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**EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES**

**APPLICATION OF THE CHARTER IN POLAND**

**Initial monitoring cycle**

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

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

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

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

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

## CONTENTS

<b>A.</b>	<b>Report of the Committee of Experts on the application of the Charter in Poland.....</b>	<b>4</b>
	<b>Chapter 1. Background information .....</b>	<b>4</b>
1.1.	The Charter's ratification by Poland .....	4
1.2.	The work of the Committee of Experts .....	4
1.3.	Presentation of the regional or minority language situation .....	4
1.4.	General issues arising from the evaluation of the application of the Charter in Poland .....	7
	1.4.1 <i>Implementation of the legal obligations arising from the Charter.....</i>	<i>7</i>
	1.4.2 <i>Number of speakers of regional or minority languages .....</i>	<i>7</i>
	1.4.3 <i>Number of speakers of the Karaim language.....</i>	<i>8</i>
	<b>Chapter 2. The Committee of Experts' evaluation in respect of Part II and Part III of the Charter .....</b>	<b>9</b>
2.1.	Evaluation in respect of Part II of the Charter.....	9
2.2.	Evaluation in respect of Part III of the Charter.....	13
	2.2.1 <i>Belorussian.....</i>	<i>13</i>
	2.2.2 <i>German.....</i>	<i>26</i>
	2.2.3 <i>Kashub .....</i>	<i>39</i>
	2.2.4 <i>Lemko.....</i>	<i>52</i>
	2.2.5 <i>Lithuanian .....</i>	<i>64</i>
	2.2.6 <i>Ukrainian .....</i>	<i>77</i>
	2.2.7 <i>Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.....</i>	<i>89</i>
	<b>Chapter 3. Findings of the Committee of Experts in the initial monitoring cycle .....</b>	<b>103</b>
	Appendix I: Instrument of Ratification .....	106
	Appendix II: Comments by the Polish authorities .....	107
<b>B.</b>	<b>Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Poland .....</b>	<b>117</b>

## **A. Report of the Committee of Experts on the application of the Charter in Poland**

adopted by the Committee of Experts on 5 May 2011  
and presented to the Committee of Ministers of the Council of Europe  
in accordance with Article 16 of the Charter

### **Chapter 1 Background information**

#### **1.1. The Charter's ratification by Poland**

1. Poland signed the European Charter for Regional or Minority Languages (hereafter referred to as the Charter) on 12 May 2003. The instrument of ratification was deposited with the Council of Europe on 12 February 2009. The Charter entered into force in Poland on 1 June 2009.

2. Article 15.1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers<sup>1</sup>. The Polish authorities presented their initial periodical report to the Secretary General of the Council of Europe on 30 September 2010.

#### **1.2. The work of the Committee of Experts**

3. This initial evaluation report is based on the information obtained by the Committee of Experts from the initial periodical report of Poland and through interviews held with representatives of the regional or minority language speakers and with the Polish authorities during the on-the-spot visit, which took place from 7 to 10 February 2011. The Committee of Experts received statements from several associations of national minorities, submitted pursuant to Article 16 paragraph 2 of the Charter.

4. The present report reflects the policies, legislation and practice prevailing at the time of the on-the-spot visit. Any later developments will be taken into account in the next report of the Committee of Experts concerning Poland.

5. This report was adopted by the Committee of Experts on 5 May 2011.

#### **1.3. Presentation of the regional or minority language situation**

6. In its instrument of ratification, Poland declared that it would apply Parts II and III of the Charter to the Armenian, Belorussian, Czech, German, Hebrew, Karaim, Kashub, Lemko, Lithuanian, Romani, Russian, Slovak, Tatar, Ukrainian and Yiddish languages. The Committee of Experts has also been informed by representatives of associations from Upper Silesia of their wish for Silesian to be recognised as a regional language in Poland.

7. Armenian has had a traditional territorial presence in distinct settlements located in areas of former eastern Poland (Lviv, Lutsk and Kamianets-Podilskyi). In addition, Armenian was already present in the 19<sup>th</sup> century on the current territory of Poland, inter alia in Warsaw and Cracow. After World War II, most Armenians from former eastern Poland were resettled to the current territory of Poland. Other groups of Armenians migrated to Poland in the second half of the 20<sup>th</sup> century. According to the 2002 census, 321 people use Armenian in household relations and 261 people belong to the Armenian national minority. The Armenian minority, which shows an interest in reviving its language, is mainly concentrated in Warsaw, Cracow and Poznań. Poland considers the Armenian language as non-territorial.

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

8. Belorussian has had a traditional presence in Poland since the 14<sup>th</sup> century and is mainly spoken in the south-eastern territories of Podlaskie voivodship/*województwo* (region). In the 2002 census<sup>2</sup>, 40 650 people declared the use of the Belorussian language in household relations and 47 640 people declared themselves as belonging to the Belorussian national minority. However, according to estimates by representatives of the Belorussian minority, there are approximately 200 000 Belorussians in Poland. Persons using the Belorussian language mainly inhabit the Hajnówka, Bielsk, Białystok, Siemiatycze and Sokółka districts (*powiaty*).

9. Czech has had a traditional presence on the territory of Poland since the 16<sup>th</sup> century (immigration of religious refugees). In the 2002 census, 1482 people declared that they used the Czech language in household relations and 386 people declared themselves as belonging to the Czech national minority. According to estimates by representatives of the Czech minority, there are about 3000 Czechs in Poland. The Czech minority is concentrated in the city of Żelów (Łódź voivodship).

10. In the 2002 census, 204 573 people declared that they used German in household relations. While 152 897 people stated that they belonged to the German national minority, 279 600 persons (mainly in Upper Silesia) declared that, due to their German descent, they also have German citizenship. According to estimates by representatives of the German minority, there are up to 600 000 Germans. The German minority is compactly settled in Upper Silesia (Opole and Silesia voivodships) and to some extent in the Warmia-Masuria voivodship while also being dispersed in the Lower Silesia, Lubuskie, Western Pomerania and Pomerania voivodships. Most Germans belong to, or are descendants of what was formerly the German majority population of these territories from where 8.5 million Germans were expelled after 1945. In addition, smaller groups of Germans have traditionally lived in other areas. The present situation of the German language is affected by the discrimination of the German minority between 1945 and 1989 (prohibition to use and teach German, systematic removal of traces of the language from the public and official denial of the existence of a German minority).

11. Yiddish has been traditionally present on the territory of Poland for centuries. In the 2002 census, 36 people declared that they used Yiddish in household relations and 1 055 declared that they belonged to the Jewish minority. Poland considers the Yiddish language as non-territorial.

12. In the 2002 census, 207 people declared that they used Hebrew in household relations. Poland considers the Hebrew language as non-territorial. The Committee of Experts notes that the use of classical Hebrew during the last centuries has been limited to liturgy and is aware that it is rather Ivrit that is currently used in Poland, which is significantly different. It is not clear to the Committee of Experts whether Ivrit/Hebrew has had a traditional presence in Poland in conformity with the definition of a regional or minority language contained in Article 1a of the Charter which implies *traditional presence* and seems to presuppose the functioning of a language as a means of communication in everyday life. The Committee of Experts asks the Polish authorities to clarify the above questions in the next periodical report. When it receives further information, the Committee of Experts will return to Hebrew.

13. Karaim, a Turkic language, has had a traditional territorial presence in distinct settlements located in areas of former eastern Poland (Halich, Lutsk, Lviv, Trakai). In addition, Karaim has had a traditional non-territorial presence on the current territory of Poland since the 19<sup>th</sup> century when Karaite merchants, civil servants and students migrated to Warsaw. In the 2002 census, 43 people declared that they belonged to the Karaim minority, but not a single person stated that they used the Karaim language in household relations. However, according to a statement by a representative of the Karaim minority (see Annex 5 of the initial periodical report), a tiny part of the Karaim minority (five persons) still uses Karaim. Poland considers the Karaim language as non-territorial.

14. Kashub, a Slavic language, has an old traditional presence on the territory of the present Pomerania voivodship. In the 2002 census, 52 665 people declared that they used the Kashub language in household relations. However, according to estimates by representatives of the Kashubs, there are approximately 250 000 Kashub speakers in Poland. Polish legislation does not consider the Kashubs as an ethnic minority but recognises the Kashub language as a regional language.

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<sup>2</sup> See [http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL\\_nsp2002\\_tabl9.xls](http://www.stat.gov.pl/cps/rde/xbcr/gus/PUBL_nsp2002_tabl9.xls)

15. Lemko, a Slavic language, has been traditionally present in the Lemkowyna area (Łemkowszczyzna) on the territory of the present Lesser Poland voivodship since the middle ages. In 1947, the Polish authorities forcibly resettled a substantial number of Lemkos and Ukrainians to those areas from which the traditional German population had previously been expelled ("Operation Vistula") and where the Lemko and Ukrainian languages have no traditional presence. Nevertheless, a part of the Lemko minority still resides in the area where the Lemko language has a traditional presence within the meaning of Article 1.a of the Charter (Lesser Poland voivodship). In the 2002 census, 5627 people declared that they used the Lemko language in household relations and 5850 declared themselves as belonging to the Lemko national minority. According to estimates by representatives of the Lemko minority, there are approximately 50 000 Lemkos in Poland.

16. Lithuanian has an old traditional presence in the northern part of the present Podlaskie voivodship. In the 2002 census, 5838 people declared that they used the Lithuanian language in household relations and 5639 people declared themselves as belonging to the Lithuanian national minority. According to estimates by representatives of the Lithuanian minority, there are up to 30 000 Lithuanians. The Lithuanian minority is compactly settled in the Sejny district, especially in the municipality of Puńsk/Punskas.

17. Romani has been traditionally present on the Polish territory since the 15<sup>th</sup> century, especially in the Lesser Poland voivodship. In the 2002 census, 15 788 people declared that they used Romani in household relations and 12 731 declared themselves as belonging to the Roma minority. However, according to estimates by representatives of the Roma, there are up to 20 000 Sinti and Roma in Poland. Poland considers the Romani language as non-territorial.

18. Russian has been traditionally present in Poland since the arrival of Old Believers in the 18<sup>th</sup> century. In the 2002 census, 15 299 people declared that they used the Russian language in household relations and 3244 declared themselves as belonging to the Russian national minority. However, only a small part of these Russian speakers actually live in the settlements of the Old Believers in the Augustów district (villages of Bór and Gabowe Grądy) and the Suwałki district (Wodźilki) of the Podlaskie voivodship as well as in the Pisz district (Wojnowo) of the Warmia-Masuria voivodship where the Russian language has a traditional presence within the meaning of Article 1.a of the Charter.

19. Slovak has been traditionally present on the present territory of Poland. In the 2002 census, 794 people declared that they used the Slovak language in household relations and 1710 people declared themselves as belonging to the Slovak national minority. According to estimates by representatives of the Slovak minority, there are up to 15 000 Slovaks. The Slovak minority is mainly concentrated in the Lesser Poland voivodship.

20. Tatar has been traditionally present on the territory of the present Podlaskie voivodship, namely in the villages of Bohoniki (Sokółka municipality) and Kruszyniany (Krynki municipality) in the Sokółka district. Only a tiny part of the Tatar minority still uses the Tatar language. In the 2002 census, nine people declared that they used Tatar in household relations while 447 people declared themselves as belonging to the Tatar minority.

21. Ukrainian has an old traditional presence on the territories of the present Lesser Poland, Lublin, Podlaskie and Subcarpathia voivodships. In the 2002 census, 22 698 people declared that they used the Ukrainian language in household relations and 27 172 peoples declared themselves as belonging to the Ukrainian national minority. However, according to estimates by representatives of the Ukrainian minority, there are approximately 200 000 Ukrainians in Poland. In 1947, the Polish authorities forcibly resettled a substantial number of Ukrainians and Lemkos to those areas from which the traditional German population had previously been expelled ("Operation Vistula") and where the Ukrainian and Lemko languages have no traditional presence. Nevertheless, a part of the Ukrainian minority managed to avoid the resettlement or was allowed to return after 1956 so that a significant number of Ukrainians still reside in the area where the Ukrainian language has a traditional presence within the meaning of Article 1.a of the Charter (Lesser Poland and Subcarpathia voivodships).

22. During the on-the-spot visit, the Committee of Experts was informed by representatives of associations from Upper Silesia of the wish for Silesian to be recognised in Poland as a regional language. A parliamentary initiative has been started with a view to amending the Act on National and

Ethnic Minorities and on the Regional Language to this effect. According to the Polish authorities, Silesian is a dialect of the Polish language. It has not been included in the instrument of ratification. Based on the information received, the Committee of Experts asks the Polish authorities to inform it about the outcome of the aforementioned parliamentary initiative in the next periodical report.

#### **1.4. General issues arising from the evaluation of the application of the Charter in Poland**

##### *1.4.1 Implementation of the legal obligations arising from the Charter*

23. The instrument of ratification deposited by Poland applies the same undertakings to all regional or minority languages. As the situation of these languages varies considerably, a number of problems arise. Firstly, some of the languages are used by a high number of people and are concentrated in particular geographical areas where their speakers make up a considerable share or the majority of the local population (Belorussian, German and Lithuanian). In light of the situation of these languages, the Committee of Experts considers that Poland could have selected undertakings in the fields of court proceedings (Article 9.1), local branches of the state authorities (Article 10.1) and public services (Article 10.3) which are currently completely excluded from the scope of application of the Charter.

24. While the ratification instrument appears to be an adequate reflection of the situation of the Kashub, Lemko and Ukrainian languages, the Committee of Experts observes that the decision by Poland to apply Part III to Armenian, Czech, Hebrew, Karaim, Romani, Russian, Slovak, Tatar and Yiddish was, in light of their low number of speakers, a very ambitious step and a strong commitment. The Committee of Experts nonetheless underlines that the legal obligations entered into by Poland need to be implemented in practice, taking account of the situation of each language. Implementation of the Charter's legal obligations requires that its states parties take positive measures, on their own initiative and in co-operation with the speakers, with a view to protecting and promoting the regional or minority languages in public life.

25. As far as the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages are concerned, it is clear that individual and flexible measures need to be taken in order to make the provisions of the Charter operational. The Committee of Experts considers that the Polish authorities should initiate a dialogue with the representatives of the speakers of each of these languages with a view to drawing up a mid-term strategy on the implementation of the Charter in respect of these languages.<sup>3</sup> With the exception of the non-territorial languages, i.e. Armenian, Yiddish, Karaim and Romani, this strategy should first of all define the territory in which the language concerned has a historical basis and where the Charter provisions will be implemented, as the entire territory of Poland cannot serve as a basis. In many cases, it appears that this territory would be limited to just one municipality (e.g. Zelów, Łódź voivodship, for Czech) or a few local communities (e.g. regarding Russian, Slovak and Tatar). Furthermore, the Polish authorities need to devise flexible and innovative measures for the actual application of the Charter provisions. Such measures could comprise the establishment of one central educational institution for each language (e.g. a boarding school), the use of the internet for the promotion of the language in the media (e.g. internet radio and newspaper), co-operation with other states where the respective language is used (e.g. regarding teacher and journalist training/exchanges, import of textbooks, exchange of cultural works, retransmission of television and radio programmes), and co-operation with the private sector in the municipalities concerned regarding the implementation of Article 13.

***The Committee of Experts encourages the Polish authorities to establish a structured policy, in close co-operation with the speakers, and take flexible measures facilitating the application of the Charter to the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages.***

##### *1.4.2 Number of speakers of regional or minority languages*

26. The Committee of Experts is aware that a census has been conducted in Poland in 2011 including questions about national affiliation and the languages used. It has not yet received the

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

results of the new census. However, since the initial state report and the existing policy on regional or minority languages are based on the census of 2002, the Committee of Experts nevertheless wishes to point out that the numbers of speakers of the regional or minority languages reflected by that census differ significantly from estimates made by the Polish authorities, minority associations and scientists before the 2002 census. Furthermore, the Committee of Experts is aware that irregularities in the conduct of the census have occurred as some enumerators allegedly omitted to ask the questions about national affiliation and the language used, replied *ex officio* in some cases with “Polish”, questioned the replies which some people gave, or entered the replies to these questions in pencil. About 775,000 people have not responded to the question about their national affiliation. As a consequence, representatives of all minorities are of the view that the census results would not reflect their actual numbers.<sup>4</sup>

27. The Committee of Experts considers the lack of reliable data as problematical, given that the census results serve as a basis for the allocation of funding, broadcasting time and the use of regional or minority languages in relation with administrative authorities (20%-threshold, see the examination of Article 10 below). In particular, the inaccuracy of the available data and the volatility inherent in ten-yearly censuses limit the capacity of the Polish authorities to plan and take consistent and constant action for the protection and the promotion of the regional or minority languages.<sup>5</sup> This in turn makes it difficult for the Committee of Experts to evaluate whether Poland fulfils its undertakings under the Charter. The Committee of Experts encourages the Polish authorities to complement the results of the 2011 census by collecting, in co-operation with the speakers, data concerning the number of users of the regional or minority languages and their geographic distribution.

#### *1.4.3 Number of speakers of the Karaim language*

28. The Committee of Experts has received contradictory information as regards the number of speakers of the Karaim language. While the census of 2002 did not indicate a single speaker of Karaim in Poland, the representative of the Karaim minority in the Joint Commission of the Government and National and Ethnic Minorities pointed out in a statement appended to the initial periodical report that five persons use Karaim in household relations. The Committee of Experts asks the Polish authorities to clarify, in the next periodical report, the current number of speakers of the Karaim language. This clarification should not just be based on the results of the 2002 and 2011 censuses, but also take account of information provided by the Karaim minority and, if applicable, academic sources. Furthermore, the Committee of Experts asks the Polish authorities to clarify whether there exists an interest within the Karaim minority to revive Karaim as a living language, also considering the fact that Poland has undertaken to apply a demanding menu of Part III provisions to Karaim.

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<sup>4</sup> See Advisory Committee of the Framework Convention for the Protection of National Minorities, Opinion on Poland, paragraphs 26-27

<sup>5</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraph 45

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

### **2.1. Evaluation in respect of Part II of the Charter**

#### **Article 7**

##### **Paragraph 1**

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

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

29. The Act on National and Ethnic Minorities and on the Regional Language recognises explicitly all regional or minority languages to which Parts II and III of the Charter apply. The Act defines and lists the recognised national and ethnic minorities (Article 2) and defines the rights related to the use of minority languages (Chapter 2, Articles 7 to 16) as well as the rights related to the use of the regional language (Chapter 4, Articles 19 and 20).

*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;*

30. The rule of respecting the geographical area of each regional or minority language is reflected in the provision of Article 5.2 of the Act on National and Ethnic Minorities and on the Regional Language, which prohibits the application of measures aimed at changing national or ethnic proportions on the territories inhabited by minorities. According to the initial periodical report, during the formation of the new administrative division of Poland (1999), one of the significant arguments for the creation of the Sejny district was the presence of the Lithuanian minority in this area. Similarly, one of the main arguments against the integration of the Opole region voivodship into the new Silesia voivodship was the considerable presence of the German minority in this area.

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

31. Resolute action to promote regional or minority languages in order to safeguard them covers several aspects, for example the creation of a legal framework for the promotion of such languages, the establishment of bodies which have responsibility in this field and provision of adequate financial resources.<sup>6</sup>

32. The Act on National and Ethnic Minorities and on the Regional Language represents the legal framework relevant for this provision. However, representatives of the speakers of several regional or minority languages informed the Committee of Experts during the on-the-spot visit that the Polish authorities perceive the protection of the regional or minority languages mainly from the angle of anti-discrimination and less as an obligation to take proactive and positive measures to promote regional or minority languages. Although the central authorities are responsible at the international level for obligations that Poland has assumed under the Charter, the implementation of a number of provisions of the Charter is mainly the responsibility of municipalities and depends on their political will, financial resources and awareness. For example, the establishment of a kindergarten that provides education in a regional or minority language is left to the initiative of municipalities and lacks appropriate funding by the central authorities. The Committee of Experts considers that a more proactive stance from the central authorities is necessary to ensure Poland's compliance with its undertakings ensuing from the Charter. In particular, the adoption of a language policy and corresponding specific legislation or measures in certain areas (education, administration, media, etc.) and the establishment of bodies which have responsibility in this field would promote the effective implementation of the Charter's provisions in Poland. In light of this situation, the Committee of Experts encourages the Polish authorities to ensure that Poland's undertakings under the Charter are complied with, *inter alia* by informing municipalities of their obligations under the Charter, providing them with the necessary

<sup>6</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Germany, ECRML (2006) 1, paragraph 24; 2<sup>nd</sup> Report of the Committee of Experts on Sweden, ECRML (2006) 4, paragraph 28

technical and financial support, giving detailed instructions, supervising implementation and using appropriate incentives.<sup>7</sup>

33. As regards financial resources, the Polish authorities have informed the Committee of Experts that the national and ethnic minorities receive financial support. However, the Committee of Experts has only received information about financial support in the fields of culture and education. In order to evaluate the financial support provided by the Polish authorities, the Committee of Experts asks the authorities to provide specific information, in the next periodical report, on the amount allocated in support of each regional or minority language in addition to the cultural sector.

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

34. The Committee of Experts will deal with the relevant aspects under its examination of Part III.

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

35. The initial periodical report states that Article 6.2.3 of the Act on National and Ethnic Minorities and on the Regional Language obliges public authorities to take appropriate measures in order to strengthen cultural relations between the minorities. The Committee of Experts commends the Polish authorities for the establishment of the Joint Commission of the Government and National and Ethnic Minorities which serves as a platform of exchange for minority organisations, as a ground for co-operation between them and as a body that voices the needs of minorities before the central authorities.

