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**European Charter for Regional or Minority Languages**

**APPLICATION OF THE CHARTER IN SWITZERLAND**

- 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 Switzerland**

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

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

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

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

## CONTENTS

A. Report of the Committee of Experts on the application of the Charter in Switzerland .....	5
Chapter 1: Background information .....	7
Chapter 2: The Committee's evaluation in respect of Part II and Part III of the Charter .....	12
Chapter 3: Findings of the Committee .....	62
Appendix I: Instrument of ratification .....	65
Appendix II: Comments of the Swiss authorities .....	67
B. Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter in Switzerland .....	73





Strasbourg, 1 June 2001

**European Charter for Regional or Minority Languages**

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

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

**SWITZERLAND**

## **CONTENTS**

### **Chapter 1 Background information**

- 1.1. The work of the Committee of Experts
- 1.2. Presentation of the regional or minority language situation in Switzerland
- 1.3. Particular issues arising in the evaluation of the application of the Charter in Switzerland

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

- 2.1. The evaluation in respect of Part II of the Charter
- 2.2. The evaluation in respect of Part III of the Charter
  - 2.2.1. The Romansh language
  - 2.2.2. The Italian language
    - a. Canton of Grisons
    - b. Canton of Ticino

### **Chapter 3 Findings**

### **Appendix I Instrument of Ratification**

### **Appendix II Comments by the Swiss authorities**

## **Chapter 1. Background information**

1. The Swiss Confederation signed the European Charter for Regional or Minority Languages (hereafter referred to as the Charter) on 8 October 1993. The Federal Council decided to ratify it on 31 October 1997. Through this decision, the Charter became part of Swiss law. The Swiss authorities formally ratified it on 23 December 1997. The Charter entered into force in respect of Switzerland on 1 April 1998.
2. In accordance with Article 15.1, the first periodical report on the application of the Charter in Switzerland was due in March 1999. It was approved by the Federal Council in September 1999 and was presented to the Secretary General of the Council of Europe in October 1999. It was published by the Federal Office of Culture in French, Italian and partly in Romansh in February 2000.
3. The instrument of ratification of the Swiss Confederation is set out in Appendix I to this report. This instrument specifies the languages covered by Part III and the paragraphs and sub-paragraphs applicable to each one of them without mentioning any territorial limitation.
4. This report was adopted by the Committee of Experts on 1 June 2001.

### **1.1. Work of the Committee of Experts**

5. After the Committee of Experts had made its preliminary examination of the report, a questionnaire was drawn up and addressed to the Swiss authorities. The Committee organised its “on-the-spot visit” to Switzerland in September 2000. It met the authorities responsible for and/or concerned with the implementation of the Charter, as well as representatives of the speakers of the relevant languages. It visited the cantons of Grisons and Ticino, where it met several regional and local authorities, as well as representatives from the sectors of the media and education and NGOs (such as the Lia Rumantscha and Pro Grigioni italiano). It also visited Bern, where it met the authorities of the cantons of Fribourg, Valais and Bern, the Federal authorities and representatives of the Yewish community. On the basis of the information gathered from the initial periodical report, the questionnaire and the “on-the-spot-visit”, the Committee of Experts was better able to prepare its evaluation of the application of the Charter in Switzerland.
6. The Committee has established a list of general proposals for the preparation of recommendations from the Committee of Ministers to Switzerland, as provided for in Article 16.4 (Chapter 3.2 of this report). The Committee has furthermore, in the body of the report, made, where necessary, more detailed observations which it encourages the Swiss authorities to take into consideration when developing their policy with regard to regional or minority languages.
7. This report is based on the political and legal situation at the time when the Charter entered into force in Switzerland (March 1998), and at the time when Switzerland presented its initial periodical report to the Council of Europe (February 2000). It is based on the information obtained by the Committee from different sources.

## 1.2. Presentation of the regional or minority language situation in Switzerland

8. According to the new Federal Constitution of Switzerland (entered into force in January 2000), the national languages of Switzerland are German, French, Italian and Romansh (Article 4).

