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European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN HUNGARY

- 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 Hungary**

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 report to the Committee of Ministers on its evaluation of compliance by a Party with its undertakings, to examine the real situation of the 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 15.1, an outline for the initial periodical report 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 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 initial 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, so as to attempt to obtain a just and fair overview of the real language situation. After a preliminary examination of an initial periodical report, the Committee submits, if necessary, a number of questions to each Party to procure 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" 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. This information-gathering process is designed to enable the Committee to better evaluate the application of the Charter in the State concerned.

Having concluded this process, the Committee of Experts adopts its own report. This report is submitted to the Committee of Ministers together with suggestions for recommendations that the latter could decide to address to one or more Parties as may be required.

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Strasbourg, 7 February 2001

European Charter for Regional or Minority Languages

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

presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

HUNGARY

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Chapter 1 Background information

1. The Republic of Hungary signed the European Charter for Regional or Minority Languages (hereafter referred to as the Charter) on 5 November 1992 and deposited its instrument of ratification on 26 April 1995. The Charter entered into force for Hungary on 1 March 1998. The Hungarian authorities published the text of the Charter in the Official Gazette in Volume 1999, N°. 34.

2. In accordance with Article 15.1 of the Charter, Hungary presented its initial periodical report to the Secretary General of the Council of Europe on 7 September 1999. The Hungarian report was not made accessible to the general public in written form by the authorities in accordance with the requirement in Article 15.2. However, at the time of adoption of this report, the Government made it accessible to the public on its official website.

3. This report was adopted by the Committee of Experts on 6 February 2001.

1.1 The work of the Committee of Experts

4. After the Committee of Experts had made its preliminary examination of the Hungarian report, a questionnaire was drawn up and addressed to the Hungarian authorities. The Committee received the replies shortly before its “on-the-spot visit” organised in Hungary in April 2000. During the “on-the-spot visit”, the Committee met the Parliamentary Commissioner for the Rights of Minorities, the representatives of regional or minority language associations, members of Parliamentary Committee of Human Rights, Religious Freedom and Minorities, representatives of minority self-governments and the Office for National and Ethnic Minorities. On the same occasion the Committee had the opportunity to consult with representatives of relevant Ministries. The Committee travelled to various municipalities in Pest County and visited schools where regional or minority languages are used, local administrations and cultural institutions.

5. On the basis of the information gathered from the initial periodical report, the questionnaires and the “on-the-spot-visit”, the Committee of Experts was better able to prepare its evaluation of the application of the Charter in the Republic of Hungary.

6. The Committee has established a list of general proposals for the preparation of recommendations of the Committee of Ministers to Hungary, as provided in Article 16.4 (Chapter 3.2 of this report). Furthermore, where necessary, the Committee has made in the body of the report more detailed observations which it encourages the Hungarian authorities to take into consideration when developing their policy with regard to regional or minority languages.

7. This report is based on the political and legal situation at the time when the Charter was ratified by Hungary and at the time when Hungary presented its initial periodical report to the Council of Europe. The Committee is aware of the fact that changes in legislation and practice may have taken place at a later stage. These changes will be taken into account in the next report of the Committee of Experts concerning Hungary.

1.2 Presentation of the regional or minority language situation in Hungary

8. In its instrument of ratification Hungary has identified the following languages as protected under Part III: Croatian, German, Romanian, Serbian, Slovak and Slovene. The instrument of ratification, which is reproduced in Appendix I to this report, has been drawn up in such a manner as to provide the exact same level of protection for each of these six languages. The Charter, however, is constructed in such a way that the State can adapt the protection of the various languages to the real situation of each language. That is indeed the principal justification for the right accorded to each State Party in Article 2.2 to choose among the provisions of Part III.

9. The last population census was carried out in Hungary in 1990. Two figures are provided for each language, one identifying the number of persons belonging to the minority and the second identifying the number of mother tongue speakers. The number of mother tongue speakers identified in the 1990 census is presented below and not the number of persons belonging to the specific minority. The Committee is aware of the fact that the number of persons having command of a regional or minority language can be higher than those that consider it a mother tongue.

Language	Mother tongue speakers (minorities)	Regions with significant concentrations of minority language speakers
Croatian	17.577	Baranya and Bács-Kiskun Counties Győr-Moson-Sopron, Vas and Zala Counties
German	37.511	Budapest Baranya County Pest County Győr-Moson-Sopron, Komárom-Esztergom and Veszprém Counties Bács-Kiskun and Tolna Counties
Romanian	8.730	Békés County Hajdú-Bihar and Csongrád Counties Budapest
Serbian	2.953	Budapest and surrounding Pest County Bács-Kiskun, Baranya and Csongrád Counties
Slovak	12.745	Békés County Pest and Komárom-Esztergom Counties
Slovene	2.627	Vas County
Roma/Gypsies	48.072	The various languages of the Roma/Gypsy communities are used on the whole of the territory of Hungary

10. Besides these larger communities of regional or minority language users there exist several small communities of users of minority languages traditionally spoken in Hungary. The official statistics list them as Armenian, Greek, Bulgarian, Polish, Ukrainian and Ruthenian. Except for the Polish community, for which the

official number of native speakers exceeds 3.000, these communities are rather small, with not much more than 1.000 speakers (or even less in the case of the Armenians, Ukrainians and Ruthenians). The small communities seem to be rather scattered, with concentrations only in Budapest. Only the Polish and Ruthenian communities have sizeable settlements, both situated in the north-east of Hungary.

11. The numbers of minority-language speakers in general are rather disputed. Owing to the historical situation of minority languages during the last few decades, it is evident that users of such languages are reluctant to declare officially that they are mother-tongue speakers of a minority language. The official census thus systematically underestimated the number of users of regional or minority languages. On the other hand, estimates given by the minority associations themselves are not necessarily reliable. It is obvious, however, that the numbers of minority language users are higher than the figures in the 1990 census, even if one looks into the differences of official statistics. The official numbers (counted in 1990) of people having command of the minority languages are much higher than the numbers of native speakers counted in the census of 1990, in case of German at least five times as high as the official number of native speakers. Estimates run up to more than 500.000 Roma/Gypsies (with some 150.000 speaking a minority language), more than 200.000 German-speakers, some 100.000 Slovaks speakers and 80.000-90.000 Croatians-speakers. In the case of the other languages, differences in numbers are not as extreme, lying mostly below 10.000 (with the exception of Romanian – 25.000 – and Polish – some 10.000).

12. The socio-linguistic situation makes it extremely difficult (if not impossible) to come to reliable numbers. Minority language communities are well integrated (with the exception of Roma/Gypsies). Large segments of them are in a process of wholesale assimilation. Practically all the speakers of minority languages live in a situation of “diglossia”, speaking Hungarian like a mother tongue and using it daily as the main medium of communication. Some 40%-60% of the adult minority population lives in ethnically mixed marriages, in which the minority language often will not be transferred to the following generation. As a consequence, the number of native speakers of minority languages steadily declines, with two important exceptions: the Gypsy and German languages, which have experienced a revival during the last ten years.

13. The situation of Roma/Gypsies is of particular complexity. The majority of Roma/Gypsies have lost their native language, speaking only Hungarian as mother tongue (although often with severe deficiencies in linguistic skills). Only some 20% of people of Roma/Gypsy origin still speak Romani. An additional 10% of Roma/Gypsies still use ‘Beas’, an archaic version of the Romanian language. For the purpose of the Charter, only these some 30% of minority-language-speaking Roma/Gypsies are relevant, not the large majority of Hungarian-speaking Roma/Gypsies whose main problems are social exclusion and discrimination.

1.3 Particular issues arising in the evaluation of the application of the Charter in Hungary

14. The Committee recognises that the Hungarian instrument of ratification promises protection that is far-reaching on a normative scale. It undertakes to protect the users of regional or minority languages in all the places where they are living, extending the protection over the entire territory of the Republic. Such an approach has some justification bearing in mind the drastic changes in the social and economic situation and the demographic changes, which have territorially uprooted significant

numbers of users of regional or minority languages. The instrument of ratification is based on internal minority legislation developed during the past ten years. The Committee recognises that Hungary has undertaken an ambitious effort in drafting a form of a model legislation on the protection of minorities, resulting in a scheme of functional autonomy of minorities that has found wide recognition. The legislation is directed towards the rights of minorities including the protection and promotion of regional or minority languages. Bearing in mind the recent origin of such legislation, as well as its experimental character and the lack of material resources typical for a country in transition, one should not be astonished that there still exist severe difficulties in implementing the ambitious scheme developed by Hungarian legislation. The Committee learned during its "on-the-spot visit" and its evaluation of the Hungarian situation that there continue to exist severe deficiencies in the practical implementation of the minority legislation. The competent Hungarian authorities very frankly admitted that such deficiencies still exist and thus showed a consciousness of the existing problems and a willingness to overcome them in the future. The Committee acknowledges this positive atmosphere.

15. At the time of the presentation of the initial periodical report to the Council of Europe, the following legal acts and provisions were relevant to the application of the Charter:

- The Constitution of the Republic of Hungary, specifically Articles 68 and 70/A;
- The Act LXXVII of 1993 on the Rights of National and Ethnic Minorities.

These two basic instruments prescribe the use of regional or minority languages in Hungary, with reference in detail to other legal instruments that are to implement these provisions. These instruments include, inter alia, Act LXIV of 1990 on the Election of Local Self-Government Representatives and Mayors, Act I of 1973 on Criminal Procedure, Act LXXIX of 1993 on Public Education, Act CXL of 1997 on the Protection of Cultural Goods, Museum Institutions, the Supply of Public Libraries, and Public Education, as well as Act I of 1996 on Radio and Television Broadcasting. On the legislative scale, protection of minorities and regional or minority languages is rather elaborate and has the potential to serve as a model for future development of minority protection in Europe.