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

36. During the on-the-spot visit, representatives of several national minorities praised the Polish authorities for the financial support earmarked for regional or minority language education, which provides for the functioning of small local schools which are so important for the promotion of these languages. However, representatives of the minorities complained about the lack of textbooks due to the new curricula established with the Regulation of the Ministry of National Education of 23 December 2008. The Committee of Experts asks the Polish authorities to comment about the situation in the next periodical report.

37. The initial periodical report mentions that the Polish authorities, in co-operation with the German and Lithuanian minorities, have developed strategies for the development of education concerning both languages. Both strategies, which were adopted before ratification of the Charter, deal inter alia with the development of teaching in the German and Lithuanian languages. Although the content of these strategies is only to some extent adapted to Poland's undertakings under the Charter, the Committee of Experts considers that the development of mid-term strategies in the field of education represents resolute action to promote regional or minority languages and should be welcomed. Therefore, the Committee of Experts asks the Polish authorities to provide information, in the next periodical report, on the development of language strategies for German and Lithuanian as well as other languages.

**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;*

38. The legal framework regulating regional or minority language education from pre-school to technical and vocational education applies also to non-speakers of these languages. However, the Committee of Experts has not received any specific information about facilities enabling adult non-speakers to learn regional or minority languages. It asks the Polish authorities to provide this information in the next periodical report.

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<sup>7</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts on Sweden, ECRML (2009) 3, paragraph 15; 1<sup>st</sup> Report of the Committee of Experts on Denmark, ECRML(2004)2, paragraphs 19-20

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

39. The Committee of Experts will deal with the relevant aspects under its examination of Part III.

*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.*

40. The Committee of Experts will deal with the relevant aspects under its examination of Part III.

## **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.*

41. According to the initial periodical report, the Republic of Poland does not implement any forms of differentiation, exclusion, limitation or preference related to the use of regional or minority languages, whose objective is to discourage the use of the foregoing languages or to endanger their preservation. Article 6 of the Act on National and Ethnic Minorities and on the Regional Language prohibits discrimination on the basis of minority affiliation and obliges bodies of public authority to take appropriate measures in order to support full and real equality in the economic, social, political and cultural life and protect the persons who are subject to discrimination, hostility or violence due to their minority affiliation.

## **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.*

42. The Committee of Experts underlines that the extent to which a regional or minority language is protected or promoted is, in many respects, a reflection of the majority language speakers' approach and perception and that awareness-raising within the majority is therefore of the utmost importance. As this provision indicates, education and the media are especially relevant in this respect. The Committee of Experts also underlines that the purpose of the present obligation is not just knowledge of the existence of regional or minority languages in one's country but also understanding and tolerance in relation to these languages and their speakers.<sup>8</sup>

43. In Poland, the atmosphere has become much more open towards the needs of minorities since the 1990s. However, representatives of several regional or minority languages stated during the on-the-spot visit that no initiatives have been taken to raise the awareness of the general public in the mass media and in education. The Committee of Experts considers that the media should be encouraged, without prejudice to their independence, to pay more attention to the regional or minority languages and their cultures. The Committee of Experts encourages the Polish authorities to raise the awareness of the general public in the mass media as well as in mainstream education, notably in curricula, teaching materials and teacher training regarding the regional or minority languages.

44. The Committee of Experts was informed during the on-the-spot visit that a high number of bilingual place-name signs bearing a German name have been destroyed during the last years. Representatives of the Lemko speakers referred to similar incidents with regard to the bilingual place name sign of Bielanka//Білянка. However, according to the German speakers, such acts of vandalism have not led to an appropriate reaction by the Polish authorities. In addition, representatives of the German speakers stated that there have been expressions of negative attitudes in the mass media towards the introduction of bilingual street names in the town of Dobrodzień/Guttentag and that there had been also several derogatory statements, including by members of parliament. In the view of the Committee of Experts, further efforts are needed from the Polish authorities to take an active stand

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<sup>8</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Slovenia, ECRML (2010) 5, paragraph 70

against expressions of intolerance and to raise awareness in the Polish public at large about the regional or minority languages as an expression of Poland's cultural wealth.

***The Committee of Experts encourages the Polish authorities to promote awareness and tolerance in Polish society at large vis-à-vis the regional or minority languages and the cultures they represent.***

#### **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.***

45. According to the initial periodical report, people who belong to national and ethnic minorities have the possibility of expressing their opinions on the implementation of their rights in the Joint Commission of the Government and National and Ethnic Minorities. The Joint Commission was established pursuant to the Act on National and Ethnic Minorities and on the Regional Language as a consultative and advisory body of the Prime Minister. It is responsible for expressing opinions on the implementation of the rights and needs of minorities, giving opinions on projects of legal acts on minorities, and giving opinions on amounts and rules of dividing the financial measures allocated in the country's budget for the support of activities aimed to protect, preserve and develop the cultural identity of minorities and to preserve and develop Kashub. The Joint Commission comprises representatives of ministers, the national and ethnic minorities and the Kashubs. By the end of March 2010, 20 meetings of the Joint Commission had been held. The Joint Commission has also dealt with the draft act on ratification of the Charter.

#### **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.***

46. According to the initial periodical report, the Polish authorities consider Armenian, Hebrew, Karaim, Romani and Yiddish to be non-territorial languages.

## 2.2. Evaluation in respect of Part III of the Charter

### 2.2.1 Belorussian

#### Article 8 – Education

##### General issues

47. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education as well as the benefits of multilingualism.<sup>9</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>10</sup>

48. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

49. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

50. There are no pre-schools where Belorussian is used as a language of education. During the on-the-spot visit, the Committee of Experts was informed about a bilingual kindergarten in Białystok which had been established further to an initiative by parents. However, the Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Organising a substantial part of pre-school education in the regional or minority language, as seems to be the case in one bilingual kindergarten, is not sufficient because this educational model is covered by the less demanding undertaking under Article 8.1.a.ii that Poland has not ratified. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland either.

<sup>9</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>10</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

51. In light of the obligation entered into by Poland<sup>11</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available pre-school education in Belorussian.

***b i to make available primary education in the relevant regional or minority languages; or***

52. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

53. However, in practice, there is no primary education in Belorussian as a language of education. In the Podlaskie voivodship, Belorussian is taught only as a subject (three hours per week), for example in Bielsk Podlaski. However, the Committee of Experts underlines that the present undertaking requires that primary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Belorussian only as a subject is not sufficient because this educational model is covered by the less demanding undertaking under Article 8.1.b.iii that Poland has not ratified. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland either.

54. In light of the obligation entered into by Poland<sup>11</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available primary education in Belorussian.

***c i to make available secondary education in the relevant regional or minority languages; or***

55. According to the initial periodical report, secondary education in regional or minority languages is possible with the exception of the subject "Polish language", the part of history concerning Polish history and the part of geography concerning the geography of Poland. However, the setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

56. There is no secondary education in Belorussian as a language of education. In Bielsk Podlaski and Hajnówka (Podlaskie voivodship), Belorussian is taught only as a subject (three hours per week). However, the Committee of Experts underlines that the present undertaking requires that secondary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Belorussian only as a subject is not sufficient because this educational model is covered by the less demanding undertaking under Article 8.1.c.iii that Poland has not ratified. The Committee of Experts also stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking under Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of Belorussian at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14 pupils, which is twice as high as at pre-school and primary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

57. In light of the obligation entered into by Poland<sup>11</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available secondary education in Belorussian.

***The Committee of Experts encourages the Polish authorities to make available education in Belorussian at pre-school, primary and secondary levels and to ensure continuity from pre-school to secondary education within the territories in which Belorussian is used.***

***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***

<sup>11</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML (2005) 4, paragraphs 624-625, 874-875

58. According to the Polish authorities, eight pupils attended classes teaching Belorussian at a post-secondary art school in the 2010/2011 school year. However, the teaching of Belorussian was not an integral part of the curriculum.

59. The Committee of Experts considers that the number of eight pupils is clearly too low considering the number of Belorussian speakers in Poland. Furthermore, the profile of an art school is too specific to make this school sufficiently attractive for all students interested in the teaching of Belorussian within technical and vocational education. The Committee of Experts also notes that, pursuant to the present undertaking, teaching of Belorussian must be provided as an integral part of the curriculum.

60. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Belorussian as an integral part of the curriculum within the territories in which Belorussian is used.

**e** ...

**ii** *to provide facilities for the study of these languages as university and higher education subjects; or*

61. According to the initial periodical report, 192 students studied Belorussian in the fields of philology or cultural studies at universities and other higher educational institutions in 2008. However, during the on-the-spot visit, the Committee of Experts was informed that the Chair of Belorussian Cultural Studies at the University of Białystok, which was the only one in the traditional territory of Belorussian speakers, has been closed despite its popularity among students. This course was in demand due to the media studies it included. The Department of Belorussian Philology was opened instead but with its purely philological profile it does not attract enough students. As a result, it does not operate in practice.

62. The Committee of Experts considers this undertaking formally fulfilled. It encourages the Polish authorities to provide facilities for the study of Belorussian as a university and higher education subject and asks them to provide information on the number of students currently involved in studying Belorussian in higher education.

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

63. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>12</sup>

64. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

65. The Committee of Experts is therefore not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Belorussian language in practice.

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

66. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a

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<sup>12</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML 2005 (3), paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML 2009 (6), paragraph 322

possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

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

***The Committee of Experts encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in Belorussian at pre-school, primary and secondary levels as well as teaching of Belorussian within technical and vocational education.***

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

68. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Belorussian and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

69. In light of the above, the Committee of Experts underlines<sup>13</sup> that this undertaking requires a body or bodies dedicated to looking into regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

70. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Belorussian, and of drawing up public periodic reports.

## **Paragraph 2**

***With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.***

71. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. However, the Committee of Experts has not received any specific information on the implementation of this provision for the Belorussian language.

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

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<sup>13</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

## Article 9 – Judicial authorities

### 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*

73. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

74. The Committee of Experts considers this undertaking fulfilled.

## Article 10 – Administrative authorities and public services

### 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;*

75. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the local authorities of municipalities where persons belonging to the respective minority make up, according to the 2002 census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

76. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as the number of people justifying protection measures under the Charter is commonly well below this percentage.

77. The Belorussian language has so far been introduced as an “auxiliary language” in five of the twelve municipalities where the 20%-threshold is met. However, Belorussian can neither be used in contacts with the Hajnówka, Bielsk, Białystok, Siemiatycze and Sokółka districts, nor the Podlaskie voivodship. There are an additional four municipalities in the Podlaskie voivodship where the Belorussian minority makes up 10-19.9% of the population. The threshold consequently deprives Belorussian of protection in a number of the areas where the Belorussian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. During the on-the-spot visit, representatives of the speakers voiced strong criticism of this shortcoming.

78. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or

minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>14</sup>

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

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the Belorussian speakers, in what areas the Belorussian speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (powiaty) and voivodships where the speakers are present in sufficient numbers.***

***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.***

80. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns "the local and regional authorities".

81. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>15</sup>

82. Place-names in Belorussian, but no street names or other topographical names, have so far been introduced in one of the twelve municipalities where the 20%-threshold is met. However, neither the Hajnówka, Bielsk, Białystok, Siemiatycze and Sokółka districts, nor the Podlaskie voivodship can adopt their Belorussian names. As mentioned in paragraph 77 above, there are an additional four municipalities where the Belorussian minority makes up 10-19.9% of the population. In none of them have the local councils so far decided to hold a consultation on the introduction of additional place-names. The threshold consequently deprives Belorussian of protection in a considerable number of the areas where the Belorussian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>16</sup>

<sup>14</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

<sup>15</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

<sup>16</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

83. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in Belorussian also regarding those local and regional authorities on whose territory the Belorussian speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

#### **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.***

84. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. Names and surnames of people who use an alphabet other than the Latin alphabet are subject to transliteration. A regulation specifies the method of transliteration *inter alia* for Belorussian. The right to use names and surnames in the minority language is also guaranteed in the Treaties on Friendship and Good-Neighbourly Relations with the Republic of Belarus. With regard to Belorussian, no name change was made during the reporting period.

85. The Committee of Experts considers this undertaking fulfilled.

### **Article 11 – Media**

#### **Paragraph 1**

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

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

***...***

***ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or***

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

86. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the Belorussian language, the Committee of Experts will *ex officio* examine option a.ii only.

87. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned.

88. There is no public radio *station* broadcasting mainly or exclusively in Belorussian, as required by undertaking a.ii. Two *programmes* in Belorussian are broadcast by Radio Białystok: “Pod znakiem Pahoni” (daily, 15-30 minutes) and a broadcast of listeners’ wishes and songs (once a week).

89. There is no public television *channel* broadcasting mainly or exclusively in Belorussian, as required by undertaking a.ii. Rather, a *programme* in Belorussian is broadcast by the local branch of Telewizja Polska every Sunday morning (“Tydzień Białoruski” (Byelorussian Week), 21 minutes).

90. Poland has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. The implementation of this undertaking requires positive action (including, where necessary, funding) on the part of the authorities to encourage and/or facilitate the creation of at least one radio station and one television channel. Therefore, the Committee of Experts notes that the existing offer of broadcasting only programmes in Belorussian is not sufficient to comply with this undertaking and does not correspond to the situation of the Belorussian language. The Committee of Experts underlines the great importance of the broadcast media, especially television, for the promotion of regional or minority languages in modern societies and for their social prestige.<sup>17</sup>

91. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled.

***The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in Belorussian whose broadcasts cover the territories in which Belorussian is spoken.***

***b ...***

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

92. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user grants to support radio programmes conducted by minorities. With regard to Belorussian, the Polish authorities support the private Radio "Racja" which broadcasts a programme in Belorussian dealing with news, social and cultural topics and music. The total duration of the broadcast is over 250 hours per year.

93. The Committee of Experts considers this undertaking fulfilled. However, it encourages the Polish authorities to take steps which would facilitate the extension of the broadcast time of private radio programmes in Belorussian.

***c ...***

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

94. There are no private television programmes in Belorussian.

95. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private television programmes in Belorussian on a regular basis.

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

96. According to the initial periodical report, state support (targeted subsidies or specified-user subsidies) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there is no indication that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Belorussian.

97. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Belorussian.

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

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<sup>17</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 263; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 504; 2<sup>nd</sup> Report of the Committee of Experts in respect of Switzerland, ECRML (2004) 6, paragraph 118

98. According to the initial periodical report, the Polish authorities provide financial assistance to the weekly newspaper “Niwa”, which is entirely in Belorussian, and the bilingual (Polish/Belorussian) monthly “Czasopis”.

99. The Committee of Experts considers this undertaking fulfilled.

*f* ...

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

100. According to the available information, the Polish authorities have not applied existing measures for financial assistance to audiovisual productions in Belorussian.

101. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to also apply existing measures for financial assistance to audiovisual productions in Belorussian.

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

102. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages. During the on-the-spot visit, the lack of appropriate training for journalists and other staff for media using regional or minority languages was underlined by the representatives of the Belorussian speakers.

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

## **Paragraph 2**

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

104. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting. Furthermore, the right to spread and exchange information in the Belorussian language was provided in the Treaty on Good Neighbourhood and Friendly Cooperation signed by Poland and the Republic of Belarus.

105. The Committee of Experts considers this undertaking fulfilled.

## **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.*

106. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. However, during the on-the-spot visit, the Committee of Experts was informed that until recently there was a representative of the Belorussian speakers at the programming council. This person is not part of it anymore and the representatives of the speakers did not know if a new Belorussian representative would be appointed to the programming council.

107. Since the state report does not provide any information on how the interest of the users of Belorussian are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next periodical report, whether the interests of the users of Belorussian are represented or taken into account within programming councils.

## **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;*

108. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities. With regard to Belorussian, the authorities referred to some individual examples of initiatives that they supported such as the Belorussian Folklore and Song Studio called “I was born here” (Ja Naradziusia Tut) or a theatre club in Belorussian called “Playing Theatre” (Zabawa w Teatr). During the on-the-spot visit, representatives of the Belorussian speakers informed the Committee of Experts about the 18<sup>th</sup> edition in 2011 of the All-Poland Belorussian Song Festival (Ogólnopolski Festiwal Piosenki Białoruskiej). However, they also expressed their concerns about the continuity of the financing and therefore the continuity of the cultural events.

109. In order to be in a position to conclude whether this undertaking is fulfilled, the Committee of Experts would need more information about how the Polish authorities encourage types of expression and initiative specific to Belorussian and foster the different means of access to works produced in Belorussian. The Committee of Experts asks the Polish authorities to provide such information in the next periodical report.

- 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;*

110. Due to the lack of information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

111. Due to the lack of specific information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

112. Due to the lack of specific information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

113. Due to the lack of specific information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

114. Due to the lack of specific information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

115. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of Belorussian culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.*

116. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

## **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.*

117. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Belorussian language and the culture it reflects in countries in which Poland presents its own culture and heritage.<sup>18</sup>

118. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the Belorussian language and the cultures it reflects.

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<sup>18</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

## Article 13 – Economic and social life

### Paragraph 1

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

...

- b** *to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*

119. Polish legislation does not contain the prohibition required by this undertaking.<sup>19</sup>

120. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Belorussian, at least between users of the same language.

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

121. Article 32.2 of the Constitution of the Republic of Poland states that “nobody can be discriminated in public, social or economic life for any reason.” However, there is no information about how the Polish authorities oppose with specific measures<sup>20</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

122. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Belorussian in connection with economic or social activities.

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

123. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>21</sup>

124. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of Belorussian in economic and social life within the whole country.

### Paragraph 2

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

...

- b** *in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;*

125. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and

<sup>19</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>20</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

<sup>21</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

126. The Committee of Experts considers this undertaking not 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;***

127. Poland and Belarus have concluded a Treaty on Good Neighbourhood and Friendly Cooperation (1992), a Treaty on Cooperation in the Field of Culture, Science and Education (1995) and a Treaty on Recognition of Equivalency in Higher Education Schools, Equivalence of Scientific Degrees and Degrees within the Arts (2005). These treaties deal inter alia with the promotion of contacts between Belorussian speakers in both countries in the fields of culture, education, media, training and education.

128. The Committee of Experts considers this undertaking fulfilled.

- 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.***

129. The Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and Belarus contains provisions concerning co-operation between municipalities and other administrative and territorial units. The Committee of Experts considers this undertaking fulfilled and asks the authorities to comment on the extent to which such co-operation is to the benefit of the Belorussian language.

## 2.2.2 German

### Article 8 – Education

#### General issues

130. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education as well as benefits of multilingualism.<sup>22</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>23</sup>

131. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

132. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

133. However, in practice, there are no pre-schools where German is used as a language of education. In Raszowa/Raschau (Opole voivodship), one bilingual (Polish/German) kindergarten group has been established with the support of Germany. However, the Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Organising a substantial part of pre-school education in the regional or minority language, as it seems to be the case in one bilingual kindergarten group, is not sufficient because this educational model is covered by the less demanding undertaking under Article 8.1.a.ii that Poland has not ratified. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland either.

134. In light of the obligation entered into by Poland<sup>24</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available pre-school education in German.

<sup>22</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>23</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

<sup>24</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML (2005) 4, paragraphs 624-625, 874-875

**b i to make available primary education in the relevant regional or minority languages; or**

135. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

136. However, in practice, there is no primary education where German is used as a language of education. German is usually taught only as a subject (three hours per week), using a methodology for teaching German as a foreign language. One bilingual (Polish/German) primary school has been established in the Silesia voivodship with additional support from Germany. The Committee of Experts underlines that the present undertaking requires that primary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching German only as a subject or organising a substantial part of primary education in the regional or minority language, as seems to be the case in one bilingual primary school, is not sufficient because these educational models are covered by the undertakings under Articles 8.1.b.iii and b.ii respectively that Poland has not ratified. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland either.

137. In light of the obligation entered into by Poland<sup>25</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available primary education in German.

**c i to make available secondary education in the relevant regional or minority languages; or**

138. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority languages. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

139. However, in practice, there is no secondary education where German is used as a language of instruction. German is usually taught only as a subject (three hours per week), using a methodology for teaching German as a foreign language. One bilingual lower secondary school has been established in Solarnia (Opole voivodship) with additional support from Germany. However, the Committee of Experts underlines that the present undertaking requires that secondary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching German only as a subject or organising a substantial part of secondary education in the regional or minority language, as seems to be the case in one bilingual lower secondary school, is not sufficient because these educational models are covered by the undertakings under Articles 8.1.c.iii and c.ii respectively that Poland has not ratified. Furthermore, the Committee of Experts stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking under Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of German at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14 pupils, which is twice as high as at pre-school and primary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

140. In light of the obligation entered into by Poland<sup>25</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available secondary education in German.

***The Committee of Experts encourages the Polish authorities to make available education in German at pre-school, primary and secondary levels and to ensure continuity from pre-school to secondary education within the territories in which German is used.***

<sup>25</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML (2005) 4, paragraphs 624-625, 874-875

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*

141. According to the Polish authorities, 44 pupils attended classes teaching German within technical and vocational education in the 2010/2011 school year. Representatives of the German speakers have informed the Committee of Experts that these classes were not an integral part of the curriculum.

142. The Committee of Experts considers that the number of 44 pupils is clearly too low considering the number of German speakers in Poland. Furthermore, this undertaking requires that teaching of German is provided as an integral part of the curriculum and available within all the territories in which German is used, according to its situation.

143. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of German as an integral part of the curriculum within the territories in which German is used.

e ...

