population at large;
3. clarify the issue of the traditional presence of the Romani language in Denmark.