16. Due to the specific socio-linguistic situation in Hungary, however, implementation of such ambitious legislation has to cope with important obstacles. The extension of linguistic rights to the entire territory of Hungary, irrespective of any demographic concentration of minority-language speakers, makes it extremely difficult, if not impossible, for the authorities to take the necessary organisational measures in advance which are needed to make linguistic rights operational. This is less of a problem in education, where the existence of certain minimum numbers of minority-language-speaking pupils makes it possible to organise education in the minority language in public schools. To implement linguistic rights in public administration and the judiciary, however, specific organisational measures are needed in advance. Public authorities have to adopt certain modifications of routine administrative procedures and have to hire administrative personnel qualified in minority languages. If such measures are not taken in advance, speakers of minority languages that insist on the use of their language when dealing with public authorities are easily perceived as "trouble-makers". This is particularly true in a "diglossia" situation like the Hungarian one, where practically all the users of minority languages master the Hungarian language as a second mother tongue. Deficiencies in the organisational adaptation to linguistic rights will usually create a social climate hostile to any public use of minority languages, which – as can be seen in Hungary – makes the elaborate legislative scheme on the use of minority languages largely

inoperational in practice. It also creates a danger of undermining the credibility of the legislation itself. It is obvious that overcoming such a situation is not a mere question of political will, but is linked to questions of public resources and to the general reform of structures of public administration. Accordingly, it will take considerable time to overcome these difficulties.

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

17. The text of the Charter, when read in conjunction with the instrument of ratification, indicates in some detail the exact undertakings that apply in respect of the different languages in the areas covered by the Charter. The Committee has therefore evaluated how Hungary has fulfilled each undertaking in Article 7 for Part II and in Articles 8-14 for Part III, using the paragraphs and sub-paragraphs specified in the instrument of ratification.

2.1 The evaluation in respect of Part II of the Charter

18. Part II of the Charter sets out a number of general objectives and principles that a Party is obliged to apply to all the regional or minority languages on its territory. Hungary did not specify explicitly in its instrument of ratification or its initial periodical report or in its replies to the Committee's questions, which languages besides those identified for Part III are considered as regional or minority languages in accordance with the definition in the Charter.

19. Chapter 1(2) of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities (hereafter referred to as the Minorities Act) gives an abstract definition of the notion of 'minorities'. According to the same act, the autochthonous minorities of Hungary comprise the communities of Armenians, Bulgarians, Croatians, Germans, Roma/Gypsies (speaking Romany and Beas), Greek, Polish, Romanians, Ruthenians, Serbs, Slovaks, Slovenes and Ukrainians. There are no indications that other linguistic communities fulfilling the requirements of Art.1 (a) of the Charter exist in Hungary. Minority languages within the meaning of the Charter which are not covered by Part III are thus Armenian, Bulgarian, Romany, Beas, Greek, Polish, Ruthenian and Ukrainian. The number of users of these languages is rather diverse. By far the largest of these communities is the group of Romany-speaking Roma/Gypsies, speaking a variety called Lovari, estimated at some 100.000 speakers. The other large minority-language community is the Beas-speaking Roma/Gypsies (Beas being an archaic version of Romanian taken over by an important group of South-Eastern European Roma/Gypsies some centuries ago). The size of this community is estimated at some 50.000 speakers. All the other linguistic minorities not covered by Part III are rather small in numbers. Two of these small communities probably have to be qualified as having a territorial base, since both communities historically settled in the north-east of Hungary in (still existing) distinct settlements. The few Ruthenian villages have some thousands of inhabitants (with minority-language speakers ranging from several hundreds counted in the census of 1990 up to 6.000 according to unofficial estimates). The Polish community is larger, with nearly 4.000 native Polish-speakers according to the official census of 1990 and an estimated number of up to 10.000. The Armenian, Bulgarian, Greek and Ukrainian communities are scattered throughout the country, living mostly in urban centres, particularly Budapest. The size of these communities is rather small, encompassing some 2.000-4.000 members at the most, with only parts of them still speaking the minority language. Some of these communities, like the Armenians and

Greek, however, have a long tradition of preserving their cultural and linguistic identity in expatriate colonies with an intensive community life and an elaborate system of community education.

Article 7 - Objectives and principles

“Paragraphe 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;”***

20. The Committee of Experts considered that the languages specified in the instrument of ratification have been recognised by the Hungarian State in accordance with this obligation, i.e. the Croatian, German, Romanian, Serbian, Slovak and Slovene languages. As for the other languages, the Minorities Act of 1993 in its Section 42 recognises these linguistic groups also as autochthonous minorities protected by Hungarian legislation. They are included in the system of minority self-governments and receive funding from the State. The initial periodical report states that there is virtually no demand on the part of the speakers of six of the eight languages not included in Part III with respect to the use of their languages and seems to deduce from this fact that the members of these communities are not interested in preserving their language and culture. Given the practical impossibility to use these languages (Armenian, Bulgarian, Greek, Polish, Ruthenian and Ukrainian) in education and before public authorities, such reluctance by the speakers of these languages to insist on language rights is understandable. But one should not deduce from such reluctance a lack of will on their part to preserve their cultural and linguistic identity. Indeed, the Committee has noted that the speakers of these languages have made use of the possibility to form minority self-governments and use State funding received through that system for educational and cultural purposes.

21. The situation is different with the two minority languages used by Hungarian Roma/Gypsies. The number of users of these languages is quite considerable, and the Hungarian Government has undertaken certain efforts to upgrade the social standing of these languages. Because the traditional prestige of these two Roma/Gypsy languages has been extremely low, much more effort is needed to raise their reputation as a means of communication. Without an energetic effort and constant symbolic gestures, it will be difficult to overcome deeply rooted historical prejudice against the two Roma/Gypsy languages. The practical recognition of these two languages as an expression of cultural wealth of Hungary and as part of the European cultural heritage needs a high political profile in order to have positive consequences in the public consciousness.

“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;”

22. Although there seems to be no explicit mechanisms ensuring the respect of the geographical area of each regional or minority language, there are no indications that any problem has arisen in that regard in recent years. Bearing in mind the geographical dispersion of users of minority languages in Hungary, the determination of territorial divisions for administrative purposes will probably affect the promotion of minority languages only on the level of the division of local self-government units. The general legislative schemes ensuring participation of the local communities concerned seem to protect minority languages adequately.

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

23. Hungary has taken important initiatives that raise the awareness of the need to protect and promote regional or minority languages, both by the establishment of the Governmental Office for National and Ethnic Minorities and by the work of the Parliamentary Committee for Human Rights, Minorities and Religions. Of particular significance has been the creation of the office of Parliamentary Commissioner for National and Ethnic Minority Rights (Minorities Ombudsman) and the development of the scheme of minority self-governments instituted by the Minorities Act of 1993. The office of Parliamentary Commissioner for National and Ethnic Minority Rights (Minorities Ombudsman) was legally instituted by Subsection (2) of Section 32/B of the Constitution; the first Ombudsman (a member of a linguistic minority) was elected by Parliament in July 1995. The Ombudsman deals with all complaints linked to alleged infringements of minority rights and has successfully mediated in a series of cases where minority rights had been violated. Although only two cases have dealt with linguistic issues, the Ombudsman’s activities have raised awareness of the need for resolute action in favour of minority languages. The creation of the system of minority self-governments has also raised public attention for minority issues in general and could further help to develop a public consciousness of the needs of minority languages.

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

24. The users of all regional or minority languages in Hungary have the possibility of using their language in public life. The term “public life” is fairly wide and could include the use of the language in education, justice, administration, economic and social life and cultural life as well as in transfrontier exchanges. This is developed in the next chapter in respect of the Part III languages. As for the other languages, the Committee did not receive sufficient information to permit it to evaluate how the use of the other languages in public life is facilitated or encouraged. The Minorities Act of 1993 as well as the specific minority language provisions in other acts cover also these languages and on paper guarantee the right of the users of these minority languages to use the language in public life, such as in relations with the administration and before the courts as well as in economic and social life. Since no organisational measures have been taken to enable the administration, the judiciary and public services to deal with the public in such languages, the guarantees are by and large inoperational in practice. The Government Office for National and Ethnic Minorities finances programmes of minority self-governments and associations that promote some of these minority languages and cultures. For the Polish and Ruthenian communities that are territorially rooted in distinct settlements, the Hungarian Government could develop certain active programmes in order to foster the use of their languages in public life. As far as the other minority languages are

concerned, the promotion of their public use will meet severe difficulties, due to the dispersion of these communities.

“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;”

25. The multi-level system of minority self-governments ensures that users of the same minority language inside Hungary have close links with each other since they form altogether an upper level of self-administration in the form of a national self-government. This national body serves as a spokesperson towards the national government and enables the local and regional levels of self-government to co-ordinate their activities. Links between the various groups using regional or minority languages also seem to be quite close, with an intense co-operation of minority associations and self-governments on local and regional level, and also on the national level.

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

26. The Committee has found that the legislative framework for the teaching of the regional or minority languages in Hungary is well developed and endeavours to solve the problems of minority education. Practical implementation of this legislative framework, however, still has to cope with serious difficulties. The comments on the Part III languages are set out in the next section of this chapter. As for the Part II languages, the Act on Public Education provides – as for the Part III languages - that on the initiative of at least eight parents an independent school class or study group has to be established. In so far as such a demand is apparent, the local self-government that is responsible for primary schooling is obliged to organise and maintain education in the minority language, in a form which meets the demands of the parents. For secondary and other higher education, comparable rules exist. The organisational details have to be fixed by the responsible authorities, which leaves room for considerable variations. Since the Hungarian Government has not given detailed information concerning minority language education in the languages not covered by Part III, it is difficult for the Committee to judge whether the Hungarian authorities have directed their policies and practice towards the objective of providing appropriate forms and means for the teaching and study of the relevant minority languages at all appropriate stages. At least for the two Part II languages having a territorial base, Polish and Ruthenian, educational policies should lead to an appropriate scheme of minority language education at public schools in the respective minority settlements. For both languages, education seems to be based purely on Sunday schools up to now. In addition, the importance of the availability of appropriate teaching materials, as a foundation of good teaching in and of the language, has to be stressed. This is particularly true for native language training in Romani and Beas. There exist practically no textbooks and manuals. If at all, higher education offers only some courses in “Roma studies”, but almost no language education in Romani, and none in Beas. To change this situation in the short or medium term will be extremely difficult, since there is hardly any professional training of teachers in Romani and Beas, which in turn makes it practically impossible to introduce education in these languages in the curriculum on an organised basis. The

first step to improve this situation of the languages would be to train teachers and produce teaching materials.