*ii to provide facilities for the study of these languages as university and higher education subjects; or*

144. According to the initial periodical report, 13,452 students studied German in the fields of philology or cultural studies at universities and other higher educational institutions in 2008.

145. The Committee of Experts considers this undertaking fulfilled.

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

146. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>26</sup> Such teaching is relevant in the case of the German language as well, given that historical prejudices vis-à-vis the German speakers remain strong in Poland.

147. Representatives of the German speakers informed the Committee of Experts in their statement that the history and the culture which is reflected by German is not adequately taught in any school. However, the New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils, and makes it explicit for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

148. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the German language in practice.

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

149. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the

<sup>26</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2005) 3, paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 322

needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

150. During the on-the-spot visit, representatives of the German speakers expressed concern about the lack of teachers who would be able to teach in German, due to the absence of relevant teacher training. The Committee of Experts was also informed of concerns regarding the level of qualification of the teachers as the law does not make a difference between teacher training for German as a foreign language or as a minority language. At the School of Higher Vocational Education in Nysa, postgraduate studies called 'teaching German as a national minority language' are offered. They target people qualified to teach German as a foreign language who would like to obtain qualifications to teach German as a minority language. Furthermore, at the University of Opole, there is a teacher training centre which shall run a postgraduate programme of 'teaching German as a national minority language', but currently no students are enrolled in this programme. The Committee of Experts notes that the study programmes in Nysa and Opole provide for the training of German teachers rather than of teachers who would be able to teach subjects in German in compliance with the undertakings chosen by Poland. However, the studies in Nysa are payable.

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

***The Committee of Experts encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in German at pre-school, primary and secondary levels as well as teaching of German within technical and vocational education.***

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

152. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the superintendents monitor the measures taken and progress achieved in establishing or developing teaching in German and draw up public periodic reports. During the on-the-spot visit, the Committee of Experts received complaints by representatives of the German speakers that the teaching programmes are decided at municipality level and are not harmonised. Furthermore, the Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

153. In light of the above, the Committee of Experts underlines<sup>27</sup> that this undertaking requires an independent body dedicated to looking into regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

154. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in German, and of drawing up public periodic reports.

## **Paragraph 2**

***With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.***

155. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. However, the Committee of Experts

<sup>27</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

has not received any specific information on the implementation of this provision for the German language.

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

## **Article 9 – Judicial authorities**

### **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*

157. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

158. The Committee of Experts considers this undertaking fulfilled.

## **Article 10 – Administrative authorities and public services**

### **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;*

159. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the authorities of municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

160. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as the number of people justifying protection measures under the Charter is commonly well below this percentage.

161. The German language has so far been introduced as an “auxiliary language” in 22 of the 28 municipalities where the 20%-threshold is met. However, German can neither be used in contacts with the districts of Strzelce Opolskie (21% Germans) and Opole county (20%), nor the Opole voivodship (14.5%). There are an additional 17 municipalities and five districts in Upper Silesia where the German minority makes up 10-19.9% of the population as well as one municipality in the Warmia-Masuria voivodship with a share of 8% (Stawiguda). The threshold consequently deprives German of protection in a considerable number of the areas where the German speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking.

162. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>28</sup>

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

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the German speakers, in what areas the German speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (powiaty) and voivodships where the speakers are present in sufficient number.***

***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.***

164. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns “the local and regional authorities”.

165. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>29</sup>

166. Place-names in German, but no street names or other topographical names, have so far been introduced in 23 of the 28 municipalities where the 20%-threshold is met. However, neither the districts of Strzelce Opolskie and Opole county, nor the Opole voivodship can adopt their German names. As mentioned in paragraph 161 above, there are an additional 17 municipalities and five districts where the German minority makes up 10-19.9% of the population as well as one municipality in Warmia-Masuria with a share of 8%. In two municipalities (Krapkowice: 15%; Strzelce Opolskie: 14%), the local councils refused in 2010 to hold consultations on the introduction of additional place-names. The threshold consequently deprives German of protection in a considerable number of the areas where the German speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by

<sup>28</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

<sup>29</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>30</sup>

167. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of place-names in German also regarding those local and regional authorities on whose territory the German speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

### **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.***

168. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents.

169. In 2009, 83 people changed their name to a German name. However, the Committee of Experts was informed during the on-the-spot visit that many officials are not aware of the legal possibility to adopt or use family names in German. This regularly results in the delayed processing of applications for name changes.

170. The Committee of Experts considers this undertaking fulfilled. It nevertheless encourages the Polish authorities to promote the legal possibility to adopt or use family names in German more actively vis-à-vis relevant authorities, e.g. by means of ministerial decrees and circulars.<sup>31</sup>

## **Article 11 – Media**

### **Paragraph 1**

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

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

***...***

***ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or***

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

171. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the German language, the Committee of Experts will *ex officio* examine option a.ii.

172. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes are broadcast by regional radio stations and local branches of Telewizja Polska S.A.

<sup>30</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

<sup>31</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Hungary, ECRML(2004)5, paragraph 117

173. There is no public radio *station* broadcasting mainly or exclusively in German, as required by undertaking a.ii. *Programmes* in German are broadcast in Upper Silesia by Radio Opole (“Nasz Heimat”, a 25-minute bilingual programme broadcast every Sunday afternoon) and Radio Katowice (a bilingual magazine “Pojednanie i Przyszłość” (Reconciliation and Future), every Monday evening) as well as in Warmia-Masuria by Radio Olsztyn (“Allensteiner Welle”, every Sunday evening). Representatives of the German speakers stated during the on-the-spot visit that these programmes are broadcast at times when many German speakers cannot listen to them. Also, the broadcasts do not cover all the territories in which German is spoken, including the Opole voivodship.

174. There is no public television *channel* broadcasting mainly or exclusively in German, as required by undertaking a.ii. Rather, Telewizja Polska broadcasts once a week (in the mornings) the *programme* “Schlesien-Journal” in Upper Silesia.

175. Poland has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. The implementation of this undertaking requires positive action (including, where necessary, funding) on the part of the authorities to encourage and/or facilitate the creation of at least one radio station and one television channel. However, the National Broadcasting Council of Poland (KRRiT) has so far refused to allocate frequencies for a radio station and a television channel for the German minority. The Committee of Experts notes that the existing offer of broadcasting only programmes in German is not sufficient to comply with this undertaking and does not correspond to the situation of the German language. The Committee of Experts underlines the great importance of the electronic media, especially television, for the promotion of regional or minority languages in modern societies and for their social prestige.<sup>32</sup>

176. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled.

***The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in German whose broadcasts cover the territories in which German is spoken.***

***b ...***

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

177. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. With regard to German, the private Radio “Vanessa” broadcasts two programmes in German (“Die deutsche Stimme aus Ratibor” and “Mittendrin”). However, the broadcasting range of these programmes covers only five Upper Silesian municipalities. Furthermore, a programme in German (“Kaffeeklatsch”) is broadcast by Radio “Park FM” once a week for one hour. In general, the large majority of municipalities where German speakers live in Upper Silesia are not covered by these programmes. Furthermore, there are no private radio programmes in German outside Upper Silesia, for example in the voivodship of Warmia-Masuria.

178. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private radio programmes in German on a regular basis, covering the territories in which German is spoken.

***c ...***

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

179. There are no private television programmes in German.

<sup>32</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 263; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 504; 2<sup>nd</sup> Report of the Committee of Experts in respect of Switzerland, ECRML (2004) 6, paragraph 118

180. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private television programmes in German on a regular basis.

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

181. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, according to the information contained in the initial periodical report, the Polish authorities have not encouraged and/or facilitated the production and distribution of audio and audiovisual works in German.

182. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in German.

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

183. According to the initial periodical report, the Polish authorities provide support to the bilingual weekly "Schlesisches Wochenblatt". However, this newspaper is only half in German.

184. The Committee of Experts notes that a weekly corresponds to a "newspaper" in conformity with the present undertaking. In light of the number of German speakers in Poland, however, the Polish authorities might wish to explore possibilities to encourage and/or facilitate the creation of a daily newspaper in German.

185. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to take steps which would facilitate increasing the proportion of German in the "Schlesisches Wochenblatt".

***f ...***

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

186. According to the initial periodical report, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in German.

187. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in German.

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

188. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages. During the on-the-spot visit, representatives of the German speakers complained about the absence of training of journalists and other staff for media using German.

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

## **Paragraph 2**

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

*protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

190. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting. Furthermore, the right to spread and exchange information in the German language was provided in the Treaty on Good Neighbourhood and Friendly Co-operation signed by Poland and Germany.

191. The Committee of Experts considers this undertaking fulfilled.

### **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.*

192. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. The representatives of the German speakers, however, informed the Committee of Experts that the interests of the users of German are currently neither represented, nor taken into account within the programme councils.

193. Since the state report does not provide any information on how the interest of the users of German are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next periodical report, whether the interests of the users of German are represented or taken into account within programming councils.

## **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;*

194. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities.

195. In order to be in a position to conclude whether this undertaking is fulfilled, the Committee of Experts would need more information about how the Polish authorities encourage types of expression and initiative specific to German and foster the different means of access to works produced in German. The Committee of Experts asks the Polish authorities to provide such information in the next periodical report.

- 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;*

196. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

197. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;**

198. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

199. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

200. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

201. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of German culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.***

202. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

## **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.***

203. The initial periodical report refers in general to bilateral treaties concluded by Poland. However, no appropriate provision has been made in cultural policy abroad for the German language and the culture it reflects. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish

authorities to make appropriate provision for the German language and the culture it reflects in countries in which Poland presents its culture and heritage.<sup>33</sup>

204. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the German language and the cultures it reflects.

## Article 13 – Economic and social life

### Paragraph 1

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

...

**b** *to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*

205. Polish legislation does not contain the prohibition required by this undertaking.<sup>34</sup>

206. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of German, at least between users of the same language.

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

207. Article 32.2 of the Constitution of the Republic of Poland states that “nobody can be discriminated in public, social or economic life for any reason.” However, there is no information about how the Polish authorities oppose with specific measures<sup>35</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

208. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of German in connection with economic or social activities.

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

209. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>36</sup>

210. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of German in economic and social life within the whole country.

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<sup>33</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2007) 5, paragraph 202

<sup>34</sup> See for example also 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>35</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

<sup>36</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

## **Paragraph 2**

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

...

- b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;***

211. The information contained in the initial periodical report concerns mainly local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. According to the information contained in the initial periodical report, no activities have been organised to promote the use of the regional or minority languages in this field.

212. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to organise activities to promote the use of German in the economic and social sectors directly under their control (public sector).

## **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;***

213. Poland and Germany have concluded the Treaty on Good Neighbourhood and Friendly Cooperation (1991), the Treaty on Cultural Cooperation (1997), and the Treaty on Recognition of Equivalency in Higher Education Schools (1997). These treaties deal inter alia with the promotion of contacts between German speakers in both countries in the fields of culture, education, media, training and education.

214. The Committee of Experts considers this undertaking fulfilled.

- 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.***

215. The Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and Germany contains provisions concerning co-operation between municipalities and other administrative and territorial units.

### 2.2.3 Kashub

## Article 8 – Education

### General issues

216. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education as well as benefits of multilingualism.<sup>37</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>38</sup>

217. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

218. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

219. There are no pre-school education where Kashub is used as a language of education. In a few places in the Pomerania voivodship, kindergartens use Kashub occasionally. However, the Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. The occasional use of the regional language is not sufficient because this educational model does not even meet the requirements of the undertaking under Article 8.1.a.ii that Poland has not ratified. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland either.

220. In light of the obligation entered into by Poland<sup>39</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available pre-school education in Kashub.

<sup>37</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>38</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

<sup>39</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML 2005 (4), paragraphs 624-625, 874-875

**b i to make available primary education in the relevant regional or minority languages; or**

221. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

222. However, in practice, there is no primary school where Kashub is used as a language of education. Kashub is taught only as a subject (three hours per week). However, the Committee of Experts underlines that the present undertaking requires that primary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Kashub only as a subject is not sufficient because this educational model is covered by the undertaking under Article 8.1.b.iii that Poland has not ratified. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland either.

223. In light of the obligation entered into by Poland<sup>40</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available primary education in Kashub.

**c i to make available secondary education in the relevant regional or minority languages; or**

224. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority languages. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

225. However, in practice, there are no secondary schools where Kashub is used as a language of education. Kashub is taught only as a subject (three hours per week). However, the Committee of Experts underlines that the present undertaking requires that secondary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Kashub only as a subject is not sufficient because this educational model is covered by the undertaking under Article 8.1.c.iii that Poland has not ratified. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking under Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of Kashub at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14 pupils, which is twice as high as at pre-school and primary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

226. In light of the obligation entered into by Poland<sup>40</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available secondary education in Kashub.

***The Committee of Experts encourages the Polish authorities to make available education in Kashub at pre-school, primary and secondary levels and to ensure continuity from pre-school to secondary education within the territories in which Kashub is used.***

**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**

227. According to the initial periodical report, eight pupils attended classes teaching Kashub within vocational school in 2008/2009, but these classes were not an integral part of the curriculum. In 2009/2010 and 2010/2011, no pupil was enrolled. The Committee of Experts stresses that, pursuant to the present undertaking, teaching of Kashub must be provided as an integral part of the curriculum.

<sup>40</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML 2005 (4), paragraphs 624-625, 874-875

228. The Committee of Experts considers this undertaking not fulfilled at present. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Kashub as an integral part of the curriculum within the territories in which Kashub is used.

**e** ...

**ii** *to provide facilities for the study of these languages as university and higher education subjects; or*

229. According to the initial periodical report, in 2009/2010, the University of Gdańsk introduced the speciality "Kashub Studies" in the faculty of Polish Philology. Students of this speciality shall be familiarised with the qualities of the Kashub language, literary and writing output in this language. Among the subjects taught are: Kashub Literature, Practical Kashub as well as History and Culture of Kaszuby Region. Graduates of the field of Polish Philology, with a specialisation in "Kashub studies", who have general humanistic knowledge and at the same time regional humanistic knowledge will be qualified for scientific work, for working as a teacher, culture animator, publishing houses, editorial offices of magazines, and the mass media. However, during the on-the-spot visit, representatives of the Kashubs complained that they had lobbied without success to open a specific Kashub philology department in Gdańsk.

230. The Committee of Experts considers this undertaking fulfilled. It nevertheless asks the Polish authorities to clarify the feasibility of Kashub as a major and to report about it in the next periodical report.

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

231. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>41</sup>

232. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

233. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Kashub language in practice.

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

234. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teacher consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

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<sup>41</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2005) 3, paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 322

235. As far as the Kashub language is concerned, the extended teaching specialisation at the University of Gdańsk will provide students with substantive preparation to teach Polish and the Kashub language in different types of schools. The University of Gdańsk also carried out three editions of postgraduate studies for teachers of the Kashub language financed by the European Union. Furthermore, the Institute of Polish Philology of the Pomeranian University in Słupsk since 2009 has been running postgraduate studies with the methodological and cultural studies specialisation within the teaching of the Kashub language. The studies are addressed to people who have a first or second degree in any field, who can speak and write in the Kashub language. Graduates of the said studies gain qualifications necessary to teach the Kashub language at school. In the school year 2009/10 there were about 60 applicants. However, the Committee of Experts notes that these study programmes provide the basic training of Kashub teachers rather than of teachers who would be able to teach subjects in Kashub in compliance with the undertakings chosen by Poland.

236. During the on-the-spot visit, representatives of the Kashub speakers informed the Committee of Experts that there is no clear procedure for receiving special grants for teacher training because of the division between the competent ministries. In addition, the Kashub minority organisation ran teacher training with the support of EU funds.

237. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in Kashub at pre-school, primary and secondary levels as well as teaching of Kashub within technical and vocational education.***

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

238. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Kashub and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

239. In light of the above, the Committee of Experts underlines<sup>42</sup> that this undertaking requires an independent body dedicated to looking at regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

240. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Kashub, and of drawing up public periodic reports.

## **Paragraph 2**

***With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.***

241. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. However, the Committee of Experts has not received any specific information on the implementation of this provision for the Kashub language.

<sup>42</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

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

## **Article 9 – Judicial authorities**

### **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*

243. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

244. The Committee of Experts considers this undertaking fulfilled.

## **Article 10 – Administrative authorities and public services**

### **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;*

245. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the local authorities of municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the 2002 census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

246. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as the number of people justifying protection measures under the Charter is commonly well below this percentage.

247. The Kashub language has so far been introduced as an “auxiliary language” in two of the ten municipalities where the 20%-threshold is met. However, Kashub can neither be used in contacts with the relevant districts, nor the Pomerania voivodship. There are additional municipalities in the Pomerania voivodship where the Kashubs make up 10-19.9% of the population. The threshold consequently deprives Kashub of protection in a number of the areas where the Kashub speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking.

248. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the

regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>43</sup>

249. Furthermore, during the on-the-spot visit, representatives of the Kashub speakers complained about the fact that even though the law states that a civil servant with a certificate stating that he/she speaks Kashub could obtain additional subsidies of up to 10% of the basis of his/her salary, in practice, not a single civil servant has such a certificate delivered by the Ministry of Interior. The representatives of the speakers complained that in order to deliver a certificate, the ministry requires a teacher's certificate but the university does not provide this service.

250. The Committee of Experts considers this undertaking not fulfilled. It asks the Polish authorities to provide concrete information about the procedure for civil servants to obtain a certificate recognising them as Kashub speakers in the next periodical report.

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the Kashub speakers, in what areas the Kashub speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (powiaty) and voivodships where the speakers are present in sufficient numbers.***

*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.*

251. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns "the local and regional authorities". In addition, the condition required to introduce an additional name of a place, physiographic object or street in a regional or minority language is the incorporation of the municipality into the Registry of Municipalities.

252. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>44</sup>

253. Place-names in Kashub, but no street names or other topographical names, have so far been introduced in seven of the ten municipalities where the 20%-threshold is met. Neither the relevant

<sup>43</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

<sup>44</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

districts, nor the Pomerania voivodship can adopt their Kashub names. As mentioned in paragraph 247 above, there are additional municipalities where the Kashubs make up 10-19.9% of the population. In none of them have the local councils so far decided to hold consultations on the introduction of additional place names. The threshold consequently deprives Kashub of protection in a considerable number of the areas where the Kashub speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>45</sup>

254. Furthermore, during the on-the-spot visit, representatives of the Kashub speakers complained that even in areas where 20% of the population are Kashubs, there have been some difficulties to incorporate the municipalities into the Registry of Communes. The representatives of the speakers informed the Committee of Experts that demands remain pending due to a lack of a definite deadlines for the Minister in charge of Religious Denominations and National and Ethnic Minorities to proceed to the incorporation into the registry. The Committee of Experts asks the Polish authorities to report on this issue in the next periodical report.

255. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in Kashub also regarding those local and regional authorities on whose territory the Kashub speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

#### **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.***

256. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. With regard to Kashub, however, no name change was made during the reporting period.

257. The Committee of Experts considers this undertaking formally fulfilled.

### **Article 11 – Media**

#### **Paragraph 1**

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

- a to the extent that radio and television carry out a public service mission:***
  - ...
  - ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or***
  - iii to make adequate provision so that broadcasters offer programmes in the regional or minority languages;***

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<sup>45</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

258. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the Kashub language, the Committee of Experts will *ex officio* examine option a.ii only.

259. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned.

260. There is no public radio *station* broadcasting mainly or exclusively in Kashub, as required by undertaking a.ii. Two *programmes* in Kashub are broadcast in Gdańsk (33.1 hours and 105 hours respectively) and one in Koszalin (29.3 hours). Radio Gdańsk broadcasts a 50-minute “Magazyn Kaszubski” (Kashub Magazine) on Sunday mornings and at night, and a news magazine “Klëka” (news bulletin on the participation of Kashubs in the political, social and cultural life) from Mondays to Thursdays lasting two minutes in the afternoons and 15 minutes at night. Radio Koszalin broadcasts a 15-minute “Magazyn Kaszubski” (Kashub Magazine) and a two-minute “Serwis Kaszubski” (Kashub Bulletin) every Sunday and a one-minute weather forecast in Kashub every Friday.

261. There is no public television *channel* broadcasting mainly or exclusively in Kashub, as required by undertaking a.ii. Rather, Telewizja Polska broadcasts a *programme* every Sunday morning (“Rodnô zemia”) and every Tuesday a bilingual magazine (“Tede jo”). During the on-the-spot visit, representatives of the Kashubs complained that they used to have once a week a repeated 20 minutes slot of television in Kashub. Two years ago, this time slot was halved. Even though the Kashubs found sponsors to pay the difference to have another 20-minute time slot, the representatives of the speakers complained that the sponsorship system can only be used to buy advertisement time at the central level but not to support this specific programme. Furthermore, representatives of the speakers informed the Committee of Experts that since January 2011, one of these two television programmes is no longer broadcast.

262. Poland has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. The implementation of this undertaking requires positive action (including, where necessary, funding) on the part of the authorities to encourage and/or facilitate the creation of at least one radio station and one television channel. However, the Committee of Experts notes that the existing offer of broadcasting only programmes in Kashub is not sufficient to comply with this undertaking and does not correspond to the situation of the Kashub language. The Committee of Experts underlines the great importance of the electronic media, especially television, for the promotion of regional or minority languages in modern societies and for their social prestige.<sup>46</sup>

263. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled.

***The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in Kashub whose broadcasts cover the territories in which Kashub is spoken.***

***b ...***

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

264. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. With regard to Kashub, the Polish authorities support a radio programme on the private Radio “Kaszëbë” which covers news, culture, entertainment and educational topics. The number of people covered by the broadcasting range currently amounts to 800,000.