9. Switzerland consists of 23 cantons, three of which are divided into “half cantons”. The cantons designate their official languages. The present situation is as follows:

- Monolingual cantons (or half cantons):
  - German: 11 cantons and 6 half cantons
  - French: 4 cantons (Geneva, Neuchâtel, Jura and Vaud)
  - Italian: 1 canton (Ticino)
- Bilingual cantons (German-French): 3 cantons (Bern, Fribourg and Valais)
- Trilingual cantons (German, Italian and Romansh): 1 canton (Grisons).

10. Following the results of the federal census of 1990, the Swiss residents (6 873 687) declared their “main language” to be: German (63.6% = 4 374 694 speakers), French (19.2% = 1 321 685 speakers), Italian (7.6% = 524 116 speakers), Romansh (0.6% = 39 632 speakers). A new census was carried out in 2000, but the results were not available at the time of the examination of the situation by the Committee.

11. Obviously, Romansh and Italian appear to be the less widely used official languages in Switzerland and are granted special protection under Part III of the Charter.

12. In certain cantons, German and French might also be perceived as less widely used official languages. Since Switzerland does not grant these languages any special protection under Part III of the Charter, they fall, in principle, outside of its scope. However, there may be cases, as with the speakers of the Walser variant of German in the canton of Ticino, where one of the main languages of the Confederation does not enjoy the status of an official language of the canton and thus becomes a minority language covered by Part II of the Charter.

13. Romansh is a Romance (or Neo-Latin) language. It developed as the Vulgar Latin of the Roman invaders merged more and more with the existing languages of the peoples from today's canton of Grisons. According to the traditional scientific concept (now rejected by some linguists), it belongs to the Rheto-Romance languages (together with Dolomitic Ladin and Friulan). There exist five written variants of Romansh: Sursilvan, Sutsilvan, Surmiran, Puter and Vallader. In 1982, a so-called “compromise language”, the Rumantsch Grischun, was created with the aim of reinforcing the position of Romansh in the public sphere. It is based to a large extent on three of the written variants: Sursilvan (Surselva), Vallader (Lower Engadine) and Surmiran (Surmeir/Albula Valley). In many cases, however, it also takes into account the two minor variants Sutsilvan (Val Schons) and Putèr (Upper Engadine), as well as the various regional and local variants. According to the 1990 census, there are 39 632 persons who declare Romansh to be their “main language”, of which 14 458 live outside the traditional language area. Moreover, 66 356 persons declared that they used Romansh in at least one of the fields mentioned in the census (family, work or school).



14. Since 1986, the federal authorities have been using Rumantsch Grischun, the standard variant, for official documents that have a particular bearing on the Romansh-speaking districts. On 2 July 1996, the cantonal government elevated the status of the unified written language to that of an official language. Whenever the canton addresses the whole of the Romansh-speaking population, it will use Rumantsch Grischun. It does, however, remain possible for the canton to address individual regions, municipalities or citizens in their particular linguistic variant. In its evaluation of the situation of Romansh, the Committee will refer to this language as including Rumantsch Grischun (the language more widely used in the public sphere by the federal and cantonal authorities) as well as the five written variants of Romansh.

15. A particular situation is that of the Walser in the canton of Ticino. This language (a variant of German) may be considered as a traditionally used language in its territory. Since it is not an official language of the Canton, the Committee considers it as a language to be covered by Part II of the Charter.

***The Committee invites the Swiss authorities to include in their next periodical report information on the measures taken to comply with Article 7 of the Charter in respect of the language of the Walser.***

16. The results of the federal census of 1990 indicate that there were, at that time, 524 116 persons who considered Italian to be their main language. This figure includes the 279 273 persons living outside of the traditional Italian language area, of whom 85.6% are migrants. The traditional Italian language area covers the whole of the territory of the canton of Ticino, as well as four valleys in the canton of Grisons. The status of Italian in both cantons is quite different. In the canton of Ticino, standard Italian is the sole official language on the whole territory. In the canton of Grisons, standard Italian is considered as one of the three official languages of the canton, but it is official only in the 38 municipalities of the four valleys. The Italian speakers of the valleys are estimated at 15 000.

17. As regards non-territorial languages, according to the information obtained by the Committee, there seem to be two languages that would correspond to the definition given by the Charter: the language of the Yenish and Yiddish.