“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;”

27. The Committee found that no provisions exist that promote the teaching of minority languages to non-speakers of the language living inside the area where it is mostly used. The organisation of such classes is allowed on the initiative of private organisers. The scheme of minority language education at public schools is also in principle open for pupils from other linguistic groups. In the case of the German schools, there is a significant proportion of Hungarian-speaking children attending these schools. If resources are scarce, this might lead, however, to shortages in minority language education for children of the minority itself. In general, there seems to be no measure that specifically facilitates the learning of a regional or minority language by non-speakers in the area where they reside and the language is used. Such endeavour would be a positive step in furthering tolerance on the part of those that speak the official language and should be actively encouraged by the State.

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

28. Government funds exist to finance research on the various regional or minority languages. This is a good initiative on the part of the authorities and should be continued and enlarged in scope. In particular the study and research on the Romani and Beas languages should be intensified and the funds devoted to this purpose increased, bearing in mind the high numbers of speakers of these languages and the severity of the problems they experience.

“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.”

29. The Hungarian authorities have taken initiatives to encourage and promote different types of transnational exchanges for their regional or minority languages in the various fields covered by the Charter. The Committee considers that these initiatives are both a significant means of promoting regional or minority languages and an important element of European integration. They should therefore be continued for the benefit of the protection of the regional or minority languages that exist on the Hungarian territory.

“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.”

30. There is no indication that any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language has persisted in

Hungarian legislation. In order to fight the social practices of discrimination, Hungary included already in 1978, according to the general practice of anti-discrimination legislation, a penal provision in its Criminal Code covering all forms of racial discrimination. Since the international legal notion of 'racial discrimination' is rather wide, this covers also open forms of ethnic and linguistic discrimination. Other laws also contain provisions against discrimination on ethnic and linguistic grounds. With the office of the Minorities Ombudsman, Hungary has also created an institutional mechanism to combat practices of discrimination against ethnic and linguistic minorities. This does not mean that all practices of discrimination in social life have come to an end; the Gypsy population, in particular, still suffers considerably under phenomena of social and economic discrimination. The Hungarian state, however, is investing considerable efforts in combating such discrimination.

"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."

31. The National Basic Curriculum that fixes the basic goals of education contains a whole series of educational goals advocating understanding, tolerance and respect for other nations' values. The detailed requirements set up in the curriculum for the various educational fields, such as 'knowledge of the country and the nation', Hungarian language and literature, social and economic studies, include information about the minorities, their literature, music and cultural traditions as well as their organisation. Moreover, the legislative guidelines for the media contain comparative goals. In addition, the Minorities Ombudsman and the minority self-governments play a valuable role in furthering understanding of the complex situation of linguistic minorities and in educating the general public towards the aims of tolerance in relation to minority languages.

"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."

32. The whole system of minority self-governments created by Hungarian legislation during the last decade secures participation of the minorities in the formulation of minority-related policies. These self-governments have the possibility to take over responsibilities in education and culture from the local and central governments, and could thus decide on their own administrative policies. Moreover, also in the other fields that remain in the competence of the municipalities or the State, the legal framework guarantees a far-reaching participation of the representatives of the minorities in determining the policies with regard to the minorities. In addition, the administrative staff of the Government Office for National and Ethnic Minorities in Hungary is by and large drawn from the minorities themselves, which also secures involvement of the minorities in their affairs.

“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.”

33. Most of the minority languages that are not covered under Part III of the Charter are non-territorial languages within the meaning of Article 7.5 of the Charter (with the possible exception of Polish and Ruthenian). As far as the rather small and scattered linguistic groups – Bulgarians, Greeks, Armenians and Ukrainians – are concerned, the necessary adaptation of the measures envisaged under Part II to the needs and wishes of such groups allows only limited measures. By applying the system of minority self-governments also to these groups, Hungary has demonstrated its willingness to take into consideration their needs and wishes.

34. A serious problem obviously exists with the two Romani linguistic communities. The overall phenomenon of deeply rooted social discrimination against people of Roma background that had to be dealt with by the Advisory Committee for the Framework Convention is not an issue as such under Article 7.5 of the Charter. The aim of the Charter is to protect languages. The Roma/Gypsy community of Hungary is accordingly a subject to be analysed under the Charter in so far as its members speak a minority language within the definition of Article 1 (a) of the Charter. This is the case only with a smaller part, probably some 30%, of the people of Roma/Gypsy background, according to the information the Committee has received. Estimates are rather insecure, but investigations undertaken by social scientists allow the conclusion that at least some 20% of Roma/Gypsies are bilingual, with Romani as their native tongue, and an additional segment of nearly 10% speak Beas. If one follows the estimates that put the number of Roma/Gypsies at some 500.000, this would mean a significant group of some 150.000 Gypsy people speaking a minority language. Despite these rather high numbers of speakers, there have been practically no efforts to upgrade the standing of the two Roma/Gypsy languages in public life, and few educational programmes fostering the linguistic capabilities of minority children in the minority languages of their families. This is undoubtedly due to traditional conception of anti-discrimination policy as entailing assimilation and past efforts to free the Roma population from its marginal status, with its economic, social and cultural disadvantages. For a long time the approach to integration into Hungarian society consisted of the attempt to assimilate the Roma to Hungarian majority population. The strategy seems to have been only partly successful. Discrimination persists, but the majority of Roma people have lost their traditional culture and language, without becoming really integrated. As a consequence, demands for a fostering of the two Roma/Gypsy languages, in particular in education, have been gaining more and more support. Under Article 7.5 of the Charter, the Republic of Hungary should pay primary attention to the problem and should take measures to preserve the languages of the Roma/Gypsy population, without endangering the important goal of putting an end to the marginalisation and social discrimination that have traditionally plagued members of this community. The measures to be developed could include intensified efforts in Romani and Beas language planning and an attempt to draw up a viable model of bilingual education for children of Roma/Gypsy background. The aim should be at the same time to preserve the language and cultural identity of the community and to enhance the social integration of its members into Hungarian society.

The Committee encourages the Hungarian authorities to intensify their efforts in Romani and Beas languages planning and their attempts to develop a viable model of bilingual education for children with Romani and Beas as native tongue. This could constitute a decisive step in combining the endeavours to overcome traditional discrimination with the goals of the Charter, the maintenance and promotion of minority languages.

2.2 The evaluation in respect of Part III of the Charter

The Committee of Experts examined in more detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter. The languages in question are Croatian, German, Romanian, Serbian, Slovak and Slovene, with guarantees for the maintenance and use of these languages extending over the whole territory of the Republic of Hungary.

The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by the Republic of Hungary.

Article 8 – Education

“Paragraph 1

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

Pre-school education

- “a.i. to make available pre-school education in the relevant regional or minority languages; or***
- a.ii. to make available a substantial part of pre-school education in the relevant regional or minority languages; or***
- a.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***
- a.iv. if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above.”***

35. The obligation is fulfilled. Pre-school education exists in all the languages that are relevant to Part III. Pre-school groups are either organised by the municipalities, by the minority self-governments or by private associations. The educational authorities of the State have drawn up pre-school model programmes for all the minority languages relevant here and grant budgetary support to minority language pre-school education in the form of supplementary funds for pre-school establishments educating in minority languages. There exist two types of pre-school establishment teaching in minority languages – a native language pre-school that organises all pre-school life in the minority language, and dual language pre-schools that use Hungarian and the minority language side by side. The overwhelming majority of pre-school establishments use the bilingual model, due to the socio-linguistic situation of the linguistic groups. There exist, however, 40 monolingual pre-school groups in German and 15 in Croatian, 5 in Romanian and Serbian and 4 in Slovak. The number of bilingual pre-school groups ranges from nearly 1.000 (in German) with more than 13.000 children attending, to 5 groups (with 88 children) in Slovene. The state of minority language pre-school education by and large may be perceived as meeting the needs. However, problems in funding remain and the establishments are sometimes rather distant from the homes of the families

concerned. It is also not clear whether there exists a subjective right to receive pre-school education in a minority language if the family so requests and the number of pupils is considered sufficient.

Primary education

- b.i. to make available primary education in the relevant regional or minority languages; or*
- b.ii. to make available a substantial part of primary education in the relevant regional or minority languages; or*
- b.iii. to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- b. 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."**

36. The obligation is fulfilled. The Committee has received information showing that primary school education exists in all the languages concerned. The relevant legislation fixes a minimum number of eight children. If the families of eight children demand the creation of a class or study group in a minority language, the relevant authority (the local municipality) has to organise a group where the minority language is taught. Depending on the socio-linguistic situation and the resulting needs and wishes of parents, three different models are used that correspond to the three variants listed in Art.8 para.1 (b) of the Charter. The primary education is either provided purely in the minority language, or it is organised bilingually, with a substantial part taught in the minority language but another part in Hungarian, or Hungarian is used as the medium of instruction, with supplementary teaching of the minority language as an integral part of the curriculum.

37. The mix of the models used varies considerably from language to language. Primary school education in Serbian is mostly given in monolingual classes in Serbian only (18 groups with 144 pupils), with no bilingual classes and only 8 groups taught in Hungarian with supplementary teaching in Serbian. A comparable situation exists for Romanian. The opposite is true for primary education in Slovenian. There are no monolingual classes teaching only in Slovenian, only 7 bilingual classes with 40 pupils, but 14 classes (with 80 children) taught in Hungarian with supplementary education in Slovenian as a second language. The other three languages are characterised by a wide-ranging mix of monolingual classes in the minority language, bilingual classes and classes taught in Hungarian with supplementary language education in the minority language. In general, however, forms of bilingual education continue to be rather underdeveloped, although they would correspond best to the needs and wishes of the minorities, and most children from the minorities are taught in Hungarian, with only additional courses in the minority language as a foreign language. For Croatians there are nearly 200 classes with some 2.500 pupils, for Slovaks more than 300 classes with some 4.500 pupils, in German nearly 3.500 classes with some 45.000 pupils (of which some 2.500 classes with 37.640 children are classes in Hungarian with additional education in German). The number of children learning German is extremely high; but as noted already above, there is a tendency of families of purely Hungarian background to send their children to classes with teaching of German, and German is mostly taught only as a foreign language. According to the information received, this is largely in accordance with the socio-linguistic situation of the minority, since most of the children of German origin do not speak German as their mother tongue.