<sup>46</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 263; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 6, paragraph 504; 2<sup>nd</sup> Report of the Committee of Experts in respect of Switzerland, ECRML (2004) 6, paragraph 118

265. The Committee of Experts considers this undertaking fulfilled

**c** ...

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

266. CSBTV (Cassubia TV) satellite television broadcasts programmes in Kashub. During the on-the-spot visit, the Committee of Experts was informed about the application for a grant from the Ministry of the Interior for a 15-minute weekly programme. However, it is unclear whether it has been granted. The Committee of Experts is not at present in a position to conclude on the fulfilment of this undertaking and would welcome further information on this in the next periodical report.

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

267. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there are no indications that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Kashub.

268. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Kashub.

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

269. According to the initial periodical report, the Polish authorities provide financial assistance to the monthly bilingual publication "Pomerania". However, the Committee of Experts underlines that a "newspaper" in conformity with the present undertaking has to be published at least weekly.<sup>47</sup>

270. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the creation and/or maintenance of at least one weekly newspaper in Kashub.

**f** ...

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

271. According to the available information, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in Kashub.

272. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in Kashub.

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

273. The initial periodical report makes no mention of a scheme for the training of journalists and other staff for media using Kashub.

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

## **Paragraph 2**

***The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the***

<sup>47</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of Serbia, ECRML(2009)2, paragraph 267; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML(2009)8, paragraph 654

*retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

275. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting.

276. The Committee of Experts considers this undertaking fulfilled.

### **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.*

277. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. However, no representative of the Kashub speakers is a member of a programme council.

278. Since the state report does not provide any information on how the interest of the users of Kashub are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next periodical report, whether the interests of the users of Kashub are represented or taken into account within programming councils.

## **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;*

279. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities.

280. In order to be in a position to conclude whether this undertaking is fulfilled, the Committee of Experts would need more information about how the Polish authorities encourage types of expression and initiative specific to Kashub and foster the different means of access to works produced in Kashub. The Committee of Experts asks the Polish authorities to provide it with such information in the next periodical report.

- 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;*

281. Due to the lack of information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

282. According to the initial periodical report, a famous Polish drama ('The Wedding' by Witold Gombrowicz) has been translated into the Kashub language with financial support from the Polish authorities. In order to conclude on whether this undertaking is fulfilled, the Committee of Experts would, however, need more comprehensive information.

- d** *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

283. Due to the lack of information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

284. Due to the lack of information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

285. Due to the lack of information, the Committee of Experts is not in a position to conclude whether this undertaking is fulfilled or not. It asks the Polish authorities to provide further information in the next periodical report.

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

286. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of Kashub culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.*

287. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

## **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.*

288. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in

respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Kashub language and the culture it reflects in countries in which Poland presents its own culture and heritage.<sup>48</sup>

289. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the Kashub language and the cultures it reflects.

## **Article 13 – Economic and social life**

### **Paragraph 1**

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

...

- b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;**

290. Polish legislation does not contain the prohibition required by this undertaking.<sup>49</sup>

291. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Kashub, at least between users of the same language.

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

292. Article 32.2 of the Constitution of the Republic of Poland states that “nobody can be discriminated in public, social or economic life for any reason.” However, there is no information about how the Polish authorities oppose with specific measures<sup>50</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

293. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Kashub in connection with economic or social activities.

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

294. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>51</sup>

295. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of Kashub in economic and social life within the whole country.

### **Paragraph 2**

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<sup>48</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

<sup>49</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>50</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

<sup>51</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

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

...

- b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;***

296. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

297. The Committee of Experts considers this undertaking not 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;***

298. No relevant bilateral or multilateral agreement exist and there are also no other States in which the same language is used in identical or similar form.

- 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.***

299. No relevant co-operation across borders exists and there are also no other States in which the same language is used in identical or similar form.

## 2.2.4 Lemko

### Article 8 – Education

#### General issues

300. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education as well as benefits of multilingualism.<sup>52</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>53</sup>

301. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

302. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

303. There are no pre-schools where Lemko is used as a language of education. The Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland.

304. In light of the obligation entered into by Poland<sup>54</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available pre-school education in Lemko.

<sup>52</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>53</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

<sup>54</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML (2005) 4, paragraphs 624-625, 874-875

***b i to make available primary education in the relevant regional or minority languages; or***

305. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

306. However, in practice, there are no primary schools where Lemko is used as a language of education. In a few local communities, Lemko is taught only as a subject (three hours per week). The Committee of Experts underlines that the present undertaking requires that primary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Lemko only as a subject is not sufficient because this educational model is covered by the undertaking under Article 8.1.b.iii that Poland has not ratified. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland either.

307. In light of the obligation entered into by Poland<sup>55</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available primary education in Lemko.

***c i to make available secondary education in the relevant regional or minority languages; or***

308. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority languages. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

309. However, there are no secondary schools where Lemko is used as a language of education. In a few local communities, Lemko is taught only as a subject (three hours per week). The Committee of Experts underlines that the present undertaking requires that secondary education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Teaching Lemko only as a subject is not sufficient because this educational model is covered by the undertaking under Article 8.1.c.iii that Poland has not ratified. The Committee of Experts also stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking under Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of Lemko at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14 pupils, which is twice as high as at pre-school and primary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

310. In light of the obligation entered into by Poland<sup>55</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available secondary education in Lemko.

***The Committee of Experts encourages the Polish authorities to make available education in Lemko at pre-school, primary and secondary levels and to ensure continuity from pre-school to secondary education.***

***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***

311. According to the initial periodical report, three pupils attended Lemko classes within vocational education in the school year 2010/2011. However, the teaching of Lemko was not an integral part of the curriculum.

<sup>55</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML (2005) 4, paragraphs 624-625, 874-875

312. The Committee of Experts considers that the number of three pupils is clearly too low considering the number of Lemko speakers in Poland. It also notes that, pursuant to the present undertaking, teaching of Lemko must be provided as an integral part of the curriculum.

313. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Lemko as an integral part of the curriculum.

e ...

*ii to provide facilities for the study of these languages as university and higher education subjects; or*

314. According to the initial periodical report, the Institute of Russian Philology of the Pedagogical University of Cracow offers a speciality of Russian Philology with the Rusyn-Lemko language. The creation of the said speciality resulted from the need to train teachers of the Lemko language. Students of this speciality, apart from substantive preparation for teaching the Lemko language, have also the possibility of undergoing such practical trainings as: pedagogical, cultural and language studies, as well as workshops in ethnic journalism.

315. The Committee of Experts considers this undertaking fulfilled.

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

316. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>56</sup> Such teaching is relevant in the case of the Lemko language as well, given that historical prejudices vis-à-vis the Lemko speakers remain strong in Poland.

317. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit only for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

318. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Lemko language in practice.

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

319. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

320. According to the initial periodical report, the Institute of Russian Philology of the Pedagogical University of Cracow offers a speciality of Russian Philology with the Rusyn-Lemko language. This

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<sup>56</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2005) 3, paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 322

speciality trains Lemko teachers. However, the Committee of Experts notes that this study programme provides for the basic training of Lemko teachers rather than of teachers who would be able to teach subjects in Lemko in compliance with the undertakings chosen by Poland.

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

***The Committee of Experts encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in Lemko at pre-school, primary and secondary levels as well as teaching of Lemko within technical and vocational education.***

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

322. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Lemko and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

323. In light of the above, the Committee of Experts underlines<sup>57</sup> that this undertaking requires an independent body dedicated to looking into regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

324. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Lemko, and of drawing up public periodic reports.

## **Paragraph 2**

***With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.***

325. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. However, the Committee of Experts has not received any specific information on the implementation of this provision for the Lemko language.

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

## **Article 9 – Judicial authorities**

### **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*

327. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

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<sup>57</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

328. The Committee of Experts considers this undertaking fulfilled.

## Article 10 – Administrative authorities and public services

### 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;*

329. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the local authorities of municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

330. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as it deprives the Lemko language whose speakers do not attain it in any municipality of protection under Article 10.2b.

331. According to the 2002 census, the highest share of Lemkos can be found in the municipalities of Uście Gorlickie (12%) and Sękowa (6%) in the Gorlice district of the Lesser Poland voivodship. While the place-name in Lemko of a village belonging to the municipality of Gorlice has already been adopted (see under Article 10.2g below), Lemko has so far not been introduced as an “auxiliary language” in any municipality. Lemko can neither be used in contacts with the Gorlice district, nor the voivodship of Lesser Poland. The threshold consequently deprives Lemko of protection in those areas where the Lemko speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking.

332. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>58</sup>

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

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<sup>58</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the Lemko speakers, in what areas the Lemko speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (powiaty) and voivodships where the speakers are present in sufficient numbers.***

***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.***

334. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns “the local and regional authorities”.

335. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>59</sup>

336. Place-names in Lemko, but no street names or other topographical names, have so far been introduced in Bielanka/Білянка, a village belonging to the municipality and district of Gorlice in the Lesser Poland voivodship. However, neither the district of Gorlice, nor the Lesser Poland voivodship can adopt their Lemko names. As mentioned in paragraph 331 above, there are at least two other municipalities where the Lemko speakers are traditionally present in relevant numbers. In neither of them have the local councils decided so far to hold consultations on the introduction of additional place-names. The threshold consequently deprives Lemko of protection in areas where the Lemko speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>60</sup>

337. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in Lemko also regarding those local and regional authorities on whose territory the Lemko speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

<sup>59</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

<sup>60</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

## **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.***

338. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. Names and surnames of people who use an alphabet other than the Latin alphabet are subject to transliteration. A regulation specifies the method of transliteration *inter alia* for Lemko. With regard to Lemko, no name change was made in the reporting period.

339. The Committee of Experts considers this undertaking fulfilled.

## **Article 11 – Media**

### **Paragraph 1**

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

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

...

***ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or***

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

340. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the Lemko language, the Committee of Experts will *ex officio* examine option a.ii only.

341. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned. However, there are no public radio and television broadcasts in Lemko.

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

***The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in Lemko whose broadcasts cover the territories in which Lemko is spoken.***

***b ...***

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

343. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. However, there are no private radio programmes in Lemko.

344. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private radio programmes in Lemko on a regular basis.

**c** ...

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

345. There are no private television programmes in Lemko.

346. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private television programmes in Lemko on a regular basis.

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

347. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there are no indications that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Lemko.

348. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Lemko.

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

349. According to the initial periodical report, the Polish authorities provide financial assistance to "Łemkiwska Storinka", a supplement to the Ukrainian weekly newspaper "Nasze Słowo". While this supplement is entirely in Lemko, the Committee of Experts has no information about its volume. Furthermore, a supplement to a newspaper does not qualify as a "newspaper" in its own right in conformity with the present undertaking.

350. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to consider the establishment of a separate Lemko newspaper which is published at least weekly.

**f** ...

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

351. According to the available information, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in Lemko.

352. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in Lemko.

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

353. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages.

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

## **Paragraph 2**

*The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information*

*in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

355. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting.

356. The Committee of Experts considers this undertaking fulfilled.

### **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.*

357. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. However, no representative of the Lemko speakers is a member of a programme council.

358. Since the state report does not provide any information on how the interest of the users of Lemko are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next periodical report, whether the interests of the users of Lemko are represented or taken into account within programming councils.

## **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;*

359. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities. During the on-the-spot visit, representatives of the speakers informed the Committee of Experts of the International Lemko Culture Vatra Festival (Międzynarodowy Festiwal Kultury Łemkowskiej Watra). The Committee of Experts is not sure, however, of the support that the Polish authorities provided to this festival.

360. In order to be in a position to conclude whether this undertaking is fulfilled, the Committee of Experts would need more information about how the Polish authorities encourage types of expression and initiative specific to Lemko and foster the different means of access to works produced in Lemko. The Committee of Experts asks the Polish authorities to provide it with such information in the next periodical report.

- 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;*

361. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

362. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- d** *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

363. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

364. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

365. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

366. According to the Polish authorities, several archive activities receive support from the government: the Lemko Culture Museum in Zyndranowa, the Ivan Rusenko Memorial Chamber at the Lemko Culture Centre and the Lemko Research Study at the Lemko Song and Dance Ensemble called *Kyczera*. However, due to the lack of specific information, it is not clear to the Committee of Experts whether these institutions qualify as the bodies required by this undertaking and whether they receive regular financial support. The Committee of Experts is therefore not in a position to conclude on the fulfilment of this undertaking and asks the Polish authorities to clarify these issues in the next periodical report.

367. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of Lemko culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.***

368. The Polish authorities have supported the Lemko Song and Dance Ensemble in Legnica. However, this information is not sufficiently detailed to enable the Committee of Experts to reach a conclusion. The Committee of Experts asks the Polish authorities to provide further information on the implementation of this undertaking in the next periodical report.

369. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

### **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.*

370. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Lemko language and the culture it reflects in countries in which Poland presents its own culture and heritage.<sup>61</sup>

371. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the Lemko language and the cultures it reflects.

## **Article 13 – Economic and social life**

### **Paragraph 1**

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

...

- b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;**

372. Polish legislation does not contain the prohibition required by this undertaking.<sup>62</sup>

373. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Lemko, at least between users of the same language.

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

374. Article 32.2 of the Constitution of the Republic of Poland states that "nobody can be discriminated in public, social or economic life for any reason." However, there is no information about how the Polish authorities oppose with specific measures<sup>63</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

375. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Lemko in connection with economic or social activities.

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<sup>61</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

<sup>62</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>63</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

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

376. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>64</sup>

377. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of Lemko in economic and social life within the whole country.

## **Paragraph 2**

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

...

- b in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;**

378. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

379. The Committee of Experts considers this undertaking not 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;**

380. The Committee of Experts has not received any specific information regarding bilateral agreement with States in which the same language is used in identical or similar form. It asks the Polish authorities to provide information in the next periodical report.

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

381. The Committee of Experts has not received any specific information regarding co-operation across borders. It asks the Polish authorities to provide information in the next periodical report.

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<sup>64</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

## 2.2.5 Lithuanian

### Article 8 – Education

#### General issues

382. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education as well as benefits of multilingualism.<sup>65</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>66</sup>

383. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

384. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. However, a minimum threshold of seven children is applied.

385. As far as the Lithuanian language is concerned, the school "Žiburys" in Sejny, supported by the Antanas Baranauskas Foundation as well as the schools in Widugiery/Vidugiriai, Nowiniki/Navinykai, Puńsk/Punskas and Przystawańce/Pristavonys comprise kindergartens with Lithuanian as the language of instruction. While welcoming this, the Committee of Experts stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland.

386. In light of the comprehensive offer of pre-school education in Lithuanian, the Committee of Experts nevertheless considers this undertaking fulfilled.

*b i to make available primary education in the relevant regional or minority languages; or*

<sup>65</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>66</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

387. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

388. As far as the Lithuanian language is concerned, the school "Žiburys" in Sejny as well as the schools in Widugiery/Vidugiriai, Nowiniki/Navinykai, Puńsk/Punskas and Przystawańce/Pristavonys also comprise primary schools with Lithuanian as the language of instruction. While welcoming this, the Committee of Experts stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland.

389. In light of the comprehensive offer of primary education in Lithuanian, the Committee of Experts nevertheless considers this undertaking fulfilled.

**c i to make available secondary education in the relevant regional or minority languages; or**

390. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority languages. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

391. As far as the Lithuanian language is concerned, the school "Žiburys" in Sejny, supported by the Antanas Baranauskas Foundation, and the Darius and Girenas schools in Puńsk/Punskas comprise lower secondary schools with Lithuanian as the language of instruction. The General Upper Secondary School with Instruction in Lithuanian in Puńsk/Punskas also provides education with Lithuanian as the language of instruction. While welcoming this, the Committee of Experts stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking Article 8.1.c.iv that does not apply in Poland. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of Lithuanian at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14, which is twice as high as at pre-school and secondary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

392. Representatives of the Lithuanian speakers drew the attention of the Committee of Experts to the problem of transportation faced by pupils wanting to attend the higher secondary school in Puńsk/Punskas. Some of them travel long distances as this is the only school at this level of education with Lithuanian as the language of education in the region. This is also the only school in Poland that provides education through the medium of a regional or minority language at higher secondary school level. Therefore, the Committee of Experts encourages the Polish authorities to make sure that budgetary cuts do not impede the provision of transport and boarding for pupils.

393. In light of the comprehensive offer of secondary education in Lithuanian, the Committee of Experts nevertheless considers this undertaking fulfilled.

**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**

394. According to the initial periodical report, six students studied Lithuanian in technical upper secondary schools during the year 2009/2010 as well as in 2010/2011. However, the teaching of Lithuanian was not an integral part of the curriculum.

395. The Committee of Experts considers that the number of six pupils is clearly too low considering the strong position of Lithuanian at pre-school, primary and secondary education levels. Also, pursuant to the present undertaking, the teaching of Lithuanian must be provided as an integral part of the curriculum.

396. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Lithuanian as an integral part of the curriculum within the territories in which Lithuanian is used.

e ...

*ii to provide facilities for the study of these languages as university and higher education subjects; or*

397. According to the initial periodical report, 32 students studied Lithuanian in the field of philology at university in 2008.

398. The Committee of Experts considers this undertaking fulfilled.

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

399. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>67</sup>

400. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit only for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

401. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Lithuanian language in practice.

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

402. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

403. As far as the Lithuanian language is concerned, the Committee of Expert was informed during the on-the-spot visit that several training centres for teachers work well and that they collaborate with similar centres in Lithuania.

404. The Committee of Experts considers this undertaking fulfilled at present. It nevertheless encourages the Polish authorities to ensure that the basic and further training of the teachers required for the provision of education in Lithuanian at pre-school, primary and secondary levels continues to be provided in the future.

*i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

405. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the

<sup>67</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2005) 3, paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 322

superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Lithuanian and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

406. In light of the above, the Committee of Experts underlines<sup>68</sup> that this undertaking requires an independent body dedicated to looking at regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

407. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Lithuanian, and of drawing up public periodic reports.

### **Paragraph 2**

*With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.*

408. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. However, the Committee of Experts has not received any specific information on the implementation of this provision for the Lithuanian language.

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

## **Article 9 – Judicial authorities**

### **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*

410. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

411. The Committee of Experts considers this undertaking fulfilled.

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<sup>68</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

## Article 10 – Administrative authorities and public services

### 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;*

412. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the authorities of municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

413. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as the number of people justifying protection measures under the Charter is commonly well below this percentage.

414. The Lithuanian language has so far been introduced as an “auxiliary language” in Puńsk/Punskas, the only municipality where the 20%-threshold is met. However, Lithuanian can neither be used in contacts with the district of Sejny, nor the Podlaskie voivodship. In two additional municipalities in the Sejny district of Podlaskie voivodship, the Lithuanian minority makes up 19% and 8% of the population respectively. The threshold consequently deprives Lithuanian of protection in two municipalities where the Lithuanian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking.

415. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>69</sup>

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

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the Lithuanian speakers, in what areas the Lithuanian speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (powiaty) and voivodships where the speakers are present in sufficient numbers.***

- 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.*

<sup>69</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

417. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns “the local and regional authorities”.

418. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>70</sup>

419. Place-names in Lithuanian, but no street names or other topographical names, have so far been introduced in Puńsk/Punskas where the 20%-threshold is met. Neither the district of Sejny, nor the Podlaskie voivodship can adopt their Lithuanian names. As mentioned in paragraph 411 above, there are two further municipalities where the Lithuanian minority makes up 19% and 8% of the population. In neither of them have the local councils decided so far to hold consultations on the introduction of additional place-names. The threshold consequently deprives Lithuanian of protection in municipalities where the Lithuanian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>71</sup>

420. The Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in Lithuanian also regarding those local and regional authorities on whose territory the Lithuanian speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

## **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.***

421. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. The right to use names and surnames in the

<sup>70</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

<sup>71</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

minority language is also guaranteed in the Treaties on Friendship and Good-Neighbourly Relations with the Republic of Lithuania. In 2009, seven people changed their names and surnames to the Lithuanian language.

422. The Committee of Experts considers this undertaking fulfilled.

## Article 11 – Media

### Paragraph 1

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

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

...

**ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or**

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

423. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the Lithuanian language, the Committee of Experts will *ex officio* examine option a.ii only.

424. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned.

425. There is no public radio *station* broadcasting mainly or exclusively in Lithuanian, as required by undertaking a.ii. A *programme* in Lithuanian is broadcast by the regional station in Białystok three times a week (“Litewski magazyn” (Lithuanian magazine), 15-30 minutes, in the evenings and on Sundays at 6.30 am, which is inconvenient for the speakers).

426. There is no public television *channel* broadcasting mainly or exclusively in Lithuanian, as required by undertaking a.ii. Rather, Telewizja Polska broadcasts a local *programme* (“Panorama Litewska” (Lithuanian Panorama), four times a month on Sunday afternoons for seven minutes). During the on-the-spot visit, representatives of the Lithuanian speakers complained that transmitters for these programmes do not reach all the area where Lithuanian speakers live.

427. Poland has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. The implementation of this undertaking requires positive action (including, where necessary, funding) on the part of the authorities to encourage and/or facilitate the creation of at least one radio station and one television channel. However, the Committee of Experts notes that the existing offer of broadcasting only programmes in Lithuanian is not sufficient to comply with this undertaking and does not correspond to the situation of the Lithuanian language. The Committee of Experts underlines the great importance of the electronic media, especially television, for the promotion of regional or minority languages in modern societies and for their social prestige.<sup>72</sup>

428. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled.