18. The Yenish (or Jenish) are one of the three main groups of central European gypsies, along with the Sinti and the Roma. During and after the great waves of gypsy migration in the 17<sup>th</sup> and 18<sup>th</sup> century, they travelled all over the continent, many arriving in Switzerland and particularly in the canton of Grisons. Amidst the tide of nationalism that swept through Europe after World War I, people with a lifestyle centred on travelling were singled out for “special treatment”. In 1926, the Swiss government approved a project set up by the children’s charity Pro Juventute intended to eliminate vagrancy. Entitled “Kinder der Landstrasse” (“Children of the Road”), it effectively sanctioned child abduction, separating a large number of children from their families. The project lasted until 1972 and the scandal remains a source of shame and anger.

19. The Yenish speak a non-codified language that belongs to the Germanic family, a hybrid language resulting from a combination of Romani, Yiddish and German. There are no statistics on the number of Yenish living in Switzerland, but the highest estimate puts the figure at 35 000 persons (of whom only 5 000 would still be nomads). Most of the sedentary Yenish have settled in the main urban and economic areas and they are present throughout the country. There is no evidence concerning the number of speakers of Yenish, but there seems to be a growing interest in its preservation. Yenish can also be found in Belgium, Austria and Germany.

20. Where Yiddish is concerned, the Committee requested further information from the authorities and invited the representatives of the Jewish community to meet the delegation of the Committee in Bern. None of these initiatives were productive, since the authorities did not provide any information and the persons contacted declined the invitation of the Committee.

*The Committee invites the Swiss authorities to include in their next periodical report information on the measures taken to comply with Article 7 of the Charter in respect of Yenish and Yiddish.*

21. The general legal framework governing the status and the use of languages in Switzerland consists of the following:

- a. the Federal Constitution of 2000, Articles 4 and 70
- b. the Constitutions of the cantons,
- c. the Federal Law on Financial Assistance for the Protection and Promotion of the Romansh and Italian Languages and Cultures.
- d. the Federal Law on Radio and Television
- e. the Federal Law on Official Publications
- f. several sectoral laws and regulations at cantonal level in the fields of education, justice, culture, media, etc.

### **1.3. Particular issues arising in the evaluation of the application of the Charter in Switzerland**

22. The initial periodical report presented by Switzerland to the Council of Europe is divided into three sections. The first section provides a detailed presentation of the general legal framework of language policies in Switzerland. The second section indicates the measures taken by the Swiss authorities to apply Part II of the Charter (Article 7). The last section of the report indicates the measures taken at the cantonal level to comply with the undertakings applicable to Italian (by the cantons of Grisons and Ticino) and to Romansh (only by the canton of Grisons).

23. The first issue that arises from the examination of the periodical report and the language policy in Switzerland is the particular situation of a federal State and the logic of the distribution of competences. Several Articles of the new Federal Constitution may be linked to the language policy: Article 2 entrusts the Confederation with the promotion of internal cohesion and cultural diversity in Switzerland; Article 4 states that the national languages of

Switzerland are German, French, Italian and Romansh; Article 18 guarantees freedom of language. Article 70 (“Languages”) establishes the real basis of the language policy.

*“Article 70:*

*(1) The official languages of the Confederation are German, French, and Italian. Romansh shall be an official language for communicating with persons of Romansh language.*

*(2) The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages, and take into account the indigenous linguistic minorities.*

*(3) The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.*

*(4) The Confederation shall support the multilingual Cantons in the fulfilment of their particular tasks.*

*(5) The Confederation shall support the measures taken by the Cantons of Grisons and Ticino to maintain and to promote Romansh and Italian. ...”*

24. According to the interpretation made of these provisions by the authorities, it is confirmed that quadrilingualism is an essential feature of Switzerland and determines: the status of the four national languages, the interpretation of the territorial principle and the distribution of competences between the Confederation and the Cantons.

25. Where the status of languages is concerned, Article 4 declares German, French, Italian and Romansh to be the national languages of Switzerland. Article 70 (paragraph 1) declares that the official languages of the Confederation are German, French and Italian, Romansh being officially used to communicate with persons speaking Romansh (both legal persons and individuals). The cantons have the right to determine their official languages; the present situation is described above in paragraph 0.