38. The State covers (at least partly) the extra expenses incurred by municipalities that organise primary education in minority languages. This makes it easier for municipalities to respect the needs and wishes of minority language

speakers. Some complaints have been raised, however, that municipalities misuse funds granted for minority education for other educational purposes. The easiest way of preventing such misuse would be to transfer minority language education to the minority self-governments. Although this was one of the basic ideas underlying the whole system of minority self-governments, there are only a few cases where this has happened so far. The basic obstacles for the minority self-governments are usually of a financial nature, since the minority self-governments can only take over the burden of education if the State and the municipality transfer, together with the responsibilities, also the resources needed for maintaining schooling institutions.

Secondary education

- "c.i. to make available secondary education in the relevant regional or minority languages; or*
- c.ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or*
- c.iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- c. 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."***

39. The Committee has received data showing that secondary school education exists in all six languages covered under Part III. For Romanian, Serbian and Slovenian, there exists one grammar school teaching in each language; for Croatian and Slovak, there are two grammar schools for each language, and for German eleven such schools exist. The Hungarian report states, however, that secondary education is the least satisfactory field concerning minority language education. Although the general statutory requirement is valid also for secondary education, i.e. the demand of eight families obliges educational authorities to create a class or study group in a minority language, it is difficult from an organisational point of view to fulfil this statutory requirement. Owing to lack of teachers and finance, the demands of parents frequently remain unfulfilled. At the same time, it is obvious, bearing in mind the geographical dispersion of the minorities, that one grammar school only for a minority like the Romanians, Serbs or Slovenes does not really meet the demands. The report does not give information on the geographical locations of these secondary school institutions, but it is evident that Hungary should offer more decentralised opportunities for secondary education in minority languages, even if it were only supplementary courses in the minority language as an additional language course. Representatives of some of the minority languages expressed a preference for a scheme of bilingual education. This mode of teaching the minority language remains, however, rather undeveloped up to now. The Committee concludes that the obligation is only partly fulfilled, with the need to offer more viable opportunities for secondary education in minority languages.

Vocational training

- "d.i. to make available technical and vocational education in the relevant regional or minority languages; or*
- d.ii. to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or*
- d.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*

- d. 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.”**

40. The obligation seems only partly fulfilled. The Hungarian report itself states that minority language vocational training is still in an experimental stage, with the first programmes launched in the 1990's. Such an experimental form of vocational training in a minority language exists at several places in German and in at least one place also in Slovak. For Croatian, Serbian, Romanian and Slovenian, no indication is given that comparable vocational training opportunities in the minority language exist, or at least vocational training institutions where the relevant minority language is taught as a second language (as an integral part of the curriculum).

Higher education

- e.i. to make available university and other higher education in regional or minority languages; or*
- e.ii. to provide facilities for the study of these languages as university and higher education subjects; or*
- e.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.”***

41. One may doubt whether the obligation for which Hungary opted in its instrument of ratification really conforms to the legal situation of the Hungarian university and higher education system. Option (iii) covers the cases where the State does not organise higher education itself but regulates a privately owned and administered university system. Hungary, however, has a traditional system of state-run universities and higher education establishments, which is characteristic for continental Europe. Option (ii) would seem to be better suited to such a situation. In substance, however, this does not really affect the obligations undertaken by Hungary. In Hungarian universities, most of the languages covered under Part III may be studied as languages and/or as subjects of linguistic studies. The same is true, concerning other forms of higher education, for the various teacher-training colleges. For students from the minority desiring to study a subject in their native tongue, Hungary provides, via its extensive network of bilateral treaties with its neighbouring states, extensive opportunities to undergo an all-round mother-country education in any subject. Together with a system of scholarships and facilitated procedures of recognition of the foreign qualifications obtained, this may be judged as fulfilling the requirements of Article 8.1(e) of the Charter.

Adult and continuing education

- "f.i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or*
- f.ii. to offer such languages as subjects of adult and continuing education; or*
- 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."***

42. There seems to be some difficulties in the field of adult and continuing education. As the Hungarian report states, the entire system of adult education is in a process of reorganisation. Until now, there is no comprehensive scheme of adult and continuing education offered in minority languages. The minority self-governments, however, with the financial help of the State, have developed various programmes of adult education in their respective languages. This by and large would fulfil the obligation undertaken under paragraph (f) (iii). The Committee, for the time being, does not consider the undertaking to be fulfilled and will examine this question with interest in its next report.

Teaching of the history and culture of the minority language

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

43. The information received by the Committee indicates that the obligation is fulfilled.

Basic and further training of teachers

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

44. There seems to be some difficulties concerning the provision of adequate teacher training. The Committee has received information about teacher training colleges educating in the various minority languages covered under Part III, although it seems that in the meantime some of these institutions have been closed or have at least abandoned their minority language courses. In general, Hungary fulfils the obligation, since it offers teacher training in all the languages concerned. The various discussions during the on-the-spot visit indicated, however, that the number of teachers trained, as well as the quality of professional education in the minority languages, are not really sufficient to implement seriously the obligations undertaken by Hungary under Article 8. Hungary should therefore intensify its efforts in teacher training, by developing a comprehensive scheme of teacher training colleges that educate in the minority languages, as well as by upgrading the quality of such training.

The Committee encourages the Hungarian authorities to intensify their efforts in teacher training oriented towards minority language education. There should be a stable structure of teacher training colleges preparing for minority language education with sufficient capacities to meet the demands. The quality of such teacher training should also be raised.

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:

Criminal proceedings

“a. ii. to guarantee the accused the right to use his/her regional or minority language.”

45. There seems to exist practical problems concerning this obligation. The initial periodical report states that this right is guaranteed by Section 8 paragraphs 1 and 2 of Act I of 1973 on Criminal Procedure. Paragraph 2 of Section 8 provides that everyone is entitled to use his/her native language, in both oral and written form. Paragraph 1, in addition, provides that “nobody may suffer any disadvantage because of the lack of command of the Hungarian language”. Formally, this legislation might be seen to comply with the requirements of Article 1.1 (a) (ii) of the Charter. However, the unclear formula contained in Section 8 paragraph 1 of Act I of 1973 – “lack of command of the Hungarian language” – risks being interpreted in such a way that judges qualify the usual member of a linguistic minority in Hungary as not falling under this protective clause. The initial periodical report refers to some judgments of lower courts interpreting the provision in another manner, deducing from it an unconditional right of minority members to use their language. Judicial practice, however, seems to be disparate in that regard. Since speakers of minority languages in Hungary all live in a situation of “diglossia”, having a good command of the national language, judicial practice will inevitably have a tendency to restrict the formula to foreigners without any serious command of Hungarian. Section 218 paragraph 1 converges with such an interpretation, by providing that the State only bears the costs of interpretation if they are “costs arising from the inability of the accused to understand Hungarian”. That tendency in interpretation, however, deprives the speakers of minority languages of the protection formally granted under Section 8 of Act I of 1973. In order to clarify that there is an unconditional obligation upon judicial authorities in criminal proceedings to allow the accused the use of his/her native tongue, the Hungarian legislator should change the wording of Section 8 so as to remove any uncertainty.

46. There exists a second difficulty which is decisive for the entire field of the use of minority languages before judicial authorities. Using the minority language before a court would usually require an interpreter. Since the assistance of interpreters is costly and makes the procedure cumbersome, accused persons that are users of a minority language but can also speak Hungarian, are afraid to be perceived as “trouble-makers” if they use their right to speak in the minority language before the court. The right guaranteed in Article 9.1 (a), (ii) of the Charter thus becomes only operational if the courts take certain measures in advance to ensure that proceedings in which the minority language is used are practically possible. To take such measures in advance, however, is only possible in a geographical area where there is a certain concentration of speakers of a given minority language, with the resulting probability that a certain number of cases will occur where the mechanism is used. To take such organisational measures on the whole national territory for all six languages is practically impossible. The Hungarian authorities should accordingly

examine the question whether it would not be sensible to construct a specific legislative device for the use of minority languages before the courts, a normative mechanism that would be limited in geographical scope to the main areas of settlement of the linguistic minorities. This would formally restrict the scope of minority rights, but would enable the State to create an operational system that ensures the use of minority languages before courts.

The Committee encourages the Hungarian authorities to modify Section 8 of the Act on Criminal Procedure so as to remove any uncertainty as to the possibility to use a minority language before the courts.

“a. 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;”

47. The report states that these rights are guaranteed by Sections 8 and 80 of Act I of 1973 on Criminal Procedure. Concerning Article 9 paragraph 1, (a), (iii) of the Charter, the Committee concludes that the obligation is fulfilled.

“a.iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language.”

48. The report states that these rights are guaranteed by Sections 8 and 80 of Act I of 1973 on Criminal Procedure. Concerning Article 9 paragraph 1 (a) (iv) of the Charter, the Hungarian report substantiates only that there exists a right to have the charge sheet translated if the accused has not sufficient command of the Hungarian language to understand a document drafted in Hungarian. There are no indications that other documents might be produced in minority languages. Even the limited right referred to does not cover the ordinary case of a criminal proceeding against a user of a minority language who also understands the Hungarian language. The initial periodical report indicates, however, that a reform of the Code on Criminal Procedure has just been adopted and that, according to Section 9 para.3 of the new Criminal Procedure Act XIX of 1998, court proceedings may in future even be conducted entirely in the minority language. It may be hoped that the existing shortcomings will thus be overcome in future. Nevertheless, the Committee must conclude that the obligation is only partly fulfilled.

Civil proceedings

“b.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.”