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<sup>72</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 263; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 504; 2<sup>nd</sup> Report of the Committee of Experts in respect of Switzerland, ECRML (2004) 6, paragraph 118

**The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in Lithuanian whose broadcasts cover the territories in which Lithuanian is spoken.**

**b ...**

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

429. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. However, there are no private radio programmes in Lithuanian.

430. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private radio programmes in Lithuanian on a regular basis.

**c ...**

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

431. There are no private television programmes in Lithuanian.

432. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private television programmes in Lithuanian on a regular basis.

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

433. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there are no indications that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Lithuanian.

434. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Lithuanian.

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

435. According to the initial periodical report, the Polish authorities provide financial assistance to the fortnightly publication "Aušra" as well as a children's monthly called "Aušrele". The Committee of Experts welcomes these initiatives, especially the magazine for children, but underlines that a "newspaper" in conformity with the present undertaking has to be published at least weekly.<sup>73</sup>

436. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the creation and/or maintenance of at least one weekly newspaper in Lithuanian.

**f ...**

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

437. According to the available information, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in Lithuanian.

<sup>73</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of Serbia, ECRML(2009)2, paragraph 267; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML(2009)8, paragraph 654

438. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in Lithuanian.

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

439. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages.

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

## **Paragraph 2**

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

441. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting. Furthermore, the right to spread and exchange information in the Lithuanian language was provided in the Treaty on Good Neighbourhood and Friendly Cooperation signed by Poland and the Republic of Lithuania.

442. The Committee of Experts considers this undertaking fulfilled.

## **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.*

443. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. However, no representative of the Lithuanian national minority is a member of a programme council.

444. Since the state report does not provide any information on how the interest of the users of Lithuanian are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next periodical report, whether the interests of the users of Lithuanian are represented or taken into account within programming councils.

## 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;*

445. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities. With regard to Lithuanian, according to the initial periodical report, some funding was provided for the organisation of a children's song competition (Dainorews), as well as for a festival and activities of artistic groups at the Lithuanian House in Sejny. However, it is unclear to the Committee of Experts whether these activities receive continued financial support, as during the on-the-spot visit representatives of the Lithuanian speakers complained that they do not receive any support when organising cultural activities.

446. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to encourage types of expression and initiative specific to Lithuanian and foster the different means of access to works produced in Lithuanian.

- 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;*

447. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

448. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- d to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

449. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

450. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

451. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

452. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of Lithuanian culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional

Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.*

453. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

## **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.*

454. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Lithuanian language and the culture it reflects in countries in which Poland presents its own culture and heritage.<sup>74</sup>

455. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the Lithuanian language and the cultures it reflects.

## **Article 13 – Economic and social life**

### **Paragraph 1**

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

...

*b to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*

456. Polish legislation does not contain the prohibition required by this undertaking.<sup>75</sup>

457. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Lithuanian, at least between users of the same language.

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

458. Article 32.2 of the Constitution of the Republic of Poland states that "nobody can be discriminated in public, social or economic life for any reason." However, there is no information about

<sup>74</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

<sup>75</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

how the Polish authorities oppose with specific measures<sup>76</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

459. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Lithuanian in connection with economic or social activities.

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

460. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>77</sup>

461. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of Lithuanian in economic and social life within the whole country.

## **Paragraph 2**

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

...

**b** *in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;*

462. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

463. The Committee of Experts considers this undertaking not 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;*

464. Poland and Lithuania have concluded a Treaty on Friendly Relations and Good-Neighbourly Cooperation (1994), a Treaty on Cooperation in the Field of Culture, Education and Science (1998) and a Treaty on the Polish and Lithuanian Fund of Exchange of Young People (2007). These treaties deal inter alia with the promotion of contacts between Lithuanian speakers in both countries in the fields of culture, education, media, training and education. In addition, during the on-the-spot visit, representatives of the Lithuanian speakers underlined the good co-operation between teacher training centres in both countries.

465. The Committee of Experts considers this undertaking fulfilled.

<sup>76</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

<sup>77</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

- 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.***

466. The Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and Lithuania contains provisions concerning co-operation between municipalities and other administrative and territorial units. However, it is not clear to what extent such co-operation is to the benefit of the Lithuanian language. The Committee of Experts asks the Polish authorities to submit practical examples of the implementation in the next periodical report.

## 2.2.6 Ukrainian

### Article 8 – Education

#### General issues

467. A large part of the Ukrainian and Lemko speakers were deported in 1947 from the territory where they traditionally lived mainly to the territory of the present voivodships of Warmia-Masuria, Western Pomerania, Lower Silesia and Lubuskie. As a substantial part of both linguistic groups have been living in these voivodships since that time, the use of the Ukrainian and Lemko languages is widespread, including outside the traditional territory. Therefore, the Committee of Experts has decided to examine, under Article 8.1, the situation of the Ukrainian language in both the traditional territory and the resettlement areas.

468. According to the information that the Committee of Experts received during the on-the-spot visit from representatives of several national minorities, many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that more awareness-raising is needed about the virtues of regional or minority language education, as well as benefits of multilingualism.<sup>78</sup> It encourages the Polish authorities to actively promote regional or minority language education among parents and pupils.<sup>79</sup>

469. During the on-the-spot visit, the Committee of Experts was informed by representatives of several national minorities that depending on the number of pupils enrolled in regional or minority language education, schools receive an additional subsidy of 20% or, when the number of students is low (primary schools with fewer than 84 pupils and higher secondary schools with fewer than 42 pupils), of 150%. The subsidy is allocated every year on the basis of parents' requests for regional or minority language education. However, as the amount of the subsidy allocated depends on the number of pupils, this encourages schools to limit the number of pupils attending regional or minority language education. In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued. The Committee of Experts was also informed of cases where subsidies dedicated to regional or minority language education have been misused by local authorities for other purposes. In light of the above, the Committee of Experts encourages the Polish authorities to improve the system of delivering subsidies for regional or minority language education in order to ensure the continuity of education. In addition, it encourages the Polish authorities to regularly monitor local authorities' use of subsidies dedicated to regional or minority 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

470. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

471. There are no pre-schools where Ukrainian is used as a language of education. In Przemyśl (Subcarpathia voivodship) and Bartoszyce, bilingual (Polish/Ukrainian) kindergartens have been established. However, the Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially with the regional or minority language as the language of education. Organising a substantial part of pre-school education in the regional or minority language, as it seems to be the case in two bilingual kindergartens, is not sufficient because this educational model is

<sup>78</sup> See for example <http://www.unesco.org/en/languages-and-multilingualism>; <http://www.cilt.org.uk>

<sup>79</sup> See also 4<sup>th</sup> Report of the Committee of Experts in respect of Hungary, ECRML (2010) 2, paragraph 66

covered by the undertaking under Article 8.1.a.ii that Poland has not ratified. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families, as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland either.

472. In light of the obligation entered into by Poland<sup>80</sup>, the Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make available pre-school education in Ukrainian.

***b i to make available primary education in the relevant regional or minority languages; or***

473. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

474. As regards Ukrainian, there are two primary schools, one in Bartoszyce (Warmia-Masuria voivodship) and one in Biały Bor (Western Pomerania voivodship), which teach in Ukrainian or provide bilingual education. Furthermore, one bilingual (Polish/Ukrainian) primary school has been established in Przemyśl (Subcarpathia voivodship). However, the Committee of Experts notes that the current offer of teaching in Ukrainian at two primary schools is not sufficient in light of the number of Ukrainian speakers in Poland. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland either.

475. In light of the obligation entered into by Poland<sup>80</sup>, the Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to extend the offer of primary education in Ukrainian.

***c i to make available secondary education in the relevant regional or minority languages; or***

476. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

477. As regards Ukrainian, in the resettlement areas, four lower secondary schools (Bartoszyce, Biały Bór, Górowo Iławieckie, Legnica) and three higher secondary schools (Biały Bór, Górowo Iławieckie, Legnica) provide education in Ukrainian or bilingual education. Furthermore, in the traditional area, one bilingual (Polish/Ukrainian) lower secondary school and one bilingual higher secondary school have been established in Przemyśl (Subcarpathia voivodship). The Committee of Experts nevertheless stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking under Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of Ukrainian at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14 pupils, which is twice as high as at pre-school and primary school levels. The Committee of Experts encourages the Polish authorities to review the threshold of 14 pupils.

478. In light of the obligation entered into by Poland<sup>80</sup>, the Committee of Experts considers this undertaking partly fulfilled.

***The Committee of Experts encourages the Polish authorities to provide education in Ukrainian at pre-school level, extend it at primary level, and to ensure continuity from pre-school to secondary education.***

<sup>80</sup> See also 1<sup>st</sup> Report of the Committee of Experts in respect of Spain, ECRML 2005 (4), paragraphs 624-625, 874-875

**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*

479. According to the Polish authorities, 28 students learned Ukrainian in technical upper secondary schools and five students in specialised upper secondary schools during the year 2009/2010. In the school year 2010/2011, nine students learned Ukrainian in technical upper secondary schools. However, the teaching of Ukrainian was not an integral part of the curriculum.

480. The Committee of Experts considers that the number of students is clearly too low considering the number of Ukrainian speakers in Poland. Also, pursuant to the present undertaking, the teaching of Ukrainian must be provided as an integral part of the curriculum.

481. The Committee of Experts considers this undertaking partly fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Ukrainian as an integral part of the curriculum.

**e** ...

**ii** *to provide facilities for the study of these languages as university and higher education subjects; or*

482. According to the initial periodical report, 614 students studied Ukrainian philology at universities and other higher educational institutions in 2008.

483. The Committee of Experts considers this undertaking fulfilled.

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

484. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>81</sup> Such teaching is relevant in the case of the Ukrainian language as well, given that historical prejudices vis-à-vis the Ukrainian speakers remain strong in Poland.

485. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit only for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

486. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Ukrainian language in practice.

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

487. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and

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<sup>81</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2005) 3, paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 322

further training of the teachers required to teach *in* regional or minority languages at various levels of education.

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

***The Committee of Experts encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in Ukrainian at pre-school, primary and secondary levels as well as teaching of Ukrainian within technical and vocational education.***

- i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.*

489. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Ukrainian and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

490. In light of the above, the Committee of Experts underlines<sup>82</sup> that this undertaking requires an independent body dedicated to looking into regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

491. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Ukrainian, and of drawing up public periodic reports.

## **Paragraph 2**

***With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.***

492. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence. As indicated above (paragraph 464) the Committee of Experts has decided to examine the situation of Ukrainian language education in territories other than those in which Ukrainian is traditionally used under Article 8.1.

## **Article 9 – Judicial authorities**

### **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*

493. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

494. The Committee of Experts considers this undertaking fulfilled.

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<sup>82</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

## Article 10 – Administrative authorities and public services

### 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;*

495. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the local authorities of municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

496. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high as it deprives the Ukrainian language whose speakers do not attain it in any municipality of protection under Article 10.2b.

497. According to the 2002 census, the highest share of Ukrainians can be found in the municipalities of Komańcza (10%), Stubno (8%) and Zagórz (3%) in the voivodship of Subcarpathia. Ukrainian has so far not been introduced as an “auxiliary language” in any municipality. Ukrainian can neither be used in contacts with the Sanocki and Przemyśl districts, nor the voivodship of Subcarpathia. The threshold consequently deprives Ukrainian of protection in those areas where the Ukrainian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking.

498. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>83</sup>

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

***The Committee of Experts encourages the Polish authorities to determine, in co-operation with the Ukrainian speakers, in what areas the Ukrainian speakers are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (*powiaty*) and voivodships where the speakers are present in sufficient numbers.***

<sup>83</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

- 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.*

500. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority or the Kashub linguistic group make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns “the local and regional authorities”.

501. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high in this context as the adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. The Committee of Experts therefore encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages.<sup>84</sup>

502. There is no municipality where the local council has decided so far to hold consultations on the introduction of additional place names in Ukrainian. Neither the Sanocki and Przemyśl districts, nor the Subcarpathia voivodship can adopt their Ukrainian names. The threshold consequently deprives Ukrainian of protection in areas where the Ukrainian speakers are traditionally present and where they constitute a relevant number for the purpose of the present undertaking. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>85</sup>

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

***The Committee of Experts encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in Ukrainian also regarding those local and regional authorities on whose territory the Ukrainian speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.***

## **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.***

504. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. Names and surnames of people who use an alphabet other than the Latin alphabet are subject to transliteration. A regulation specifies the method of transliteration *inter alia* for Ukrainian. The right to use names and surnames in the minority

<sup>84</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

<sup>85</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (*inter alia* with regard to Polish as a minority language in Slovakia)

language is also guaranteed in the Treaties on Friendship and Good-Neighbourly Relations with Ukraine. In 2009, one person changed her or his name and surname to the Ukrainian language.

505. The Committee of Experts considers this undertaking fulfilled.

## Article 11 – Media

### Paragraph 1

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

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

...

**ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or**

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

506. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. In line with its practice and in light of the situation of the Ukrainian language, the Committee of Experts will *ex officio* examine option a.ii only.

507. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned.

508. There is no public radio *station* broadcasting mainly or exclusively in Ukrainian, as required by undertaking a.ii. However, several regional radio *programmes* are broadcast in Ukrainian: “Ukraińska Dumka” (three times a week, 15-30 minutes), “Skrynia” (141 hours, every Thursday, 40-55 minutes), “Wiadomości dla Ukraińców” (‘News for Ukrainians’, from Mondays to Thursdays, 30 minutes), “Z Karpackich” (on the first and third Sunday of the month in the evenings) and “Na wschód od zachodu” (To the east from the west).

509. There is no public television *channel* broadcasting mainly or exclusively in Ukrainian, as required by undertaking a.ii. Rather, Telewizja Polska’s broadcasts the regional *programme* “Przegląd Ukraiński” (‘Ukrainian Review’, four times a month on Sunday mornings). In addition, Telewizja Polska INFO broadcasts the programme “Telenowyny” for twelve minutes a month. During the on-the-spot visit, the representatives of the Ukrainian speakers highlighted problems with the continuity of broadcasting of the programmes as well as the changes in the time slots allocated for them.

510. Poland has undertaken to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority language. The implementation of this undertaking requires positive action (including, where necessary, funding) on the part of the authorities to encourage and/or facilitate the creation of at least one radio station and one television channel. However, the Committee of Experts notes that the existing offer of broadcasting only programmes in Ukrainian is not sufficient to comply with this undertaking and does not correspond to the situation of the Ukrainian language. The Committee of Experts underlines the great importance of the electronic media, especially television,<sup>86</sup> for the promotion of regional or minority languages in modern societies and for their social prestige.

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<sup>86</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 263; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML (2009) 8, paragraph 504; 2<sup>nd</sup> Report of the Committee of Experts in respect of Switzerland, ECRML (2004) 6, paragraph 118

511. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled.

***The Committee of Experts encourages the Polish authorities to encourage and/or facilitate the creation of at least one public radio station and one public television channel in Ukrainian whose broadcasts cover the territories in which Ukrainian is spoken.***

***b ...***

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

512. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. However, there are no private radio programmes in Ukrainian.

513. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private radio programmes in Ukrainian on a regular basis.

***c ...***

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

514. There are no private television programmes in Ukrainian.

515. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of private television programmes in Ukrainian on a regular basis.

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

516. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there are no indications that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Ukrainian.

517. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Ukrainian.

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

518. According to the initial periodical report, the Polish authorities provide financial assistance to the weekly newspaper "Nasze Słowo", which is entirely in Ukrainian.

519. The Committee of Experts considers this undertaking fulfilled.

***f ...***

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

520. According to the available information, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in Ukrainian.

521. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in Ukrainian.

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

522. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages.

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

### **Paragraph 2**

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

524. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting. Furthermore, the right to spread and exchange information in the Ukrainian language was provided in the Treaty on Good Neighbourhood and Friendly Cooperation signed by Poland and Ukraine.

525. The Committee of Experts considers this undertaking fulfilled.

### **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.*

526. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. Two representatives of the Ukrainian national minority are members of programme councils.

527. The Committee of Experts considers this undertaking fulfilled.

## **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;*

528. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities.

529. In order to be in a position to conclude whether this undertaking is fulfilled, the Committee of Experts would need more information about how the Polish authorities encourage types of expression and initiative specific to Ukrainian and foster the different means of access to works produced in

Ukrainian. The Committee of Experts asks the Polish authorities to provide it with such information in the next periodical report.

- 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;*

530. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

531. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- d** *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

532. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

533. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

534. Due to the lack of specific information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

535. The grant system that has been operating so far does not guarantee the long-term functioning of bodies engaged in the promotion of Ukrainian culture. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.*

536. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The

Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

### **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.*

537. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Ukrainian language and the culture it reflects in countries in which Poland presents its own culture and heritage.<sup>87</sup>

538. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for the Ukrainian language and the cultures it reflects.

## **Article 13 – Economic and social life**

### **Paragraph 1**

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

...

**b** *to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*

539. Polish legislation does not contain the prohibition required by this undertaking.<sup>88</sup>

540. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Ukrainian, at least between users of the same language.

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

541. Article 32.2 of the Constitution of the Republic of Poland states that “nobody can be discriminated in public, social or economic life for any reason.” However, there is no information about how the Polish authorities oppose with specific measures<sup>89</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

542. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Ukrainian in connection with economic or social activities.

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

543. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, in railway stations or airports, the use of bilingual brochures

<sup>87</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

<sup>88</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>89</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>90</sup>

544. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to facilitate and/or encourage the use of Ukrainian in economic and social life within the whole country.

### **Paragraph 2**

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

...

**b** *in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;*

545. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

546. The Committee of Experts considers this undertaking not 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;*

547. Poland and Ukraine have concluded the Treaty on Good Neighbourhood, Friendly Relations and Cooperation (1992) and the Treaty on Cooperation in the Field of Culture, Science and Education (1997). These treaties deal inter alia with the promotion of contacts between Ukrainian speakers in both countries in the fields of culture, education, media, training and education.

548. The Committee of Experts considers this undertaking fulfilled.

**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.*

549. The Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and Ukraine contains provisions concerning co-operation between municipalities and other administrative and territorial units. However, it is not clear to what extent such co-operation benefits the Ukrainian language. The Committee of Experts asks the Polish authorities to submit practical examples on the implementation in the next periodical report.

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<sup>90</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

## 2.2.7 Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish

550. As the Committee of Experts has already observed (see under 1.4.1), the decision by Poland to apply Part III to Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish was, considering their low number of speakers, a very ambitious step and a strong commitment. In light of the similar situation of these languages, the Committee of Experts will deal with them together in this chapter. In respect of each of these languages, the nature and scope of the measures to be taken to give effect to the provisions of the Charter shall be determined in a flexible manner, concentrating whenever possible on municipalities where the language concerned has a historical basis.

551. The Russian language is traditionally used in the Augustów district (villages of Bór and Gabowe Grądy) and the Suwałki district (Wodziłki) of the Podlaskie voivodship as well as in the Pisz district (Wojnowo) of the Warmia-Masuria voivodship. Russian is also used outside these areas by groups that have in recent times settled in Poland, but there it does not have the historic presence that is required for most undertakings under Part III to be applied. The Committee of Experts has decided to deal with Russian in relation to the territory where it is traditionally used, and will only consider the whole language group where it is appropriate. The situation of Russian in the territory where it is traditionally used is comparable to the other languages dealt with below, and it is therefore included in this part of the report.

### 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:*

*a i to make available pre-school education in the relevant regional or minority languages; or*

552. According to the initial periodical report, the 1991 Act on the System of Education and the implementing regulation of 2007 represent the legal basis for regional or minority language education, including kindergartens. Pre-school education in regional or minority languages may be organised by the head of a kindergarten at the parents' request. A minimum threshold of seven children is applied.

553. According to the initial periodical report, there is no pre-school education in Armenian, Czech, Karaim, Russian, Romani, Slovak, Tatar or Yiddish as the language of education. However, there is teaching of Slovak at pre-school level. As regards Romani, the Polish authorities have appointed a group of experts which works on the codification of Romani in Poland on the basis of Polish Romani and Carpathian Romani. The Committee of Experts welcomes these plans and encourages the Polish authorities to pursue them further.

554. The Committee of Experts underlines that the present undertaking requires that pre-school education in the regional or minority language is made available. This implies the provision of education essentially in the regional or minority language with the regional or minority language as the language of education. The Committee of Experts also stresses that pre-school education in the regional or minority language must be made available irrespective of prior requests by families as such a precondition is foreseen only by the undertaking under Article 8.1.a.iii that does not apply in Poland.

555. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to make available pre-school education in these languages.

**b i to make available primary education in the relevant regional or minority languages; or**

556. According to the initial periodical report, within the legal framework, there is a legal basis for providing primary education in a regional or minority language. A minimum threshold of seven pupils is applied.

557. According to the initial periodical report, there are no primary schools where Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish are used as a language of education. However, there is teaching of Armenian and Slovak at primary education level. As regards Romani, the introduction of Romani-teaching in public schools is in the phase of preparation, in co-operation with the Romani speakers. In addition, the publication of primers for Roma children and additional pedagogical tools is underway.

558. The Committee of Experts underlines that the present undertaking requires that primary education in the regional or minority language is made available. This implies the provision of education essentially in the regional or minority language with the regional or minority language as the language of education. The Committee of Experts also stresses that primary education in the regional or minority language must be made available irrespective of prior requests by families and as such a precondition is foreseen only by the undertaking under Article 8.1.b.iv that does not apply in Poland.

559. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to make available primary education in these languages.