26. The new Constitution has introduced both the principle of linguistic freedom (Article 18) and the principle of territoriality (Article 70.2). The principle of territoriality, as applied in Switzerland, means that each canton or municipality has the right to preserve its traditional distinctive character and to determine its official language(s). This implies that the linguistic boundaries, once established, must not be deliberately shifted, and that cantons must endeavour to safeguard the homogeneity of the language areas. The Federal Tribunal has recognised the right of the cantons to limit the linguistic freedom of those who move into a particular linguistic area. In practice, this means that such citizens are expected to adapt to the linguistic environment of the canton (or municipality), by acquiring sufficient knowledge of the local language and sending their children to the local schools teaching in that language. Linguistic rights can therefore be exercised only on those territories where the language concerned has been declared official.

27. The application of the principle of territoriality gives rise to controversies in the canton of Grisons. The reason is that the municipalities have the right to choose their official language(s) and they do not wish to accept any restriction to this right. In practice, freedom of choice means that a municipality located in an area with a traditional dissemination of Romansh may decide to choose German as the language of administration and education. Article 70.2 of the new Constitution could however exclude this eventuality, as it obliges the cantons to respect the traditional territorial distribution of languages and to take into account

the indigenous linguistic minorities. Freedom of choice has also been described as a “bottom-up implementation” of the principle of territoriality.

28. Article 70 of the new Constitution also establishes the limits of the competences of the Confederation and the cantons. The Confederation is responsible for the linguistic policy applied in the fields of its competence (professional education, army, federal administration, etc) and in its relations with legal persons and individuals. The cantons determine their official languages but are obliged to respect the traditional territorial distribution of languages and to take into account the indigenous linguistic minorities. Both federal and cantonal levels are responsible for encouraging understanding and exchange between the linguistic communities. The Confederation cannot in principle intervene in the language policy of the cantons but has to support the multilingual cantons, and in particular the measures taken by Grisons and Ticino to promote and maintain Romansh and Italian. An important Federal Bill on official languages and the promotion of mutual understanding was under negotiation at the time of the evaluation by the Committee. This text is expected to clarify and implement paragraph 2 of Article 70.

29. This distribution of competences has made the work of the Committee of Experts particularly difficult, as the constitutional provisions (both at federal and cantonal level) have not always been implemented through laws and the various cantons have adopted different practices. The most difficult example is the canton of Grisons, where there are no provisions at cantonal level establishing criteria for the municipalities to choose the Languages of schools and administration. In the judicial field, the criteria used by the courts in deciding the language to be used for proceedings are not clear either.

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

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

### **2.1. The evaluation in respect of Part II of the Charter**

31. Part II of the Charter (Article 7) sets out a number of general objectives and principles that a Party is obliged to apply to all the regional or minority languages on its territory. Within its ratification instrument and according to the requirement of Article 2.2 of the Charter, the Swiss authorities have identified Italian and Romansh as the less widely used official languages of Switzerland to which the list of concrete undertakings of Part III of the Charter apply. No mention is made of the languages covered by Part II.

32. In accordance with its working methods, the Committee of Experts has first tried to establish which of the languages spoken in Switzerland correspond to the definition of Article 1 of the Charter and should therefore benefit from the measures listed in its Article 7 (“Objectives and principles pursued in accordance with Article 2, 1”).

33. The Swiss periodical report identifies the “languages of Gypsies and Yiddish” as the non-territorial languages used in Switzerland and therefore covered by Part II of the Charter.

However, the Committee could not find any evidence of measures undertaken to comply with Article 7 of the Charter. Where Yiddish is concerned, the Committee contacted representatives from the Jewish community who declined the invitation of the Committee to meet in Bern. The Committee met representatives of the Yenish community who confirmed their interest in protecting their language.

## **Article 7 - Objectives and principles**

***“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;”***

34. In its periodical report, Switzerland recognises the “languages of Gypsies” as non-territorial languages within the meaning of the Charter. “Swiss Gypsies” or Yenish are nevertheless regarded by the authorities as a cultural minority and not as a linguistic minority. The support that they receive from the authorities is provided by way of cultural promotion and in the form of financial contributions to the functioning of several major organisations.