49. The same practical problems seem to exist as were mentioned already under Article 9.1 (a) (ii) of the Charter. The Hungarian initial periodical report states that the right is guaranteed by Section 8 paragraphs 1 and 2 of Act III of 1952 on Civil Procedure. The formula used in this provision is the same as the formula used in Section 8 of the Criminal Procedure Act. The right to use one's native language in judicial proceedings is guaranteed, but the protective clause that nobody should suffer disadvantage due to the use of another language than Hungarian is restricted to the cases of “lack of command of the Hungarian language”. The remarks made above in paragraphs 45 and 46 are thus also valid here. The Hungarian initial periodical report indicates, however, that with Act CX of 1999 amending Section 8 of

the Civil Procedure Act the formula has been clarified, confirming *expressis verbis* that speakers of a minority language have the right to use their language in judicial proceedings. The Committee concludes that the obligation is formally fulfilled.

“b.iii. to allow documents and evidence to be produced in the regional or minority language.”

50. The Hungarian report does not substantiate with any legislative reference its statement that there is an opportunity to submit documents in minority languages before civil courts. In judicial practice, however, there do not seem to be any difficulties with this obligation. The Committee concludes that the obligation is fulfilled.

Proceedings before courts concerning administrative matters

“c. 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.”

51. The Committee received no information about regional or minority languages in connection with proceedings before courts concerning administrative matters. Since such proceedings are exclusively in writing, there seems to be no party or litigant appearing in person before the court. If this is the case, the obligation does not seem to be capable of fulfilment.

“c. iii. in proceedings before courts concerning administrative matters: to allow documents and evidence to be produced in the regional or minority languages.”

52. The Committee has been informed that as far as public, legally issued documents in a minority language are concerned, no provision of any law excludes their validity. The Committee has received no information regarding the rules of procedure concerning administrative matters and is therefore not in a position to evaluate whether the obligation is fulfilled.

“Paragraph 2

The Parties undertake:

- “a. not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or***
- b. not to deny the validity, as between the parties, of legal documents drawn up within the State 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 State solely because they are drafted in a regional or minority language.”***

53. Hungary has chosen all options under Article 9 paragraph 2. These three options of article 9.2 are however alternatives and Hungary should therefore have opted for only one of them. The initial periodical report also indicates that the Hungarian authorities only related this undertaking to the use of minority languages before judicial authorities. Article 9 paragraph 2 of the Charter is concerned, however, with the validity of legal documents drawn up in minority languages in general. The report and other documents submitted by Hungary do not indicate any legal provision that guarantees the legal validity of legal documents drawn up in a

minority language. From the general information received by the Committee it seems that as far as public, legally issued documents in a minority language are concerned, no provision of law excludes their validity. The information is insufficient for the Committee to reach a conclusion on fulfilment of this undertaking.

Article 10 – Administrative and public services

State administration

“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.”

54. Section 51 para.1 of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities provides that “everyone may use freely, at any time and anywhere, his/her native language. The State is obliged to ensure, in cases stipulated in a separate act, the conditions for the use of the languages of the minorities.” Such a separate act on the use of minority languages in relation to state authorities has not been enacted so far. The only provision existing is sub-paragraph 10 of Article 10 of Act IV of 1957 on State Administrative Procedure, stating that everyone may use his/her native language and that no one should suffer disadvantage as a result of “lack of command in Hungarian language”. The formula is practically the same as the one used in the Code on Criminal Procedure and on Civil Procedure, implying the same practical problems as for these provisions. Since practically all the speakers of minority languages have sufficient command of Hungarian, the provision does not really guarantee that the persons concerned may use their respective minority languages before state authorities. The information received by the Committee indicates that there is a strong reservation on the part of state authorities towards documents drawn up in minority languages, since the public authorities (beyond the level of local communities) are not organisationally equipped, in particular not staffed with the adequate personnel, to process such documents. Because the users of minority languages know that their counterparts in administration are not prepared to deal with documents in minority languages, they understandably hesitate to make use of the right. If Hungary wants to make such a right operational, it should make the necessary preparations in administrative organisation. It should staff the administrative authorities with personnel having command of the relevant minority language in geographical areas where such languages are used. Taking these measures in advance will only be possible on a geographically limited scale, but Article 10.1.a.v of the Charter requires practical measures only in administrative districts where the number of speakers of minority languages justifies such an effort.

The Committee recommends to the Hungarian authorities to clarify, in the Act on State Administrative Procedure the possibility to submit documents to State authorities in minority languages.

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

55. Hungary has not substantiated its claim that this obligation is fulfilled. Even the replies to the questions addressed by the Committee to Hungary contain only a reference to certain normative and regulatory texts that are routinely published in the minority languages. The investigations undertaken by the Committee, however, seem to confirm the general statement given by the government in its replies that the administrative authorities are allowed, according to the Hungarian legal system, to draft documents in a minority language as far as there is a need. Since the right to use a minority language in relation to the state administration is only rarely used, there seems to exist virtually no practice concerning this theoretical possibility. Accordingly, the obligation might be formally fulfilled, but owing to practical obstacles no use is made of the possibilities.

Local and regional authorities

“Paragraph 2

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

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

56. For both local and regional authorities, the same provisions find application as those mentioned above concerning state administration. There exists a right to use the minority language before local and regional authorities. In areas where the users of a certain minority language live in significant numbers, there exists a common practice to submit applications in the minority language. As the replies to the questions formulated by the Committee indicate, applications are submitted orally on a regular basis– and handled either in Hungarian or sometimes also in the minority language. Written applications in minority languages are less frequent, but occur as well and usually create no problem. Regional authorities – the county governments and assemblies as well as the councils of regional development – are allowed by the same rule on administrative procedure to use the minority languages. Since these authorities do not have direct contact with the public, the obligation is largely inoperative. However, the obligation is fulfilled in relation to local authorities.

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

57. The obligation seems to be fulfilled. The working language of regional assemblies is Hungarian, but the right of representatives who are minority language speakers to use their minority language seems to exist. As the Committee learned during its “on-the-spot visit”, such use is practically non-existent in reality, but at least the legal possibility exists, and this is sufficient under Article 10 paragraph 2, (e) of the Charter.

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

58. The obligation is fulfilled. Section 52 paragraph 2 of the 1993 Act on the Rights of National and Ethnic Minorities grants expressly the right to minority

representatives in the local self-government representative bodies to use their minority 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.”

59. The obligation is fulfilled. Section 53 lit. (c) of the 1993 Act on the Rights of National and Ethnic Minorities provides expressly that, if the local minority self-government so demands, the local authorities have to indicate place and street names, public offices and the names of bodies carrying out public services also in the minority language. There is a common practice in Hungary of bilingual (or multilingual) public signs.

Public services

“Paragraph 3:

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

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

60. Concerning public services maintained by local authorities, there seems to exist a widespread practice – at least in the territories where the users of a specific minority language live in significant numbers - to allow them to use their language in submitting requests. No normative source was given by the Hungarian authorities which would substantiate that there is a legal obligation for such public services to deal with requests in the minority language. Concerning public services maintained by the State or other bodies, such as certain hospitals not run by local authorities, postal services, telecommunications or gas, water and electricity supplies, the lack of any legislative obligation that formally allows the use of minority languages seems to lead to the practical impossibility of any use of minority languages in relation to such service providers. The obligation seems to be fulfilled in practice concerning public services provided by local authorities, but not for public services provided by the State or other bodies.

Implementation measures

“Paragraph 4:

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

- a. translation or interpretation as may be required;**
- b. recruitment and, where necessary, training of the officials and other public service employees required;**
- c. compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed to the territory in which that language is use.”**

61. From the whole range of information received by the Committee it is obvious that the translation or interpretation referred to in subparagraph (a) is the main mode of implementation used in Hungary for the obligations under Article 10 paragraphs 1, 2 and 3. But Section 54 of the 1993 Act on the Rights of National and Ethnic

Minorities aims to ensure also that at least the municipal administrations have adequate staff to deal with applications in minority languages, by requiring that they hire employees with knowledge of the relevant minority language. Concerning state administration and public service providers, there is no indication that a comparable statutory provision exists. This evidently leads to problems in the implementation of Article 10 with these institutions. The Hungarian authorities should thus take more care to ensure that the relevant authorities of state administration dealing directly with minority language speakers as well as the local branches of public service providers acting in minority areas are staffed with sufficient employees having knowledge of the respective minority languages. The Committee concludes that the obligation is only partly fulfilled, with the need to enforce measures of implementation in state administration and nation-wide public services.

Family names

“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.”

62. The obligation is formally fulfilled, but there seem to exist some problems in the practical implementation of the obligation. In general, Hungary has a rather rigid system of an official closed list of names, fixed in a ‘Hungarian Book of Given Names’. Section 27, paragraph 4 of Law-Decree 17 of 1982 on Registration, Marriage Procedures and Name Bearing, however, allows members of linguistic minorities to use surnames and family names in the form appropriate to their nationality. Since officials of the registers traditionally tend to be quite rigid, members of linguistic minorities sometimes have difficulties in enforcing their statutory right.

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. iii. to the extent that radio and television carry out a public service mission: to make adequate provision so that broadcasters offer programmes in the regional or minority languages.”

63. Section 26 paragraph 1 in combination with Section 25 lit. c of Act I of 1996 on Radio and Television Broadcasting legally guarantees that the users of the minority languages are served by public radio and television in their minority language. It provides that public service broadcasters are obliged to assist in looking after the minority culture and languages in Hungary and to provide regular information in the respective language. Weekly and/or biweekly programmes are broadcast on public television in all the six languages covered under Part III. In addition, there are regular weekly radio programmes in all the six languages, amounting to around 800 minutes per week for Slovak, Croatian, German and Romanian, some 400 minutes a week for Serbian and some 60 minutes for Slovenian. The programmes are largely determined by the users of the languages themselves, who also have a decisive say in the composition of the editorial boards. The editorial groups are sometimes rather small and underequipped, but in general the system seems to work rather well. The time slots allotted to the various programmes have given rise to complaints from the representatives of the minority languages, but a recently concluded agreement between the public TV network and

the minority self-governments tries to solve these problems in a co-operative manner. The Committee thus concludes that the obligation is formally fulfilled but needs further efforts to come to functional arrangements in questions of detail.

“b.ii. to encourage and/or facilitate the broadcasting of radio programmes in the regional or minority languages on a regular basis.”