**c i to make available secondary education in the relevant regional or minority languages; or**

560. According to the initial periodical report, within the legal framework, there is a legal basis for providing secondary education in regional or minority languages. The setting up of a regional or minority language class depends on a minimum threshold of 14 pupils.

561. According to the initial periodical report, there are no secondary schools where Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish are used as a language of education. However, there is teaching of Slovak at lower secondary schools.

562. The Committee of Experts underlines that the present undertaking requires that secondary education in the regional or minority language is made available. This implies the provision of education essentially in the regional or minority language with the regional or minority language as the language of education. The Committee of Experts stresses that secondary education in the regional or minority language must be made available irrespective of prior requests by families or pupils as such a precondition is foreseen only by the undertaking Article 8.1.c.iv that does not apply in Poland either. In this context, the Committee of Experts notes that the fact that there are far fewer pupils enrolled in classes with teaching of regional or minority languages at secondary level than at primary level (see p. 42 of the periodical report) is also due to the minimum threshold of 14, which is twice as high as at pre-school and secondary school levels.

563. In light of the obligation entered into by Poland, the Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to make available secondary education in these languages.

**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**

564. According to the Polish authorities, Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish are not taught within technical and vocational education.

565. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to provide, within technical and vocational education, for the teaching of Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish as an integral part of the curriculum.

**e ...**

**ii to provide facilities for the study of these languages as university and higher education subjects; or**

566. According to the initial periodical report, the following languages can be studied as university and higher education subjects: Czech (92 students in 2010), Russian (7,391 students) and Slovak (six students). Furthermore, the Committee of Experts was informed that the study of classical Armenian is provided at the Jagiellonian University in Cracow and the Cardinal Wyszynski University in Warsaw. Teaching of modern Armenian is provided at Warsaw University. However, Karaim, Romani, Tatar and Yiddish cannot be studied at the higher education level in Poland.

567. The Committee of Experts considers this undertaking fulfilled for Armenian, Czech, Russian and Slovak and not fulfilled for Karaim, Romani, Tatar and Yiddish.

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

568. The Committee of Experts underlines that the present undertaking concerns education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions related to the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for all pupils within the territories concerned.<sup>91</sup>

569. The New National Core Curriculum (the Regulation of the Ministry of National Education of 23 December 2008) provides for the teaching about minorities in Poland (including their culture, history and traditions) for all pupils and makes it explicit only for the levels of secondary education (lower and higher secondary schools). However, as the implementation of the curriculum only started in 2009, it is too early to be able to evaluate its effectiveness.

570. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to provide, in the next periodical report, specific information on how the New National Core Curriculum ensures the teaching of the history and the culture which is reflected by the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages in practice.

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

571. The initial periodical report states that, on the basis of the provisions of the Regulation of the Minister of National Education of 19 November 2009 concerning teacher training units, there is a possibility of appointing language methodology advisers within the teaching of regional or minority languages. In accordance with the Act on the System of Education, voivodship in-service teacher training units are in charge of organising and conducting methodological consultancy according to the needs. In 2009, the methodological care over schools for minorities was exercised by five teaching consultants and twelve methodological advisers for all regional or minority languages. However, the Committee of Experts notes that such methodological consultancy does not ensure the basic and further training of the teachers required to teach *in* regional or minority languages at various levels of education.

572. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to provide the basic and further training of the teachers required for the provision of education in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish at pre-school, primary and secondary levels as well as teaching of these languages within technical and vocational education.

**i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.**

573. The initial periodical report states that the superintendents of education of the voivodships supervise regional or minority language teaching. However, there are no indications that the

<sup>91</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Croatia, ECRML 2005 (3), paragraph 100; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML 2009 (6), paragraph 322

superintendents monitor the measures taken and progress achieved in establishing or developing teaching in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish and draw up public periodic reports. The Polish authorities stated during the on-the-spot visit that every two years a report on the implementation of the Act on National and Ethnic Minorities and on the Regional Language is drawn up by the Minister in charge of Religious Denominations and National and Ethnic Minorities. However, the report deals with minority protection in general and is not dedicated to regional or minority language education.

574. In light of the above, the Committee of Experts underlines<sup>92</sup> that this undertaking requires an independent body dedicated to looking at regional or minority language education. This body can be an existing body which monitors the measures taken and progress achieved in regional or minority language education and produces and publishes periodical reports.

575. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to set up a supervisory body in charge of monitoring the measures taken and progress achieved in establishing or developing teaching in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish, and of drawing up public periodic reports.

## **Paragraph 2**

*With regard to education and 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 or provide teaching in or of the regional or minority language at all the appropriate stages of education.*

576. According to the initial periodical report, the legal framework regulating regional or minority language education (see provisions Article 8.1.ai – d.iii above) applies also outside the areas where the regional or minority languages have a traditional presence.

577. The Committee of Experts considers that the offer of the teaching of Russian is appropriate for the purpose of the present undertaking. Concerning the teaching of Czech and Slovak outside the traditional settlement areas, the Committee of Experts lacks sufficient information to conclude on the fulfilment of this undertaking.

578. Regarding Tatar, there are no indications that this language is taught anywhere in Poland. As Armenian, Karaim, Romani and Yiddish are non-territorial languages, this provision is not applicable to them.

579. The Committee of Experts considers this undertaking fulfilled for Russian, not fulfilled for Tatar and asks for additional information regarding Czech and Slovak.

## **Article 9 – Judicial authorities**

### **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*

580. According to the initial periodical report, the Act on the Polish Language (Article 2.2) does not infringe upon the rights of the speakers of the regional or minority languages, including the validity of legal documents in such languages.

581. The Committee of Experts considers this undertaking fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

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<sup>92</sup> See e.g. 1<sup>st</sup> Report of the Committee of Experts in respect of the United Kingdom, ECRML (2004) 1, paragraph 131

## Article 10 – Administrative authorities and public services

### 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;*

582. The Act on National and Ethnic Minorities and on the Regional Language permits the use of a regional or minority language in contacts with the authorities of municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. Users of regional or minority languages may refer to municipalities in their language in writing and orally and may also, on explicit request, receive an oral or written reply in that language, with the reservation that the appeal procedure is carried out in Polish. The precondition for the use of a regional or minority language in contacts with municipalities is its prior introduction as an “auxiliary language” of the municipality concerned, based on a request by the local council. However, there exists no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts/*powiaty* (local authorities) and voivodships (regional authorities), as required by Article 10.2 which concerns “the local and regional authorities”.

583. The Committee of Experts notes that limiting the possibility for users of regional or minority languages to submit oral or written applications in these languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high, as in the municipalities where the speakers do not attain it, the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages are deprived of protection under Article 10.2b. Furthermore, these languages can neither be used in contacts with districts, nor voivodships.

584. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2b applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities create the legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts and voivodships and reconsider the 20%-threshold.<sup>93</sup> If thresholds based on relative numbers (percentages) cannot easily be applied, flexible measures should be taken “according to the situation of each language” (as required by the Charter *inter alia* in Article 10). Therefore, the Polish authorities should also determine what absolute “number of residents who are users of regional or minority languages” (Article 10) they consider sufficient to apply the undertakings under Article 10.2b to Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish in at least one municipality. The Committee of Experts notes, for example, that the highest share of Slovaks can be found in the municipalities of Łapsze Niżne, Nowy Targ and Bukowina Tatrzańska (about 3% each) in the voivodship of Lesser Poland, Czech is concentrated in the municipality of Zelów (Łódź voivodship) and Russian in the Podlaskie voivodship.

585. The Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to determine, in co-operation with the speakers, in what areas their languages are traditionally present in sufficient numbers for the purpose of the undertaking entered into by Poland under Article 10.2b, in all those cases not qualifying under the 20%-threshold, and to apply Article 10.2b regarding the local and regional authorities concerned. Furthermore, the Committee of Experts encourages the Polish authorities to provide the legal basis required for speakers of regional or minority languages to submit oral or written applications in their languages also in relation to districts (*powiaty*) and voivodships where the speakers are present in sufficient numbers. As the Committee of Experts has already observed, individual and

<sup>93</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 15, 592-593 (*inter alia* with regard to Polish as a minority language in Slovakia)

flexible measures need to be taken in order to make the provisions of the Charter operational for each of these languages.

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

586. The Act on National and Ethnic Minorities and on the Regional Language permits the use and adoption, in conjunction with the Polish name, of traditional and correct forms of place-names, names of physiographic objects and streets in regional or minority languages in municipalities where persons belonging to the respective minority make up, according to the census, at least 20% of the population. The precondition for the adoption of topographical names in regional or minority languages is a request by the local council. Such requests are evaluated by the voivod (regional president) concerned and the Commission for Names of Places and Physiographic Objects. In municipalities where a minority does not reach the 20%-threshold, the local council may decide to hold a consultation on the adoption of additional place-names in the regional or minority language. In that case, the use of additional place-names may be limited to certain parts of the municipality (villages) where a majority of the voters was in favour. Polish legislation does not allow districts/*powiaty* (local authorities) and voivodships (regional authorities) to use or adopt place-names in the regional or minority languages, as required by Article 10.2 which concerns “the local and regional authorities”.

587. The Committee of Experts notes that limiting the adoption of place-names in the regional or minority languages to municipalities where 20% of the population belong to a minority amounts to a territorial reservation which is incompatible with the Charter. Besides, the 20%-threshold appears in any case too high, as in the municipalities where the speakers do not attain it, the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages are deprived of protection under Article 10.2g. Considering the formal and practical problems created by the threshold, the Committee of Experts concludes that Article 10.2g applies also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of this undertaking. The implementation of this provision inevitably presupposes that the Polish authorities reconsider the 20%-threshold.<sup>94</sup>

588. The adoption of additional place-names is a relatively simple promotional measure with a nevertheless considerable positive effect for the prestige and public awareness of a regional or minority language. This provision makes a distinction between the formal “adoption” of a place-name, which implies its use in official signage, and the mere “use” of such a name. Consequently, a state party may also consider to promote place-names in regional or minority languages by using them in an appropriate way other than official place-name signs, provided that the language is in a weak situation justifying such “semi-official” use. For example, place-names in regional or minority languages could be displayed on public signs for touristic or information purposes (e.g. welcome and farewell signs at the entrance and exit of a municipality) or in another emblematical form. Therefore, the Committee of Experts encourages the Polish authorities to adopt a flexible approach regarding place-names in the regional or minority languages concerned, especially those with a delimited territorial basis (Czech, Russian, Slovak and Tatar).<sup>95</sup>

589. The Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to allow and/or encourage the use or adoption of traditional and correct forms of place-names in these languages also regarding those local and regional authorities on whose territory the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish speakers do not attain the 20% threshold but represent nevertheless a sufficient number for the purpose of the present undertaking.

## **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.***

590. According to the initial periodical report, users of regional or minority languages can change names and surnames in accordance with the pronunciation and spelling of the respective language on

<sup>94</sup> See for example 1<sup>st</sup> Report of the Committee of Experts on the Slovak Republic, ECRML (2007) 1, paragraphs 592-593 (inter alia with regard to Polish as a minority language in Slovakia)

<sup>95</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts on Croatia, ECRML (2005) 3, paragraph 152

the basis of the Act on the Change of a Name and Surname and the Act on National and Ethnic Minorities and on the Regional Language. Changes can be made in the registries of births, marriages and deaths and are included in identity documents. Names and surnames of people who use an alphabet other than the Latin alphabet are subject to transliteration. A regulation specifies the method of transliteration inter alia for Armenian, Czech, Russian and Yiddish.

591. According to the initial periodical report, in 2009, one person changed his or her name and surname to the Armenian language, two people to Romani and Russian respectively. With regard to Czech, Karaim, Slovak, Tatar and Yiddish, no name change was made in the reporting period.

592. Therefore, the Committee of Experts considers this undertaking fulfilled for Armenian, Romani and Russian and formally fulfilled for Czech, Karaim, Slovak, Tatar and Yiddish.

## **Article 11 – Media**

### **Paragraph 1**

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

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

...

**ii to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages; or**

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

593. Provisions a.ii and a.iii represent alternative options. As Poland has chosen option a.ii, option a.iii becomes redundant. However, in light of the situation of Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish, the Committee of Experts will also examine option a.iii.

594. According to the initial periodical report, the Act on National and Ethnic Minorities and on the Regional Language provides for the broadcasting of information programmes in the regional or minority languages as part of the public service mission. These programmes, which are broadcast by regional radio stations and local branches of Telewizja Polska S.A., must be fully dedicated to issues concerning the national minorities and be edited by a team comprising representatives of the minorities concerned.

595. There are no public radio stations and television channels broadcasting mainly or exclusively in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish, as required by undertaking a.ii.

596. As far as Romani is concerned, a “Magazyn romski” (Roma magazine) is broadcast every Thursday and Sunday for ten minutes on Radio Koszalin. It is, however, unclear whether this programme is broadcast in the Romani language. In addition, Telewizja Polska broadcasts a programme in Romani from Cracow (“Informator Romski”, once a month in the mornings for almost three hours). With regard to Russian, in 2009 Telewizja Polska broadcast 15 editions of a seven-minute programme called “Rosyjski Głos” (Russian Voice).

597. With regard to Romani and Russian, the Committee of Experts considers this undertaking partly fulfilled in the field of television and not fulfilled in the field of radio. Regarding Armenian, Czech, Karaim, Slovak, Tatar and Yiddish, the Committee of Experts considers the undertaking not fulfilled. The Committee of Experts encourages the Polish authorities to take flexible measures so that broadcasters offer programmes in these languages.

**b ...**

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

598. In accordance with the Act on National and Ethnic Minorities and on the Regional Language, the public authorities may provide targeted or specified-user subsidies to support radio programmes conducted by minorities. However, there are no private radio programmes in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

599. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of radio programmes in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish on a regular basis.

**c** ...

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

600. There are no private television programmes in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

601. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to encourage and/or facilitate the broadcasting of television programmes in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish on a regular basis.

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

602. According to the initial periodical report, state support (targeted grants or specified-user grants) for audio works is possible pursuant to the Act on National and Ethnic Minorities and on the Regional Language. However, there are no indications that the Polish authorities have encouraged and/or facilitated the production and distribution of audio and audiovisual works in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

603. The Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in these languages.

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

604. The Committee of Experts notes that a “newspaper” in conformity with the present undertaking has to be published at least weekly.<sup>96</sup> There are no publications in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish that would comply with this requirement. As the Polish authorities support other publications in these languages, the Committee of Experts will nevertheless provide the following overview:

605. As regards Czech, according to the initial periodical report, the Polish authorities provide financial assistance to a religious yearbook in Czech. However, the Committee of Experts notes that neither the periodicity of publication (annual), nor the content of the yearbook correspond to a “newspaper”.

606. As regards Romani, according to the initial periodical report, the Polish authorities provide financial assistance inter alia to the monthly publication “Dialog – Pheniben” (which is 10% in Romani), but also to the publication “Rrom po Drom” (5% in Romani).

607. With respect to Slovak, according to the initial periodical report, the Polish authorities provide financial assistance to the monthly publication “Život” in Slovak.

608. As regards Yiddish, according to the initial periodical report, the Polish authorities provide financial assistance to the fortnightly publication “Dos Jidisze Wort – Słowo Żydowskie”(which is 30% in Yiddish).

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<sup>96</sup> See 1<sup>st</sup> Report of the Committee of Experts in respect of Serbia, ECRML(2009)2, paragraph 267; 2<sup>nd</sup> Report of the Committee of Experts in respect of the Slovak Republic, ECRML(2009)8, paragraph 654

609. While welcoming the support provided by the Polish authorities to publications in the languages concerned, in light of the obligation chosen by Poland, the Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to take flexible measures to encourage and/or facilitate the creation and/or maintenance of at least one weekly newspaper in each of these languages.

*f* ...

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

610. According to the available information, the Polish authorities have not applied existing measures for financial assistance also to audiovisual productions in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

611. The Committee of Experts considers this undertaking not fulfilled for these languages. It encourages the Polish authorities to apply existing measures for financial assistance also to audiovisual productions in Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

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

612. It is not clear from the information contained in the initial periodical report how the Polish authorities support the training of journalists and other staff for media using regional or minority languages.

613. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to support the training of journalists and other staff for media using Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish.

## **Paragraph 2**

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

614. According to the initial periodical report, freedom of reception of broadcasts from the neighbouring countries in a regional or minority language is guaranteed by the Act on Radio and Television Broadcasting.

615. The Committee of Experts considers this undertaking fulfilled.

## **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.*

616. The initial periodical report states that, according to the Act on Radio and Television Broadcasting, the branches of public radio and television which broadcast programmes in the regional or minority languages take into consideration candidates proposed by minority organisations when appointing programme councils. However, no representative of the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish speakers is a member of a programme council.

617. Since the state report does not provide any information on how the interest of the users of these languages are taken into account in other ways, the Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to clarify, in the next

periodical report, whether the interests of the users of Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish are represented or taken into account within programming councils.

## **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;*

618. The initial periodical report states that, pursuant to the Act on National and Ethnic Minorities and on the Regional Language (Article 18 and Article 20.2), the public authorities are obliged to take appropriate measures aimed to protect, preserve and develop the cultural identity of the national minorities.

619. As regards Tatar, during the on-the-spot visit, the representatives of the Tatar minority informed the Committee of Experts about their wish to foster the promotion of Tatar songs and music education of the youth. The representatives also confirmed the existence of songbooks. However, due to the lack of teachers, this kind of promotion of Tatar culture has not been possible so far. The representatives of the Tatar minority also drew the attention of the Committee of Experts to the local song and dance group 'Buńczuk' (performing Tatar dance, singing in Polish and Tatar), which would benefit greatly from financial support.

620. The Committee of Experts was also informed about an initiative of children's theatre and art workshops whose main aim is to acquaint young people with the Yiddish language and culture through theatre plays, singing and dancing. The project is supported financially by the Ministry of Interior.

621. The Committee of Experts has not received any specific information about the application of this provision to Armenian, Czech, Karaim, Romani, Russian and Slovak.

622. The Committee of Experts considers this undertaking fulfilled for Yiddish and not fulfilled for Tatar. With regard to Armenian, Czech, Karaim, Romani, Russian and Slovak, it is not in a position to conclude on the fulfilment of this undertaking and asks the Polish authorities to provide further information in the next periodical report.

- 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;*

623. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- 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;*

624. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

- d** *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*

625. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

626. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

627. Due to the lack of information, the Committee of Experts is not in a position to conclude on this undertaking. It asks the Polish authorities to provide further information in the next periodical report.

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

628. During the on-the-spot visit, the Committee of Experts was informed about plans for the creation of institutions responsible for the promotion of the culture of each of the minorities (Institutes of National and Ethnic Minorities and the Regional Language/Instytuty Mniejszości Narodowych i Etnicznych oraz Języka Regionalnego). The Committee of Experts would welcome more detailed information in the next periodical report about the development of these bodies and encourages the Polish authorities to arrange for the functioning of such institutions in close co-operation with the regional or minority language speakers.

## **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.*

629. During the on-the-spot visit, the Committee of Experts was informed about the 'Kultura+' project envisaged for the promotion of Polish heritage. The Committee of Experts sees this project as an opportunity to promote the heritage reflected by the regional or minority languages and make it accessible to a wider audience also in the territories where they are not traditionally present. As regards the reporting period, however, the Committee of Experts has not received any information on the implementation of this undertaking and is not in a position to conclude on its fulfilment. The Committee of Experts asks the Polish authorities to submit the relevant information in the next periodical report.

## **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.*

630. The initial periodical report refers in general to bilateral treaties concluded by Poland. There are, however, no indications that any steps have been taken to implement this undertaking. The Committee of Experts underlines that this provision not only refers to the foreign cultural policy in respect of the minority's kin state, but more generally obliges the Polish authorities to make appropriate provision for the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages and the culture they reflect in countries in which Poland presents its own culture and heritage.<sup>97</sup>

631. The Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to make appropriate provision, in pursuing their cultural policy abroad, for these languages and the cultures they reflect.

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<sup>97</sup> See for example 3<sup>rd</sup> Report of the Committee of Experts in respect of Hungary, ECRML 2007 (5), paragraph 202

## Article 13 – Economic and social life

### Paragraph 1

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

...

- b** *to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*

632. Polish legislation does not contain the prohibition required by this undertaking.<sup>98</sup>

633. The Committee of Experts considers this undertaking not fulfilled. It encourages the Polish authorities to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish, at least between users of the same language.

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

634. Article 32.2 of the Constitution of the Republic of Poland states that “nobody can be discriminated in public, social or economic life for any reason.” However, there is no information about how the Polish authorities oppose with specific measures<sup>99</sup> any discouragement of the use of the regional or minority languages in connection with economic or social activities.

635. The Committee of Experts is not in a position to conclude on the fulfilment of this undertaking. It asks the Polish authorities to report, in the next periodical report, about how they oppose with specific measures practices designed to discourage the use of Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish in connection with economic or social activities.

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

636. According to the information contained in the initial periodical report, the Polish authorities have not actively facilitated and/or encouraged the use of the regional or minority languages in economic and social life. The Committee of Experts underlines that this provision envisages positive measures and could include, for example, to facilitate and/or encourage the use of the regional or minority languages on signs on buildings, the use of bilingual brochures in tourism, in museums, giving awards to companies that are effectively using the regional or minority language, initiating a campaign of bilingualism, etc.<sup>100</sup>

637. The Committee of Experts considers this undertaking not fulfilled for Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish. It encourages the Polish authorities to facilitate and/or encourage the use of these languages in economic and social life.

### Paragraph 2

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

...