64. There seems to be difficulties with this obligation. The Hungarian State subsidises radio programmes broadcast in minority languages through the Public Foundation for Minorities. Minority self-governments easily receive licences for radio programmes. The other applications for radio licences submitted by associations or applicants planning a specific minority language programme have to compete on an equal footing with other applications. Most of these minority language applications have been rejected on account of problems linked to the format and content of the applications. Bodies representing minority languages have difficulties in meeting the same technical standards as commercial networks. A bonus system for such applications would be in the spirit of Article 11.1.b.ii of the Charter. In some of the commercial applications for radio licences, promises concerning the broadcasting of radio programmes in minority languages are made; but later these promises are only superficially monitored and sanctions are practically never imposed if the promises are not fulfilled. Nevertheless, there are some community and commercial radio stations transmitting programmes in minority languages. The Committee thus concludes that the obligation is only partly fulfilled.

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

65. A similar problem exists with the encouragement and facilitation of the broadcasting of television programmes in minority languages outside the public service network. For common minority language organisations, it is nearly impossible to gain a broadcasting licence; only some local and regional broadcasters, mainly community networks, transmit limited programmes in a minority language. In applying for a licence, commercial broadcasters sometimes make promises concerning the transmission of minority language programmes, but these promises are practically not monitored and enforced. As a means of last resort, however, the 1996 Act on Radio and Television Broadcasting provides in Section 95 paragraph 5 that a public utility company owned by a minority self-government has a right to be licensed for at least four and at most eight hours per week broadcasting time, if in the relevant region there is no other opportunity to fulfil the demands for minority language broadcasting. Another pressing difficulty seems to lie in the lack of retransmission of programmes in minority languages broadcast from neighbouring States. In Budapest, for example, such programmes of neighbouring States are not included in the limited range of programmes transmitted through cable networks. Only German programmes are distributed, but they are of commercial interest. The obligation is in principle fulfilled.

The Committee invites the Hungarian authorities to investigate the possibility to include a (restricted) “must carry” provision in its cable television licence schemes in order to ensure the retransmission of minority language programmes also beyond the border regions.

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

66. For decades, weekly or biweekly newspapers in minority languages have been published in Hungary. Since these papers are not commercially viable in market terms, the Hungarian State subsidises these minority language newspapers with considerable amounts of money. The Committee considers the undertaking fulfilled.

“f. i. to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media.”

67. The obligation is fulfilled. As has been mentioned above, the Hungarian State grants budgetary support to the production of radio programmes and the maintenance of newspapers in minority languages. Furthermore, the production of television programmes in minority languages is funded by the Public TV Fund. Whether the amount of money allocated to the different purposes of minority language media is really sufficient to cover the additional costs of such media is not clear; but it is difficult anyway to quantify such additional costs, and it is beyond doubt that the Hungarian State makes serious efforts to secure the financial basis of the minority language media.

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

68. There is no specific scheme for the professional training of minority language journalists. The Hungarian State grants scholarships to minority language students, both for studies at Hungarian universities and training institutions and for stays abroad to undergo training in the mother country of the respective language. In some cases there exist also bilateral arrangements with such countries devoted to the professional training of journalists. The general lack of a specific scheme for the training of minority language journalists leads, however, to a lack of qualified journalists working in minority languages. The Committee must observe that there are serious deficiencies in the professional training of those journalists who currently work in this field. The obligation of Article 11.1.g of the Charter aims at such a specific scheme and Hungary should undertake an effort to draw one up. The Committee concludes that the obligation is partly fulfilled.

The Committee encourages the Hungarian authorities to establish a scheme for training of minority language journalists.

“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.”

69. The obligation is fulfilled. According to the Broadcasting Act of 1996, the minorities are entitled to delegate one representative to the Hungarian Public Television Foundation Board of Trustees, as well as to the Board of Trustees of the Hungarian Public Radio Foundation. Both boards may be qualified as bodies with a responsibility for guaranteeing the freedom and pluralism of the media. The main body entrusted with such a task, however, the six-member national Radio and Television Commission, works on purely political representation. In this case, at least the Broadcasting Act undertakes to ensure that the interests of the minorities are

taken into account within the decision-making of the body, by providing minimum requirements that have to be respected in order to meet the fundamental demands of the minorities.

Article 12 Cultural activities and facilities

“Paragraph 1

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

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

70. The obligation is fulfilled. The Committee has been informed that a whole range of different types of expression and initiatives specific to minority languages are encouraged through a series of support schemes, financed through the Ministry of Culture and the Office for National Minorities, but also through the general budgetary support of the minority self-governments. Access to artistic works in minority languages is fostered through financial support to festivals and art exhibitions. Certain minority self-governments maintain their own cultural centres and museums, but in general the State operates museums and theatres for the minority languages too. The intended transfer of these institutions to the minority self-governments has proved to be more difficult than imagined originally. Hungary has also established a system where many minority self-governments organise and maintain minority language library services. In general the conclusion seems justified that the innovative system of minority self-governments ensures that the commitments under Article 12 paragraph 1, (a) of the Charter are implemented on a high level. The only limiting factor is obviously the constant shortage of funds given to the minority self-governments, a shortage that mirrors the general budgetary problems of a country in transition like Hungary. The budgetary shortages have created obstacles to the envisaged transfer of state-funded cultural institutions to the minority self-governments. Without being given the necessary resources, the minority self-governments have difficulties in taking over responsibility for such costly institutions. The Hungarian authorities should intensify their efforts to solve these budgetary problems, in order to develop fully the potential inherent in the system of minority self-government.

- “b. to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities.”***

71. The obligation seems to be fulfilled. The Public Foundation for Minorities constantly provides funds for the translation of works produced in minority languages into Hungarian. On a smaller scale, this seems to be true also for activities of dubbing, synchronisation and subtitling of films produced in the minority languages.

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

72. The obligation seems to be fulfilled. The Hungarian State under various schemes subsidises translation of important pieces of Hungarian literature into foreign languages – and the six minority languages covered under Part III are the languages of the most important neighbouring countries of Hungary. Subsidies are also given for the dubbing, synchronisation and subtitling of Hungarian films.

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

73. The undertaking is fulfilled. Cultural facilities are to a large degree provided and cultural activities planned by the minority self-governments themselves. The whole system of minority self-governments is a perfect embodiment of the content and spirit of Article 12.1.f of the Charter. On the Board of the Public Foundation for Minorities, the users of minority languages are represented. In general, the Hungarian system is characterised by a high degree of participation of the users of minority languages in the decision-making on issues relating to minority languages.

“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.”

74. All publications, including those in minority languages, are kept in Hungarian Archives, and every publisher must in accordance with the law provide copies of publications to the National Library. For some of the minority languages there also exist central libraries maintained by the minority self-governments. The Committee has received no information on audiovisual materials. The Committee concludes that this obligation is fulfilled for written materials.

“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.”

75. The obligation seems fulfilled, since the rather decentralised system allows the minority self-governments to develop their cultural activities wherever they consider it necessary. The Minorities Act applies on the whole national territory, and it is obvious that an important part of the cultural life of the minorities is now concentrated in Budapest, which for most minority languages is not a territory in which the language was traditionally used. Also the state institutions seem to avoid any distinction concerning territories of traditional use and territories of internal migration in its decision on allocation of funds for cultural activities.

“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.”

The undertaking is fulfilled.

Article 13 – Economic and social life

“Paragraph 1

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

- a. ***to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations.”***

76. The initial periodical report states that there are no legal prohibitions that would exclude or reduce the use of minority languages. The Committee concludes that this obligation is fulfilled.

Article 14 – Transfrontier exchanges

“The Parties undertake :

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

77. The undertaking is fulfilled. Hungary has concluded bilateral treaties on amicable co-operation and partnership with five of the six countries where one of the Part III languages is the official language of the State (Croatia, Germany, Romania, Slovakia and Slovenia). These treaties are supplemented by cultural agreements, usually concluded for three years, which lay down the framework arrangements for cultural exchange and educational programmes. Under the bilateral agreements, joint commissions, with cultural sub-commissions, have been created which fix the details of cultural exchange and educational programmes. The agreements have been used to found cultural institutes, arrange exchange programmes of artists, art exhibitions, theatres, and programmes of scientific and educational collaboration. Also the recognition of academic qualifications has been considerably facilitated under the bilateral treaties. Through this practice, Hungary has done much to foster contacts between the minority language communities in Hungary and the countries in which the respective languages are the official language of the State. The only exception in the network of bilateral treaties up to now is the Federal Republic of Yugoslavia. The political obstacles which hindered the conclusion of an agreement of the kind referred to in Article 14.a of the Charter are obvious. It is to be hoped, however, that under the new political conditions Hungary will manage to conclude a bilateral treaty on partnership with Yugoslavia too.

- 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.”***

79. The Committee has been informed that cross-border co-operation between local authorities is free and is carried out in accordance with the European Outline Convention on Transfrontier Co-operation signed by the Republic of Hungary. The bilateral treaties mentioned above all make reference to unhindered relations between local and regional self-governments, encouraging them to expand and strengthen their relations. The Committee concludes that this obligation is fulfilled.

Chapter 3 Findings

The Committee of Experts hereby presents its general findings on the application of the Charter in Hungary.

A. Hungarian legislation on the protection of minorities has gone through an exploratory phase during the last ten years. Hungary has experimented with innovative concepts of minority protection, in order to ameliorate the legislative, administrative and organisational framework in which the minorities have to live and to develop their cultural identity. This development has had an important impact on the status of minority languages and has created a basis for protecting and promoting these languages.

B. The most original feature of Hungarian minority legislation is the system of minority self-governments, which gives the minorities a decisive say in decision-making on the regulatory and administrative details of language policy. This innovative scheme of functional autonomy through the institutional network of minority self-governments has the potential of serving as a model and a frame of reference for the future development of minority legislation in Europe. Hungary deserves high credit for the development of this model.

C. The establishment of the model of minority self-governments does not mean, however, that all difficulties in the protection and promotion of minority languages are solved automatically. The model has not yet been implemented completely, as can be seen in the slow pace of transfers of competences to the newly created minority self-governments, a problem linked to delicate issues of allocation of resources. There are fields of minority protection where the Hungarian record is excellent, like the fostering of minority culture and the media. There are other fields where inherited structural problems create difficulties for the practice of minority protection, such as education and the use of minority languages before judicial and administrative authorities. The record in implementing the Charter is thus mixed, although one cannot doubt the good will of the Hungarian legislation and administration.