- b** *in the economic and social sectors directly under their control (public sector), to organise activities to promote the use of regional or minority languages;*

638. The information contained in the initial periodical report concerns mainly staff of local authorities. However, this undertaking deals with public enterprises such as the railway, urban

<sup>98</sup> See for example 2<sup>nd</sup> Report of the Committee of Experts in respect of Spain, ECRML (2008) 5, paragraph 521; 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 105

<sup>99</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Croatia, ECRML (2001) 2, paragraph 106

<sup>100</sup> See for example 1<sup>st</sup> Report of the Committee of Experts in respect of Austria, ECRML (2005) 1, paragraph 195; 1<sup>st</sup> Report of the Committee of Experts in respect of Armenia, ECRML (2006) 2, paragraph 150

transport, electricity, water and gas, cleaning and sanitation, telephone services, refuse collection and disposal, sporting facilities or entertainment venues. From the information available it appears that no activities have been organised to promote the use of the regional or minority languages in this field.

639. The Committee of Experts considers this undertaking not 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;*

640. The Committee of Experts has not received any relevant information concerning the application of existing bilateral or multilateral agreements (or any attempt to conclude such agreements) in such a way as to foster contacts between the users of Armenian, Karaim, Romani, Tatar and Yiddish in Poland and other States.

641. As regards Czech, Poland and the Czech Republic have concluded a Treaty on Cooperation in the Field of Culture, Education and Science (2003) and a Treaty on Mutual Recognition of Periods of Studies and Equivalence of Documents concerning Education and Granted Degrees and Titles obtained in the Republic of Poland and the Czech Republic (2006). Furthermore, the Treaty between Poland and the former Czech and Slovak Federal Republic on Good Neighbourhood, Solidarity and Friendly Cooperation (1991) is also relevant for this undertaking. All treaties deal inter alia with the promotion of contacts between Czech speakers in both countries in the fields of culture, education, media, training and education.

642. With regard to Russian, Poland and the Russian Federation have concluded the Treaty on Friendly and Good-Neighbourly Cooperation (1992), the Treaty on Cooperation in the Field of Culture, Science and Education (1993) and the Treaty on Cooperation in the Field of Education (2005). These treaties deal inter alia with the promotion of contacts between Russian speakers in both countries in the fields of culture, education, media, training and education.

643. As regards Slovak, Poland and the Slovak Republic have concluded a Treaty on Cultural, Educational and Scientific Cooperation (2000) and a Treaty on Mutual Recognition of Periods of Studies and Equivalence of Documents concerning Education and Granted Degrees and Titles obtained in the Republic of Poland and the Slovak Republic (2005). Furthermore, the Treaty between Poland and the former Czech and Slovak Federal Republic on Good Neighbourhood, Solidarity and Friendly Cooperation (1991) is also relevant for this undertaking. These treaties deal inter alia with the promotion of contacts between Slovak speakers in both countries in the fields of culture, education, media, training and education.

644. However, during the on-the-spot visit, representatives of the Slovak speakers complained about a lack of co-operation between Poland and Slovakia in the field of education (e.g. lack of co-operation on teacher training, lack of recognition by the Slovak authorities of the scanned stamps and signatures on Polish certificates, impossibility to apply to Slovak university after graduation in Polish secondary school).

645. The Committee of Experts considers this undertaking fulfilled for Czech, Russian and Slovak and asks for further information regarding Armenian, Karaim, Romani, Tatar and Yiddish. It encourages the Polish authorities to apply this provision to Armenian, Karaim, Romani, Tatar and Yiddish. Furthermore, it asks the Polish authorities to comment on problems of co-operation with the Slovak authorities in the field of education in the next periodical report.

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

646. The Committee of Experts has not received any relevant information concerning co-operation across borders, in particular between regional or local authorities, for the benefit of Armenian, Karaim, Romani, Tatar and Yiddish.

647. As regards Czech, the Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and the Czech and Slovak Federal Republic contains provisions concerning co-operation between municipalities and other administrative and territorial units. However, it is not clear to what extent such co-operation is to the benefit of the Czech language. The Committee of Experts asks the Polish authorities to submit practical examples of such co-operation with the Czech Republic in the next periodical report.

648. With regard to Russian, the Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and the Russian Federation contains provisions concerning co-operation between municipalities and other administrative and territorial units. However, it is not clear to what extent such co-operation is to the benefit of the Russian language.

649. As regards Slovak, the Treaty on Friendly Relations and Good-Neighbourly Cooperation concluded between Poland and the Czech and Slovak Federal Republic contains provisions concerning co-operation between municipalities and other administrative and territorial units. However, it is not clear to what extent such co-operation is to the benefit of the Slovak language. The Committee of Experts asks the Polish authorities to submit practical examples of such co-operation in the next periodical report.

650. The Committee of Experts considers this undertaking not fulfilled for Armenian, Karaim, Romani, Tatar and Yiddish. It encourages the Polish authorities to apply this provision to these languages. Furthermore, it asks the Polish authorities to clarify the practical implementation of this provision regarding Czech, Russian and Slovak.

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

A. Poland signed the European Charter for Regional or Minority Languages on 12 May 2003. The instrument of ratification was deposited with the Council of Europe on 12 February 2009 and the Charter entered into force in Poland on 1 June 2009. The ratification of the Charter by the Polish authorities showed the will of Poland to preserve all its regional or minority languages, which it considers equal in value. It demonstrates a positive shift in the general attitude of the authorities towards regional or minority languages in Poland. The ratification followed the adoption of the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language. The Committee of Experts commends the Polish authorities for the establishment of the Joint Commission of the Government and National and Ethnic Minorities which serves as a platform of exchange between the minorities and as an advisory body to the authorities. In addition, the Committee of Experts wishes to express its gratitude to the Polish authorities for the active and fruitful co-operation it enjoyed during the monitoring. The co-operation with the authorities and with the national minority associations during the on-the-spot visit was exemplary.

B. In the ratification instrument, Poland has chosen the same undertakings for all its recognised regional or minority languages under Part III of the Charter. However, the situation of the languages covered by the Charter varies considerably, giving rise to a number of problems in relation to the ratification instrument. Some of the languages are used by a large number of people who are concentrated in particular geographical areas where their speakers make up a considerable share and/or constitute the majority of the local population (**Belorussian, German and Lithuanian**). Even in the case of these languages, Poland still has to undertake significant efforts to live up to the ambitious undertakings chosen. As far as the **Kashub, Lemko and Ukrainian** languages are concerned, there is a potential to apply the ambitious undertakings chosen by Poland in the medium term. However, there exists a significant gap between the level of commitment under the Charter and the current level of protection of these languages.

C. On the other hand, the Committee of Experts observes that the decision by Poland to apply Part III to **Armenian, Czech, Hebrew, Karaim, Romani, Russian, Slovak, Tatar and Yiddish** was, in light of their situation, a very ambitious step and a strong commitment. However, the legal obligations entered into by Poland under the Charter need to be implemented in practice, taking account of the situation of each language. As far as the aforementioned languages are concerned, individual and flexible measures need to be taken in order to make the provisions of the Charter operational. The Polish authorities should start a dialogue with the representatives of the speakers of each of these languages with a view to drawing up a mid-term strategy on the implementation of the Charter.

D. The regional or minority language policy is based on the 2002 census which has not always accurately reflected the number of speakers of the regional or minority languages, also due to irregularities and the methodology followed. There is also contradictory information regarding the number of speakers of the Karaim language as the census of 2002, unlike estimates by the Karaim minority, did not indicate a single speaker of Karaim in Poland.

E. The on-the-spot visit demonstrated that the Polish authorities devote a lot of attention to the protection of regional or minority languages from the angle of anti-discrimination. However, the Charter puts legal obligations on the states parties to take proactive and positive measures to promote regional or minority languages. Although the central authorities are responsible at the international level for obligations that Poland has assumed under the Charter, the implementation of a number of provisions of the Charter, according to the national legislation, is mainly the responsibility of local and regional authorities and depends on their awareness, political will and financial resources. A more proactive stance from the central authorities is necessary to ensure Poland's compliance with its undertakings ensuing from the Charter. In particular, the adoption of a comprehensive language strategy and corresponding measures in areas like education, administration and the media would promote the effective implementation of the Charter's provisions in Poland. Some attempts to create a strategy have been made in the field of education.

F. There is still a lot of room for improvement in the field of awareness-raising about regional or minority languages. The Polish authorities should raise the awareness of the general public in regard to mainstream education, notably in curricula, teaching materials and teacher training, and encourage the mass media to do the same. Furthermore, the Polish authorities should also condemn publicly

hostile action against the use of regional or minority languages, for instance acts of vandalism against bilingual place-name signs in **German** and **Lemko**. There have also been expressions of negative attitudes towards minorities and the public use of minority languages in the mass media. Further efforts are needed from the Polish authorities to take an active stand against expressions of intolerance and to raise awareness in the Polish public at large about the regional or minority languages as an expression of Poland's cultural wealth. The introduction of the New National Core Curriculum creates the potential to raise the awareness of the public on the minorities in Poland and their cultural heritage, if properly implemented.

G. Many parents are under the impression that teaching in regional or minority languages would be burdensome and counterproductive for the educational prospects of their children. The Committee of Experts considers that there is a need for more awareness-raising about the virtues of regional or minority language education and the benefits of multilingualism. Poland should actively promote regional or minority language education among parents and pupils.

H. In the field of education, Poland has ratified the highest undertakings according to which education needs to be made available nearly entirely in the regional or minority language as a language of education at pre-school, primary school and secondary school levels. However, such education exists only for **Lithuanian**. Some part of the curriculum is provided in **Ukrainian**. For the other languages, education in regional or minority languages is non-existent. Despite their high number of speakers, **Belorussian**, **German** and **Kashub** are only taught as subjects (three hours per week). Furthermore, the requirement that applications by a certain number of families have to be renewed every year creates instability with regard to the continuity of regional or minority language education. In addition, there is a lack of textbooks adapted to the New National Core Curriculum introduced in 2009.

I. Apart from **Lithuanian**, there is no basic and further teacher training enabling teachers to teach subjects in the regional or minority languages. The lack of such teachers affects in particular the **Belorussian**, **German**, **Kashub**, **Lemko** and **Ukrainian** languages whose speakers are sufficiently concentrated to justify education in these languages.

J. With regard to administrative authorities, Polish legislation limits the possibility to use a regional or minority language in contacts with the authorities of municipalities and the compulsory adoption of place-names in such languages to municipalities where persons belonging to the minorities make up at least 20% of the population. However, the 20%-threshold deprives the regional or minority languages of protection in a considerable number of the geographical areas where their speakers are traditionally present and where they constitute a substantial number for the purpose of the Charter. This practice amounts to a territorial reservation which is incompatible with the Charter. Therefore, the Committee of Experts concludes that the undertakings under Article 10 apply also to those local and regional authorities where the regional or minority language speakers do not attain the 20%-threshold but represent nevertheless a sufficient number of speakers for the purpose of the undertakings concerned. Furthermore, there exists currently no legal possibility for speakers of regional or minority languages to submit oral or written applications in their languages in relation to districts/*powiaty* (local authorities) and voivodships/*województwa* (regional authorities), as required by Article 10.2.

K. In the field of public broadcast media, Poland undertook to encourage and/or facilitate the creation of at least one radio station and one television channel in each of the regional or minority languages. However, no radio station or television channels in the regional or minority languages exist. Even for languages in a favourable situation such as **Belorussian**, **German**, **Kashub**, **Lemko**, **Lithuanian** and **Ukrainian**, only radio and television *programmes* are broadcast. While private radio programmes are broadcast only in **Belorussian**, **German** and **Kashub**, private television programmes exist only for **Kashub**. Newspapers exist only for **Belorussian**, **German** and **Ukrainian**.

L. In the field of cultural activities and facilities, it was not possible for the Committee of Experts to conclude on most of the undertakings chosen by Poland as the periodical report did not provide specific information on the actual cultural initiatives supported for each of the languages. Moreover, the existing grants system does not ensure the continuous functioning of cultural institutions.

M. With regard to economic and social life, Polish legislation does not yet prohibit the exclusion or restriction of the use of regional or minority languages. As regards the other undertakings chosen under Article 13, the periodical report did not provide the Committee of Experts with evidence of their implementation in practice.

N. Concerning transfrontier exchanges, the Polish authorities have concluded comprehensive agreements with Belarus, the Czech Republic, Germany, Lithuania, the Russian Federation, the Slovak Republic and Ukraine. Poland does not seem to promote Armenian, Karaim, Kashub, Romani, Tatar and Yiddish in the context of transfrontier co-operation.

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

At its 1129th meeting on 7 December 2011, the Committee of Ministers adopted its Recommendation addressed to Poland, which is set out in Part B of this document.

## Appendix I: Instrument of Ratification



**Poland:**

### **Declaration contained in the instrument of ratification deposited on 12 February 2009 - Or. Engl.**

The Republic of Poland declares that it shall apply the Charter in accordance with the Act on national and ethnic minorities and on regional language, dated 6 January 2005.

**Period covered: 1/6/2009 -**

The preceding statement concerns Article(s) : 1

### **Declaration contained in the instrument of ratification deposited on 12 February 2009 - Or. Engl.**

The Republic of Poland declares, in accordance with Article 3, paragraph 1, of the European Charter for Regional or Minority Languages that, within the meaning of the Charter, minority languages in the Republic of Poland are: Belorussian, Czech, Hebrew, Yiddish, Karaim, Kashub, Lithuanian, Lemko, German, Armenian, Romani, Russian, Slovak, Tatar and Ukrainian.

The regional language is the Kashub language. The national minority languages are Belorussian, Czech, Hebrew, Yiddish, Lithuanian, German, Armenian, Russian, Slovak and Ukrainian. The ethnic minority languages are Karaim, Lemko, Romani and Tatar. The non-territorial languages are Hebrew, Yiddish, Karaim, Armenian and Romani.

**Period covered: 1/6/2009 -**

The preceding statement concerns Article(s) : 3

### **Declaration contained in the instrument of ratification deposited on 12 February 2009 - Or. Engl.**

The Republic of Poland declares, in accordance with Article 2, paragraph 2 of the Charter, that the following provisions of Part III of the Charter will be applied for the languages listed above:

#### Article 8

Paragraph 1 a (i), b (i), c (i), d (iii), e (ii), g, h, i,  
Paragraph 2;

#### Article 9

Paragraph 2 a;

#### Article 10

Paragraph 2 b, g,  
Paragraph 5;

#### Article 11

Paragraph 1 a (ii), (iii), b (ii), c (ii), d, e (i), f (ii), g,  
Paragraph 2,  
Paragraph 3;

#### Article 12

Paragraph 1 a, b, c, d, e, f, g,  
Paragraph 2,  
Paragraph 3;

#### Article 13

Paragraph 1 b, c, d,  
Paragraph 2 b;

#### Article 14

Subparagraphs a, b.

**Period covered: 1/6/2009 -**

The preceding statement concerns Article(s) : 2

## **Appendix II: Comments by the Polish authorities**

### **Comments on the Committee of Experts' Report on the European Charter for Regional or Minority Languages of 5 May 2011.**

In relation to the preparation, by the Committee of Experts on the European Charter for Regional and Minority Languages, of the Report for the Committee of Ministers of Council of Europe regarding the implementation of the Charter provisions by the Republic of Poland, according to article 16, section 3 of the Charter, the Polish government presents the following information.

#### **Chapter 1 General information**

Re 6 and 22

Silesian dialect does not meet the conditions stipulated in the Charter provisions. Therefore, it should not be called a "language." The Polish Government suggests replacing the term "Silesian language" with "Silesian dialect" or "Silesian ethnolect."

Re 7

During the national census of population and housing 2002, 262 persons declared themselves as belonging to the Armenian minority.

Re 8

In the national census of population and housing 2002, 40,226 Polish citizens declared themselves as using Belarusian in household relations.

Re 9

In the national census of population and housing 2002, 1,226 Polish citizens declared themselves as using Czech in household relations.

Re 10

In the national census of population and housing 2002, 196,841 Polish citizens declared themselves as using German in household relations and 147,094 persons declared themselves as belonging to the German minority.

The following statement is false: "After 1945, 8.5 million Germans were expelled from these territories." In fact, the majority of these people left the present territory of the Republic of Poland in 1944-1945. Decisions concerning the displacements were made at the Potsdam Conference. It is therefore suggested that the sentence is erased or replaced with: "At the end of World War II and just afterwards, 8.5 million Germans left these territories, fleeing military actions, or as a result of decisions made by the world powers (the USA, Great Britain and the USSR)."

Re 15

In the national census of population and housing 2002, 5,605 Polish citizens declared themselves as using Lemko in household relations.

Re 15 and 21

The expression: "was originally inhabited by the expelled German minority" is not true. Even in the Middle Ages, these territories were inhabited by Prussians. The expression should be replaced with "was previously inhabited by the Germans expelled from these territories."

Re 16

In the national census of population and housing 2002, 5,696 Polish citizens declared themselves as using Lithuanian in household relations.

Re 17

In the national census of population and housing 2002, 15,657 Polish citizens declared themselves as using Romani in household relations.

The specification: “especially in the Małopolskie Voivodeship” is not true. It should therefore be removed.

Re 18

In the national census of population and housing 2002, 12,125 Polish citizens declared themselves as using Russian in household relations. Moreover, Gabowe Grądy is one of the places inhabited by persons using Russian in household relations.

Re 20

In the national census of population and housing 2002, 477 persons declared themselves as belonging to the Tatar minority.

Re 21

In the national census of population and housing 2002, 21,055 Polish citizens declared themselves as using Ukrainian in household relations.

Re 21

In the last sentence, the expression “(Małopolskie and Podkarpackie voivodeships)” should be replaced with: “(Małopolskie, Lubelskie and Podkarpackie voivodeships).”

Re 22

The statement of the Ministry of the Interior and Administration was confirmed in the opinion of 20 May 2011 by the Council for the Polish Language at the Polish Academy of Sciences, which according to Article 12 section 1 of the Polish Language Act of 7 October 1999 (Dz. U. No 90, item 999, as amended) is a consultative and advisory body on the use of the Polish language. Minister of the Interior and Administration requested from the Council for the Polish Language an explanation if the language used traditionally by the inhabitants of Upper Silesia should be treated as a dialect of the Polish language or a separate “Silesian language.”

*The Council stated unanimously that almost all, if not all, Polish linguists would confirm that the language used by the inhabitant of Upper Silesia constitutes a dialect of the Polish language, which according to article 27 of the Constitution is the official language in the Republic of Poland. Dialectologists would add that “the language that is traditionally used by the inhabitants of Upper Silesia” constitutes a part of a dialect of the Polish language. Therefore, it does not meet formal conditions stipulated in article 19 section 1 point 2 of the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language, nor the European Charter for Regional or Minority Languages (the Council’s opinion in the attachment).*

Re 24 and 3.1 C

The provisions of the Constitution do not allow for the differentiation of the rights of the citizens of the Republic of Poland belonging to minorities depending on the languages they use. The Government of the Republic of Poland understands the different approach presented on the basis of the provisions of the European Charter for Regional or Minority Languages; however, due to constitutional requirements, no change of the present position of the Government is possible.

Re 25

The Government of the Republic of Poland understands the approach presented on the basis of the provisions of the European Charter for Regional or Minority Languages; however, based on the provisions of the Constitution of the Republic of Poland, it does not agree for the differentiation of the minorities' rights, depending on the territory of the Republic of Poland they live in.

Re 26 and 27

According to Main Statistical Office, the results of the national census of population and housing 2011 concerning the minority and regional languages should be published at the beginning of 2012. One should note that national census 2011 was prepared and organised according to the international legal regulations. Poland as an EU Member State is obliged to follow the provisions of the Regulation (EC) No 763/2008 of the European Parliament and of the Council of 9 July 2008 on

population and housing censuses. The scope, form and mode of National Population and Housing Census 2011 are stipulated in the National Population and Housing Census Act of 4 March 2010 (Dz. U. No 46, item 277). What is more, according to the Ministry of the Interior and Administration, due to a stable situation of minority languages and the regional language in Poland, the period of 10 years between the censuses will not have an important influence on the Polish government activities concerning the preservation and protection of the above-mentioned languages.

Re 27 and 3.1 D

The Government of the Republic of Poland cannot agree that:

- 1) The 2002 national census did not provide reliable data on the ethnic and linguistic structure of the citizens of the Republic of Poland;
- 2) "The available data is inaccurate and the situation is constantly changing."

The recommendation in which "the Committee of Experts encourages the Polish authorities to complement the results of 2011 census by collecting data concerning the number of users of the regional or minority languages and their geographic distribution. It should be done in co-operation with the speakers of these languages" is unclear. The Committee does not precise the basis on which they challenge the results of the research, which they do not know yet. They do not explain why they cast a doubt on the data gathered based on scientific research methods. They do not inform if the languages speakers possess any additional research tools, which the researchers conducting the census are devoid of, and about the basis on which the information given by these people would be more reliable than the data gathered by Main Statistical Office researchers.

The statement that "the results of the national census are a basis for the allocation of financial means and broadcasting time" is also incorrect. The results of the census influence neither the distribution of financial measures for grants for the minorities nor the broadcasting time reserved for them. This sentence should be erased.

Re 28

The remark to point 28 is analogical. It is not possible to meet the Committee's requirements without getting a satisfactory answer to the questions listed above.

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

### **General remark**

In the Report it is repeated (in sections: 50, 53, 136, 139, 219, 220, 222, 225, 305, 308, 385, 388, 471, 474, 477, 554, 558, 562) that according to Polish authorities, education in regional or minority languages at pre-school level and at school on every level of education has to be provided regardless of the parents' application.