D. One of the main difficulties arising under Part II of the Charter is the situation of Roma/Gypsies. The large majority of Roma/Gypsies speak only Hungarian. The Charter, however, deals with minority languages. Accordingly, only the Romani and Beas languages have to be dealt with under the Charter. Although the number of users of these languages is still relatively high, there have been few efforts to develop a systematic language policy in favour of these two languages. Admittedly, it is not always easy to reconcile classical goals of anti-discrimination policy and modern approaches directed towards the preservation of linguistic identity. Under Part II of the Charter, however, there is a clear necessity to foster the maintenance and further development of these two languages. Hungary thus should take more resolute action to maintain and develop them as a part of Europe's cultural wealth and tradition. In the case of Romani and Beas, such resolute action would require some initial fundamental measures, directed towards the scientific recording and systematic development of these languages. A second basic measure needed urgently would be the creation of adequate capabilities of teacher training in the two languages and in the cultures connected with them. At a later stage, after having created the necessary preconditions, a comprehensive endeavour would become possible directed towards the creation of bilingual education for the Roma/Gypsy children.

E. As concerns Part III languages, the state of education looks much better than for Romani and Beas. There exists a comprehensive legislative framework, guaranteeing in principle that in all places where at least eight parents so demand, the school authorities have to form a separate class or study group teaching in the minority language or offering at the minimum supplementary courses in this language. In practice, there is a series of technical difficulties, sometimes due to the lack of necessary resources, sometimes due to the shortage of trained teachers, sometimes due to organisational problems – but this is the case for many educational systems. The situation in pre-school and primary education conforms to the undertakings under Article 8 of the Charter. It is striking, however, how underdeveloped forms of bilingual school education actually are. Most minority language education is given in supplementary classes in the framework of Hungarian-based education. This is even more striking in secondary and vocational education, where the socio-linguistic limitations – most children at the beginning do not speak their “minority” language well enough to receive education in it as a medium of instruction – could be more easily overcome than in primary education. In these two fields, there are general deficiencies in the implementation of Article 8.1(c) and (d), although one must bear in mind that Hungary is in a process of transformation of the educational sector. The Hungarian authorities are making serious efforts to overcome these difficulties. The most pressing problem seems to be teacher training, since the further development of minority language education depends on the availability of sufficient numbers of teachers trained in the minority languages. Hungary has to take resolute action in order to overcome the shortages in minority language teacher training.

F. Concerning the use of minority languages in the judicial system and the administration, the findings are rather mixed. As far as the legislative framework is concerned, Hungary seems largely to conform to its undertakings, with the exception of the Law on State Administration. The real problem lies more in the administrative organisation and the social climate of relations between minority-language speakers and state authorities. Since practically all speakers of minority languages are bilingual, with a good command of the Hungarian language, they are inclined to use Hungarian in their contacts with authorities as long as the administration does not make clear that it is prepared to handle routinely applications and forms of direct contact in the minority language. In order to “ensure” that users of minority languages may communicate with the administration in their minority language, the courts and the administration would have to take organisational measures in advance, such as keeping a functional interpretation and translation service or recruiting even administrative personnel with a knowledge of the minority languages. Such measures are however only possible in limited areas where the number of speakers of a minority language justifies the expenditure. If Hungary were to attempt to guarantee the public use of these languages efficiently, it would have to limit its efforts to certain geographical strongholds of the various minority languages. The situation in local administration demonstrates that creating such administrative structures is possible; in the historical settlement areas of the linguistic minorities, local authorities routinely deal with documents and oral communications in minority languages. The state administration, on the other hand, has not hitherto been prepared to do the same.

G. Concerning the media and the field of cultural activities, the picture is encouraging. The status and use of minority languages in the electronic media is rather well developed, although even here some difficulties occur, such as the problems of minority language associations and entrepreneurs in getting a radio licence. Concerning the printed media, Hungary has a long-established – and exemplary – scheme of subsidising minority language newspapers. The most severe deficiency in the media field lies in the lack of trained professional journalists in the

minority languages. Unfortunately, here Hungary has done little so far to implement the undertaking of Article 11.1.g of the Charter. Concerning the cultural activities and facilities covered under Article 12, there are only a few shortcomings. The Republic of Hungary has a well functioning scheme of financing cultural activities in this field, channelling the funds partly through the minority self-governments. The Hungarian system is in full conformity with its undertakings under Article 12 of the Charter. If there are any elements that could be improved in the future, it would be the comprehensive development of the potential of the system of minority self-governments. To use the self-governments, as the main institutions in providing facilities and planning cultural activities would secure the minorities an active role in the future development of minority languages and the cultures they reflect.

The Hungarian 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 Hungary. At the same time it emphasised the need for the Hungarian authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 766th meeting on 4 October 2001, the Committee of Ministers adopted its Recommendation addressed to Hungary, which is set out in Part B of this document.

APPENDIX I

INSTRUMENT OF RATIFICATION



Hungary :

Declarations contained in the instrument of ratification, deposited on 26 April 1995 - Or. Engl. and completed by a Note verbale (1) from the Ministry of Foreign Affairs of Hungary, dated 12 March 1999, registered at the Secretariat General on 16 March 1999 - Or. Fr.

Hungary declares, according to Article 2, paragraph 2, and Article 3, that it applies to the Croatian, German, Romanian, Serbian, Slovak and Slovene languages, the following provisions of Part III of the Charter:

In Article 8 :

Paragraph 1, sub-paragraphs a (iv), b (iv), c (iv), d (iv), e (iii), f (iii), g, h, i
Paragraph 2

In Article 9 :

Paragraph 1, sub-paragraphs a (ii), a (iii), a (iv), b (ii), b (iii), c (ii), c (iii)
Paragraph 2, sub-paragraphs a, b, c

In Article 10 :

Paragraph 1, sub-paragraphs a (v), c
Paragraph 2, sub-paragraphs b, e, f, g
Paragraph 3, sub-paragraph c
Paragraph 4, sub-paragraphs a, c
Paragraph 5

In Article 11 :

Paragraph 1, sub-paragraphs a (iii), b (ii), c (ii), e (i), f (i), g
Paragraph 3

In Article 12 :

Paragraph 1, sub-paragraphs a, b, c, f, g
Paragraph 2
Paragraph 3

In Article 13 :

Paragraph 1, sub-paragraph a

In Article 14 :

Paragraph a
Paragraph b.

[(1) Note from the Secretariat:

The Note verbale read as follows:

" The Ministry of Foreign Affairs of the Republic of Hungary presents its compliments to the Secretariat General of the Council of Europe and has the honor to draw its attention to a technical error contained in the instrument of ratification deposited by the Republic of Hungary, namely that the languages enumerated in respect of which Hungary makes undertakings concerning Part III of the European Charter for Regional or Minority Languages, do not include the Serbian language.

Indeed, the Republic of Hungary, by Decision No. 35/1995 (IV.7) of the Parliament, of which an official translation in French is appended, has ratified Part III of the Charter, accepting also the Serbian language and with the same options as those enumerated in the instrument of ratification of 19 April 1995. Hungary's obligations with regard to the Serbian language become therefore operative from the date of entry into force of the European Charter for Regional or Minority Languages in respect of Hungary.

**Decision of the Parliament No. 35/1995 (IV.7)
On the ratification of the European Charter on Regional or Minority Languages
and on the undertakings taken by the Republic of Hungary
in conformity with its Article 2, litt. 2,**

The Parliament, on a proposition from the Government:

1. Ratifies the European Charter on Regional or Minority Languages, elaborated on 5 November 1992, which text is reproduced in Appendix No. 1.
2. Agrees that the undertakings taken in conformity with Article 2, litt. 2, of the Charter reproduced in Appendix No. 2 extend to the Croatian, German, Romanian, Serbian, Slovakian, Slovenian languages.
3. Invites the President of the Republic to issue the instrument of ratification.
4. Invites the Minister of Foreign Affairs to deposit the instrument of ratification and the inventory of the undertakings taken."]

Period covered: 01/03/98 -

The preceding statement concerns Article(s): 10, 11, 12, 13, 14, 2, 3, 8, 9

APPENDIX II

European Charter for Regional or Minority Languages

Comments of the Government of the Republic of Hungary concerning the Report of the Committee of Experts

The Government of the Republic of Hungary fundamentally agrees with the findings of the specialists' report on Hungary's implementation of the European Charter for Regional or Minority Languages. We thank the Committee of Experts for its appreciation of the accomplishments we have gained so far, the innovative measures we have introduced - particularly the comments which bear on the model Hungary has put into execution of minority self-governments. The words of appreciation further strengthen our commitment to develop the system.

In the immensely thorough and objective report, the Committee does not merely list our shortcomings but also points to the reasons for them, recognizing the efforts made by Hungary to overcome these, and making proposals as to the future.

In the period that has elapsed since the submission of the Report, several government decisions have been made which have brought progress in the field of the protection of minority languages and the development of minority culture and education. In our comments, we make only a brief mention of these positive changes, since - as was indicated by the authors of the Report themselves - a fuller discussion of these will be provided in the forthcoming report.

It is a piece of relevant new information that, in February of this year, a census was carried out in Hungary. It is hoped that the data of the census will further strengthen the well-founded nature of our minority policy, bringing us closer to obtaining dependable statistics on the size of minority communities. The first data of the census are expected to be published in the latter half of this year.

In what follows, we will make our comments in connection with the particular findings of the evaluation of the Committee of Experts, referring to the relevant points of the Report.

Points 13 and 21 of the Report:

The Romani/Lovari language, used by the Roma of Hungary, has several – dialectally considerably divergent - variants present among the Roma population. This is a considerable handicap where implementation of the linguistic rights of the Roma population is concerned. The above points of the Report leave out of consideration the fact that the predominant majority of Roma speak Hungarian as their native language.