The provisions of the Polish law ensure the possibility of organising pre-school classes in minority or regional languages and school education in these languages. There is a question, however, if such schools should exist in the case of lack of interest on the part of users of these minority and regional languages. Polish Government can only offer such opportunities and encourage the citizens to take them up; however, it does not – and cannot – have at its disposal instruments to enforce their use. It should be stressed that in some cases, newly established schools or classes providing education in a minority language had to be liquidated due to the lack of candidates (e.g. German-speaking classes in a secondary school in Opole). The provisions of the Polish law ensure that parents have the right to preserve their children' language and cultural identity by offering one of the three possibilities: education in a minority or regional language, education in two languages of equal value and language learning in form of courses. Provision of education in a minority or regional language is guaranteed by Polish authorities in law, which constitutes a basis for choosing one of the options determined by the European Charter for Regional or Minority Languages.

The parents' decision on the education of their child is independent and when it comes to the way of preservation of their language and cultural identity (which is connected to the choice of educational model), any authorities' interference is legally unacceptable.

According to the Polish Government, the lack of kindergartens or schools providing education in some minority or regional languages resulting from the lack of interest in learning a language in such a form cannot constitute a basis for accusation that Polish authorities do not implement the provisions of the European Charter for Regional or Minority Languages. It only authorizes to state that there is no such schools despite the legal possibility to establish them.

Re 37

On 28 June 2011, *Education development strategy of Ukrainian minority in Poland* was adopted. After the *Education development strategy of Lithuanian minority in Poland* elaborated in 2001 and the *Education development strategy of German minority in Poland* adopted in 2006, the *Education development strategy of Ukrainian minority in Poland* is the third document dealing with educational problems specific for each national and ethnic minority in Poland (the three documents were elaborated in cooperation between the Ministry of the Interior and Administration, the Ministry of National Education and national minorities' organisations). The objective of the *Education development strategy of Ukrainian minority in Poland* was to analyse the situation of the Ukrainian minority in Poland and to work out solutions allowing proper activities ensuring preservation of the sense of national identity of pupils belonging to the Ukrainian minority and protection of the Ukrainian language. The document reflects the specificity of education organised for the Ukrainian minority in Poland and problems it encounters due to demographic, social and structural changes. It presents activities in the following disciplines: didactic basis, preparation of teaching staff, methodological aid, as the maintenance of high quality of education, to a large extent, depends on them.

The provisions of the *Education development strategy of Ukrainian minority in Poland* will be monitored on a regular basis and for that purpose at least once a year there will be a meeting organised for the representatives of all establishments involved in the creation of it. Arrangements made during these meetings will be put down in form of a protocol, based on which it will be possible to refer to potential changes of activities. The protocol will include specific obligations of institutions and persons involved in the implementation of the *Strategy*, as well as proposed activities and realisation deadlines.

Re 44

What is important, Polish authorities react strongly to each case of vandalism they are informed of. The Committee did not ask Polish authorities about it and, therefore, prevented them from referring to specific cases.

Moreover, it needs to be stressed that the Polish Government takes up initiatives aimed at promoting the use of supplementary traditional place-names in minority and regional languages. The example of such initiatives was the announcement in 2008 of an open tender for the realisation of the task "Promotion of the use of minority and regional languages as auxiliary languages before local authorities and the use of supplementary traditional place-names and names of physiographic objects in the minority and regional languages."

Re 48

The sentence "In addition, the annual renewal of the subsidy calculation creates a risk of regional or minority language education being discontinued" is false. The subsidy needs to be recalculated each year, however, there is no risk that it will not be used. In the present political system it is impossible. The opposite is the case. The amount of subsidy based on minority and regional language teaching is systematically growing. Therefore, there is no threat for the continuity of education in minority or regional language.

Moreover, authorities responsible for schools have the statutory obligation to ensure the financing of teaching minority languages from the incomes of local self-government units, of which the educational part of the general subventions is only one of elements. The general subvention may, by its very nature, be allocated at the discretion of the local self-government unit.

Re 51, 52, 54, 56 and 57

Referring to the statement that Polish authorities did not fulfil the obligation to provide and make available the pre-school, primary school and secondary school education in Belarusian, it should be mentioned that educational regulations provide for such an opportunity within the educational offer; however, the fact that there are no kindergartens and schools offering education in Belarusian results from the lack of interest in this form of education in the community of persons using Belarusian language.

It is important that the use of such opportunities depends only on the parents and pupils' will. Therefore, the Polish Government suggests that the Committee recognizes the obligation as partially fulfilled.

Re 59

In vocational schools where Belarusian is taught, the course constitutes an integral part of the school educational programme, according to the provisions of the Ordinance of the Minister of National Education of 23 December 2008 on core curriculum in pre-school education and general education in specific types of schools (Dz. U. of 2009, No 4, item 17).

Re 66

Referring to the statement that appointment of methodological consultants and advisers does not fulfil the requirement of teachers' training, which is indispensable for teaching in minority language, it should be mentioned that trainings constitute separate activities undertaken by teachers professional training establishments that work in co-operation with the educational office. The offers of trainings organised as a result of these activities for teachers of Belarusian are supplemented with trainings organised on the bases of bilateral agreements between Educational Office of the Podlaskie Voivodeship and educational authorities of Grodno Oblast in the Republic of Belarus, in establishments of professional training in Belarus.

Re 70, 154, 240, 324, 407, 491 and 575

The Polish Government stresses that reports are prepared every two years, accounting inter alia for the questions enumerated in section 1(i). The reports themselves are made public. The Polish Government suggests recognizing that the obligation has been partially fulfilled.

Re 75

The Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language (Dz. U. No 17, item 141 as amended) provides for the possibility of using minority and ethnic or regional languages as auxiliary languages in contact with the authorities of municipalities. Article 9 of the above-mentioned act permits the use of an auxiliary language in municipalities where persons belonging to the respective minority or using a regional language make up at least 20% of the population and the municipality itself was registered in Official Register of Municipalities where an auxiliary language is used. The number of persons is deemed as the number established in the last national census, not the national census of 2002.

Re 76, 160, 163, 246, 330, 413 and 496

One cannot agree with the view that limitation of possibility to submit applications in minority or regional language to a municipality where persons belonging using these languages make up at least 20% constitutes a territorial reservation. Theoretically, the threshold could be crossed in all municipalities in Poland and in this situation such possibility should be available on the territory where the number of users of regional or minority languages is sufficient to use the above-mentioned measures (Article 10 section 2 of the Charter). The Committee's remark is completely incomprehensible and seems not to follow the provisions of the Charter. Moreover, the Committee does not present convincing arguments that the threshold of 20% is too high.

Re 79, 250, 333, 416 and 499

The Polish Government cannot agree with the remarks included in this section. The Committee acknowledges that the Polish authorities created the possibilities mentioned in Article 10 section 2, despite the fact that according to the Committee they did it in an insufficient way. The conclusions are, therefore, inadequate to the situation. It is important to note that creation of the possibility mentioned in Article 10 section 2 constitutes a breakthrough in the Polish legislation, which was observed also by the users of minority and regional languages. In relation to that, the Government

of Poland calls on the Committee to consider the introduction of the formula that the obligation has been partially fulfilled.

Re 81, 165, 252, 418 and 501

One cannot agree with the opinion that the opportunity to introduce supplementary place-names in minority and regional languages in the municipalities where not less than 20 % of inhabitants use these languages, is a territorial reservation. It is theoretically possible that this threshold is exceeded in all municipalities in Poland, in which case the possibility in question should be available in an area where the number of inhabitants using regional or minority languages would justify the application of provisions of Article 10 section 2 of the Charter; therefore, the Committee's remark is wholly incomprehensible and seems incompatible with the provisions of the Charter. Moreover, the Committee has not provided any convincing arguments that the 20 % threshold is too high.

In addition to this, it is not true that supplementary place-names in regional or minority languages can be adopted in municipalities where the minority populations constitute no less than 20 % of the inhabitants. Such a possibility exists also in places located in the municipalities that do not meet this condition. According to Article 12 section 7 point 1 of the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language, supplementary place-names in the minority or regional languages can also be introduced when more than half of the inhabitants of a given location participating in the process of consultation agree on the application of such a name.

Re 89

In Poland, there exists a public television channel called TV Bielsat, which has been broadcasting by satellite since 10 December 2007. The programme is addressed to Belarusians in Belarus, but also to the Belarusian minority in Poland. The programme is made in Belarusian by public television channel Telewizja Polska S.A. and financed mainly from the Polish budget via Ministry of Foreign Affairs. In 2007, Telewizja Polska S.A. and Ministry of Foreign Affairs signed an agreement concerning the support for and financing of Bielsat.

Re 88 and 90

It is not true that "there is no radio channel broadcasting exclusively in Belarusian." It is true there is no such public channel but the authorities fulfil their obligation when it comes to public access to radio and TV not only by broadcasting in minority or regional language in public radio and television but also by financing the broadcasting of such programmes from public funds. In this context, it should be noted that radio channel "Racja" broadcasting only in Belarusian is financed almost exclusively thanks to subsidies from public funds.

Taking into account the above remarks, the Polish Government suggests the acknowledgement that the obligation has been partially fulfilled. In this context, the recommendation for Polish authorities to create at least one radio station in Belarusian is outdated – such a station already exists.

Re 96

It should be stated that according to the Polish Government, the two sentences in this chapter lack consequence. The possibility of gaining support from the Polish Government fulfils in its opinion the obligation of encouraging and facilitating the creation of audiovisual materials. Examples of the support were, among others, grants for the realisation of the following tasks:

- Production of the film entitled "Akcja Wisła" (Operation Vistula);
- Production of a short film about the German minority in the Warmia and Mazury region;
- Publishing of a CD by the "Żurawli" Male Choir;
- Publishing of a record with the recordings of the Lithuanian church choir in Sejny;
- Publishing of a record by artistic groups operating at the Lithuanian House.
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Re 97

Taking into account the remark regarding section 96, the Polish Government suggest acknowledging that the obligation has been fulfilled.

Re 119, 120, 205, 206, 290, 291, 372, 373, 456, 457, 537, 538, 632, 633 and 3.1 M

According to the Polish law in force, things that are not forbidden are permitted. At the same time, any restriction of liberty, especially restrictions related to human rights may be introduced only by legal act. Therefore, internal enterprise or private documentation cannot include any clauses excluding or limiting the use of minority or regional languages.

Symptomatic for this area is the justification of the sentence of the Constitutional Tribunal of the Republic of Poland of 13 September 2005 (K 38/04), where the Tribunal stated, among others: *One of the fundamental rules of the general law, applicable to private trading, is that a statement of will can be made in any way that expresses in a sufficiently clear way the will to produce a legal result. Moreover, the basic directive of interpreting contracts requires that the meaning and sense of contractual provisions as intended by parties to the contract should be taken into account first. From this viewpoint there is no doubt that parties of the widely understood private trading can use any language for communication – it can therefore be a specified foreign language, dialect or even a specialised jargon, conventionally used in given conditions – as long as it provides for the consensus in relation to all significant provisions of the contract that its effective conclusion depends on. These rules are of particular significance for the realisation of the principle of autonomy in private relationships and they in no way contravene the requirements related to the use of the official language in proceedings before public authorities.*

It should also be stressed that according to Article 8 (1) of the Act of 6 January 2005 on National and Ethnic Minorities and on the Regional Language, members of minorities have the right to popularise and exchange information in their own languages.

Therefore, the Polish Government suggests that the Committee acknowledges the obligation to have been fulfilled.

Re 123 and 124

The Polish Government undertakes initiatives aimed at encouraging and facilitating the use of Belarusian in the economic and social life. An example of such initiatives was the announcement of an open tender for the realisation of the task "Promotion of the use of minority or regional languages as auxiliary languages before municipalities authorities and the use of supplementary traditional place-names and names of physiographic objects in minority or regional languages." Therefore, the Polish Government suggests that the Committee acknowledges the obligation to have been partially fulfilled.

Re 125, 126, 211, 212, 296, 297, 378, 379, 462, 463, 545, 546, 638 and 639

The Committee acknowledges that the first periodical report comprised information related to the "staff of local authorities." At the same time it states that "no action" has been taken. As the Polish Government believes the assessment by the Committee lacks consequence, it suggests replacing the expression "no" with "sufficient" and stating in the conclusions that the obligation has been partially fulfilled.

Re 131

The remark regarding the way the subsidy is calculated was included in section 48.

Re 143

In vocational schools where German is taught, the course constitutes an integral part of the school educational programme, according to the provisions of the Ordinance of the Minister of National Education of 23 December 2008 on core curriculum in pre-school education and general education in specific types of schools (Dz. U. of 2009, No 4, item 17).

Re 149

Referring to the statement that appointment of methodological consultants and advisers in respect of German language does not meet the requirement of teachers' training indispensable for teaching in German minority language, it should be stressed that trainings constitute a separate activity undertaken by professional training establishments for teachers, working in co-operation with the Educational Office in Opole. Teachers of German as a minority language are supported inter alia by "Program Niwki" organised by the Voivodeship Methodological Centre in Opole, accounting for different forms of professional training. The programme offers seminars and workshops that help to master methodology and didactics of teaching as well as seminars on Polish-German relationships.

Re 150

The sentence "Still, the studies in Nysa are payable" is false. Thanks to the Polish Government, subsidies the studies are free of charge.

Re 151

In section 151, the Committee recognizes the obligation as unfulfilled despite that in preceding sections it informs about the activities undertaken by the Polish Government. Taking into account that it may be recognized as inconsequent, it is suggested that the obligation is acknowledged to have been partially fulfilled.

Re 169

In relation to insufficient knowledge of the staff of Register Offices, reported by the representatives of national and ethnic minorities, concerning the right of national minority representatives to use and to write their names and family names according to the rules of the minority language, especially the right to registration in Register Office records and identity cards, in December 2009 the Ministry of the Interior and Administration demanded that all Voivodes remind the Register Offices about this right of minority members. According to the information passed to the Ministry of the Interior and Administration, all Voivodes sent letters reminding about the above-mentioned right to gmina authorities in their voivodeships. Moreover, the question of the spelling of names and family names of persons belonging to a minority will be raised during a training for Register Office managers and will be controlled in detail in the offices in question.

Re 173 and 174

Until now, no public radio or television broadcasting company has applied to the National Broadcasting Council for new frequency to broadcast a radio or television channel in German nor for concession for broadcasting such programme by satellite.

Re 217

The remark regarding the way the subsidy is calculated was included in section 48.

Re 249

Minister of the Interior and Administration is not entitled to issue certificates confirming the command of minority or ethnic languages nor regional language. These issues are stipulated in the Ordinance of the Minister of the Interior and Administration of 16 June 2005 on diplomas, confirmations and certificates stating the command of an auxiliary language (Dz. U. No 119, item 1013).

Re 260, 261, 263 and 266

It is not true that there is no radio or TV channel broadcasting exclusively in Kashubian. Indeed, there is no such public channel, but Polish authorities fulfil their obligation concerning public access to radio and TV not only by broadcasting in minority or regional language in public radio and TV, but also by financing the broadcasting of such programmes from public funds. It needs to be remarked in this context that the activities of Radio Kaszëbë is supported from the funds of the Polish Government. Moreover, in 2011 the state budget transferred a subsidy of PLN 83,000,00 for the realization of the task "Preservation and development of the knowledge of Kashubian language through production and broadcasting of TV educational, information and entertainment programmes." When applying for the grant, the Ziemia Pucka Association underlined that it will treat the support of the task in question as implementation by the Polish Government of Article 11 section 1(a)(ii) of the Charter.

In the view of the above, the Polish Government suggests that the obligation is acknowledged to have been partially fulfilled.

Re 269, 270, 350, 436, 604 and 609

The Committee does not explain why a newspaper should be published at least once a week. Polish authorities encourage and facilitate the creation and maintenance of a weekly magazine in Kashubian; however, they cannot force it. Therefore, it should be acknowledged that the obligation has been fulfilled at least partially.

Re 295

Polish authorities undertake initiatives aimed at encouraging and facilitating the use of Kashubian in the economic and social life. An example of such initiatives are information boards in Kashubian on public buildings, such as offices of local authorities, as well as welcome boards in Kashubian and Kashubian flags at entries to towns.

In the view of the above, the Polish Government suggests that the obligation is acknowledged by the Committee to have been partially fulfilled.

Re 301

The remark regarding the way the subsidy is calculated was included in section 48.

Re 311

In vocational schools where Lemkos is taught, the course constitutes an integral part of the school educational programme, according to the provisions of the Ordinance of the Minister of National Education of 23 December 2008 on core curriculum in pre-school education and general education in specific types of schools (Dz. U. of 2009, No 4, item 17).

Re 343

Minister of the Interior and Administration transferred a subsidy of PLN 100,000,00 for the realization of the programme *Lemko internet radio channel of RUSKA BURSA Association*.

Re 359

Minister of the Interior and Administration every year supports financially the organization of Lemkowska Watra in Zdynia, Michałów and Ługi.

Re 366

Minister of the Interior and Administration every year supports financially institutions that gather, store and present works of arts created in minority languages, including: Lemko Research Studio at Lemko Folk Song and Dance Ensemble Kyczera, Library, Lemko archive and Exhibition Room of Ivan Rusenko in Gorlice, as well as the Library and Archive at Museum of Lemko Culture in Zydranowa.

Re 383

The remark regarding the way the subsidy is calculated was included in section 48.

Re 395

In vocational schools where Lithuanian is taught, the course constitutes an integral part of the school educational programme, according to the provisions of the Ordinance of the Minister of National Education of 23 December 2008 on core curriculum in pre-school education and general education in specific types of schools (Dz. U. of 2009, No 4, item 17).

Re 425, 426

Until now, no public radio or television broadcasting company has applied to the National Broadcasting Council for new frequency to broadcast a radio channel in Lithuanian nor for concession for broadcasting such programme by satellite.

Re 445

Minister of the Interior and Administration every year supports financially the organisation of song contest for children, whereas in 2011 the Minister for the first time has subsidized the activities of artistic group of Lithuanian House (Dom Litewski) in Sejny. In the previous years, the Lithuanian minority representatives did not apply for such subsidy.

Re 469

The remark regarding the way the subsidy is calculated was included in section 48.

Re 479

In vocational schools where Ukrainian is taught, the course constitutes an integral part of the school educational programme, according to the provisions of the Ordinance of the Minister of

National Education of 23 December 2008 on core curriculum in pre-school education and general education in specific types of schools (Dz. U. of 2009, No 4, item 17).

Re 508 and 509

Until now, no public radio or television broadcasting company has applied to the National Broadcasting Council for new frequency to broadcast a radio or television channel in Ukrainian nor for concession for broadcasting such programme by satellite.

Re 595 and 596

Until now, no public radio or television broadcasting company has applied to the National Broadcasting Council for new frequency to broadcast a radio or television channel in languages specified in section 595 of the Report nor for concession for broadcasting such programme by satellite.

Moreover, Radio Opole broadcasts a weekly programme for Romani minority *Romano Drom*. It is broadcast in Romani and Polish. Local branch in Białystok broadcasts once a month – *My Romowie (We, the Roma)* – in Romani and Polish.

Re 94, 179, 343, 345, 429, 431, 512, 514, 598 and 600

Until now, no users of minority languages specified in the mentioned sections have applied to the National Broadcasting Council for a concession to broadcast a radio or TV channel. The only exception is the Social and Cultural Association of Germans in the region of Śląsk Opolski, which in 1993 applied for a concession to broadcast a radio programme in German. Due to formal flaws the application was not investigated.

It should be noted that communities using minority or regional language may broadcast television and radio programmes on-line as in this case the concession is not required. Moreover, minorities may acquire concession for satellite and cable broadcasting as there is no technical limitation.

The Polish Government creates legal and financial possibilities for creation of radio and television channels broadcasting programmes in minority and regional language, however, the realization of them depends on the involvement of the languages users.

### **Chapter 3 Findings and proposals for recommendations**

Re K

One cannot agree that “there are no radio or television channels in the regional or minority languages.” The Polish Government chose a form of support for radio and television channels consisting in public money transfer to broadcasting stations in minority or regional languages created especially for this purpose.

One cannot agree that newspapers exist only in Belarusian, German and Ukrainian. They are published in all languages protected by the Government of Poland, except from Karaim and Tatar, as the users of these languages did not express their interest. Polish authorities created conditions for newspapers to be published in such languages and as often as the language users want.

## **B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Poland**

### **Recommendation RecChL(2011)4 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Poland**

*(Adopted by the Committee of Ministers on 7 December 2011  
at the 1129th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Having regard to the instrument of ratification submitted by Poland on 12 February 2009;

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

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

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

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

1. promote awareness and tolerance in Polish society at large vis-à-vis the regional or minority languages and the cultures they represent;
2. make available education in Belorussian, German, Kashub, Lemko and Ukrainian as a medium of instruction at pre-school, primary and secondary levels;
3. provide updated textbooks for regional or minority language education in accordance with the New National Core Curriculum and the basic and further training of a sufficient number of teachers who are able to teach subjects in Belorussian, German, Kashub, Lemko and Ukrainian;
4. take measures to strengthen the offer of broadcasting in all regional or minority languages;
5. reconsider the application of the 20%-threshold with regard to the undertakings in Article 10 and create the legal possibility to submit oral or written applications in the regional or minority languages also in relation to districts and voivodships;
6. establish, in close co-operation with the speakers concerned, a structured policy and take flexible measures facilitating the application of the Charter to the Armenian, Czech, Karaim, Romani, Russian, Slovak, Tatar and Yiddish languages.