Point 20:

The Republic of Hungary ensures, in the Act on the Rights of National and Ethnic minorities, the language rights of numerically small minorities living in areas hard to delimit geographically. The Government itself endeavours to revive and strengthen

the demands of these minorities concerning use of their languages through funding for successful applicants selected in a competitive bidding process. Good examples of this are the regular funding furnished by the Ministry of Education to Sunday Schools teaching minority languages and ethnic studies, and the funding provided for the organization of language camps and for the publication of literary works of art in minority languages by the Public Foundation for the National and Ethnic Minorities of Hungary.

With reference to the phrase used by the authors of the Report in connection with the Bulgarian, Greek, and Ruthenian languages – „...the practical impossibility to use these languages in education...” -, we would like to state the following: Based on an accord concluded in 1992, an establishment jointly maintained by the education ministries of the two countries, the Hristo Botev Bulgarian-Hungarian Primary and Secondary school operates in Budapest. We have had, for decades, Greek minority language education in the Primary School of Beloianisz and the Alfréd Hajós Primary School of Budapest. And (in 1998) the teaching of Ruthenian started in Múcsony, where Ruthenian is used to this day as a language of day-to-day local communication.

Points 26 and 34

As regards the conclusions of the Report concerning the Romani and Beas languages, we make the following comments. The teaching of Roma studies is a compulsory element of the programme of Roma minority education, with language training as a non-obligatory component. Where at least eight parents so demand, here, too, there is a valid obligation to offer courses in the particular idiom spoken by them (Romani or Beas). Naturally, over the last one-and-a-half decades, school textbooks, language primers and dictionaries have been made in both the Romani and Beas languages (eg. works by József Choli Daróczi, Dr Ervin Karsai, György Rostás Farkas, Imre Vajda, Melinda Rézműves, Sándor Romano Rác, Mihály Máthé centering on the Romani language area, with others by Mrs Anna Orsós-Pálmai, Ilona Varga, Mrs Erzsébet Orsos-Gida dealing with the Beas language area). The works of the above authors are used in Romani and Beas language training in, for instance, the Secondary School of the Ghandi Public Foundation, at the Kalyi Jag Computer Science Vocational School for the Roma Nationality and in the Hegedüs T. András Foundation Secondary School.

Based on the indications of local minority self-governments and research experiences, it is safe to conclude that there is rising interest in school instruction for both languages. Therefore – in the case of both the Romani and the Beas languages, in the interests of creating the conditions that would allow tuition in these languages - the Ministry of Education has commissioned a set of language skill requirements to be drafted. The working material prepared will be adopted after a wide-ranging professional debate. Once the language skill requirements have been adopted, work can start to draft the framework curricula. However, it must be taken into account that, up until very recently, neither the Romani nor the Beas language have possessed any writing systems; the standardization of these languages will be the result of a fairly lengthy process.

In teacher training, would-be teachers have a wide choice as to the form in which they can study Roma culture (department, department group, special courses, etc.). The Romani or the Beas language is not compulsory in the Roma studies, since instruction in the majority of the institutions is provided in Hungarian.

At present, Romani and Beas language training courses are on offer at the Vilmos Apor Catholic Teacher Training College (Zsámbék), the Teacher Training Faculty of

the University of Kaposvár, the John Wesley Pastor Training College, and at the University of Pécs. In addition, people showing an interest for the Romani language (including teachers) can acquire Romani at training courses organized by the National Roma Information and Educational Centre.

Point 39

The authors of the Report are of the opinion that the number of secondary schools for teaching in and of the minority languages is low. While basically agreeing with that comment, we would like to stress that the predominant majority of the existing secondary schools serve a particular district or operate on a national enrolment basis; they have dormitories or hostels of their own, enabling them to receive students from any part of the country. In the past few years, none of the minorities have indicated a desire to set up any additional minority secondary schools.

Points 45-46-47, and the recommendation formulated on the basis of these
The draft of the amendment of the Act on Criminal Procedure - currently in the administrative consultation phase - will, once adopted, amply ensure the use of regional and minority languages for all the parties involved in criminal proceedings, both orally and in writing. A detailed outline of the relevant modification will be provided, after its adoption, in the upcoming country report.

Point 51

We do not agree with the conclusion of the Committee that proceedings before courts concerning administrative matters are exclusively in writing. The special rules relating to proceedings before courts concerning administrative matters are contained by Section 20 of Act No.III/1952 on Civil Procedure. Beyond this, proceedings before courts concerning administrative matters are governed by the general rules of Civil Procedure. Given that the Code of Civil Procedure, as amended by Act No.CX/1999, applies to all legal proceedings, and, on the basis of the general rules, the Committee has established the fulfilment of the obligation, we tend to adhere to the view that compliance with the undertaking has been achieved also in the case of proceedings before courts concerning administrative matters

Point 53

While accepting the opinion of the Committee, we would like to add here the remark that it follows from the principle of freedom of contract that a contract or legal document can by the mutual consent of the parties, also be drafted in a minority language.

Points 54-60

Here again, to make the picture entirely clear, we wish to point out that - both in local and in state administration - the Government has set itself the target of involving the civil servant and public servant corps in an in-service training scheme designed to ensure that, in areas inhabited by minorities, public institutions and authorities may recruit their administrative personnel from a pool of civil and public servants having command of the relevant minority language, thereby fulfilling the guiding principle of the Language Charter.

Point 61

Section 19 of Act.No.XLI/1991 on Public Notaries provides that, in the case of notarial seats with a heavy proportion of residents belonging to a national minority, applicants acquainted with the language of the minority should be given preference. In regard to the notarial procedure, it should be pointed out that instruments in a language other than Hungarian can be drafted only by a notary-public empowered to do so by the Ministry of Justice: [with a special language licence]. The procedure is

slightly different where it comes to the inheritance. Here the Code of Civil Procedure, as a background regulation, permits the use of the services of an interpreter, meaning that, in these matters, a notary-public who does not have a language licence in the relevant language can also proceed. The costs of this - given that the execution of wills has a set tariff to it - must be borne by the notary-public.

Points 64-65

To the statement of the Report that "The other applications for radio licences submitted by associations or applicants planning a specific minority language programme have to compete on an equal footing with other applications", we would like to add the following: On the basis of the provisions of Act No.I/1996, cited in the Country Report, the National Radio and Television Body (hereinafter: NRTB) may stipulate preferential terms and conditions regarding application procedures or rules deviating from those which normally exist, to facilitate the implementation of minority rights. In this case, however, the applicants are not the national minority self-governments but public utility companies, as non-profit broadcasters, owned exclusively by the national minority self-governments.

As an example, we mention the Slovenian Radio Public Utility Company, which has already started broadcasting in the district inhabited by Slovenes, and the Radio C Public Utility Company, which was awarded a frequency in the latest bid for applications as a Roma minority radio network.

Contrary to the claims of the Report, the NRTB - as far as its human and financial resources permit - regularly monitors compliance with the undertakings by the broadcasters. Beyond the regular monitoring of programmes, it demands an annual report from the national commercial radio and television broadcasters to check and verify whether they live up to their undertakings concerning programming in the minority languages. If appropriate, the NRTB can also impose sanctions.

In regard to cable television networks, the Report suggests the need for legislative measures to be adopted to allow the possibility of obliging broadcasters to distribute minority programmes. Under the present legal regulations, the NRTB does not interfere in the contractual relationship between the cable television networks and the broadcasters, meaning that this question can be solved only by modifying the Media Law.

Summing up:

The Government of the Republic of Hungary fundamentally agrees with the contents of the Report of the Committee of Experts of the European Charter for Regional or Minority Languages on Hungary's record on implementing the Charter. Our intention above has been to correct and to add some details to some of the findings of the Committee. In the few cases where we did not agree with the evaluation or conclusion, we have tried to present and support our arguments.

As was indicated in the introduction, a detailed exposition of several new positive measures that have been taken to advance our fulfilment of our undertakings relating to the Charter will be provided in our next Periodic Report. Only where we believed that a knowledge of the relevant new initiatives could help one form a more accurate picture did we include any reference to these measures.

One of the major insights we have gained is that, while, in our Country Report, we tended to concentrate mainly on those of our minorities concerning which we have fulfilled our undertakings under Part III of the Charter, the Report of the Committee of

Experts has clearly enjoined upon us the need to accord, in our next Report, greater emphasis to the general measures arising from Part II of the Charter and applying to all the minorities living in the Republic of Hungary - the more especially since Act No.LXXVII/1993 on the Rights of National and Ethnic Minorities also does not make any difference between the minorities featuring in our undertakings concerning the Charter and the rest of the minorities of Hungary.

We welcome the recommendations voiced by the Committee of Experts. Each and every one of these accords with the goals of Hungary's consensual minority policy - a policy commanding the support of all the relevant political forces - and the main directions of the minority policy of all our successive governments.

Budapest, May 2, 2001



European Charter for Regional or Minority Languages

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

(adopted on 4 October 2001 at the 766th meeting
of the Ministers' Deputies)

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

Recommendation RecChL(2001)4
on the application of the European Charter for Regional or Minority Languages
by Hungary

(Adopted by the Committee of Ministers
on 4 October 2001
at the 766th meeting of the Ministers' Deputies)

The Committee of Ministers,

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

Bearing in mind the instrument of ratification submitted by the Republic of Hungary on 26 April 1995;

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

Bearing in mind that this evaluation is based on information submitted by Hungary in its initial periodical report, supplementary information provided by the Hungarian Government, information submitted by bodies and associations legally established in Hungary, and information obtained by the Committee of Experts during its "on the spot visit",

Recommends that the Republic of Hungary:

1. establish a policy for developing the Romani and Beas languages, with the aim of facilitating their use in public life, and respond to the needs of the users of these languages, in particular in education;
2. strengthen the institutional infrastructure for teaching in and of the minority languages, and develop further the possibilities of bilingual education and provide sufficient teacher training;
3. strengthen the possibilities of speakers of minority languages to use their language before the courts and in relations with the administration, by taking organisational and other appropriate measures to ensure that the existing legal mechanisms can be utilised in practice;
4. continue to develop the potential of its newly established system of minority self-governments in view of the valuable contribution it can make to the promotion of the minority languages.