35. The Committee acknowledges that this financial support may be used by the organisations concerned to develop projects concerning the Yenish language but considers that an official recognition of the value of this language and the interest of protecting it is still necessary. Similar considerations apply to Yiddish.

***“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;”***

36. The establishment of or changes in administrative boundaries have no influence on the use of Yenish and Yiddish because these languages do not have a territorial base in Switzerland. Therefore, this obligation is not relevant to Yenish and Yiddish.

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

37. So far, there has been no initiative of this kind from the authorities concerning Yenish.

38. As regards Yiddish, the Committee could not find any evidence of resolute action.

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

39. The Committee recognises the efforts made by the authorities to facilitate and encourage the preservation of the cultural identity of the Yenish community but concludes that no measures have been taken so far to facilitate or encourage the use of the Yenish language. A dialogue between the authorities and the Yenish community should be opened to establish if there is a demand for this kind of measure.

40. As regards Yiddish, the Committee could not find any evidence of measures likely to encourage or facilitate its use in public and private life.

***“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;”***

41. One of the major objectives of the language policy in Switzerland seems to be the promotion of mutual understanding between linguistic groups (see new Swiss Constitution, Article 70.3). Most of the measures are nevertheless limited to the four national languages. The Committee considers that the Swiss authorities should, in co-operation with the representatives of the Yenish and Yiddish speakers, explore ways to develop links with other linguistic groups and organisations aiming to promote and protect languages.

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

42. From its contacts with Yenish representatives, the Committee concludes that there is an interest in developing education in the Yenish language. However, this should be organised in a way that does not conflict with the traditions of this community, and avoid side-effects such as segregation. Through a dialogue between the authorities (federal, cantonal or local) and the representatives of Yenish, the needs in the field of education could be identified and the methods negotiated.

43. The Committee could not find any evidence of teaching and study of Yiddish in Switzerland.

***“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;”***

44. There are no facilities enabling non-speakers of Yenish to learn this language.

45. The Committee could not find any evidence of facilities enabling non-speakers of Yiddish to learn it if they so desire.

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

46. According to the information obtained by the Committee, study of or research on the Yenish language is not available at university level.

47. The Committee could not find any evidence of study and research of Yiddish at university level.

- “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.”***

48. The Yenish community seems to be present in at least three other States: Austria, Germany and Belgium. Links between the groups living in Switzerland and those abroad should be encouraged with the aim of reinforcing the status of the Yenish language.

49. The Committee could not find any evidence of trans-national exchanges likely to promote the use of Yiddish in the fields covered by the Charter.

***“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.”***

50. The new Federal Constitution of Switzerland guarantees the principles of non-discrimination (Article 8.2: ‘Nobody may be discriminated against, namely for his or her origin, sex, age, language, social position, way of life, religious, philosophical, or political convictions, or because of a corporal or mental disability’) and linguistic freedom (Article 18: ‘The freedom of language is guaranteed’).

***“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.”***

51. As mentioned in paragraph 42, the Committee considers that the Swiss authorities should explore ways to develop links between Yenish, Yiddish and other linguistic groups and organisations aiming to promote and protect the various languages. It considers that development of mutual understanding is especially needed in the case of Yenish, as the negative social and psychological consequences of their recent history are still major obstacles to their relations with the rest of the Swiss society and the recognition of their culture as a valuable part of the common Swiss heritage.

***“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.”***

52. The Yenish and Yiddish speakers were not consulted during the preparation of the Swiss report on the implementation of the Charter. For the various reasons put forward above, the Committee concludes that there is a need for dialogue between the Swiss authorities and the Yenish community. It would therefore be desirable to take the necessary measures to ensure that this dialogue may be possible at federal, cantonal and local level.

**“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.”***

53. In its evaluation of the application of paragraphs 1 to 4 of Article 7 to the Yenish language and to Yiddish, the Committee has taken into consideration the lack of a territorial basis for these languages and has kept in mind that the principles contained in those paragraphs should be applied *mutatis mutandis*.

***The Committee invites the Swiss authorities to engage in an open discussion with the representatives of the Yenish and Yiddish speaking communities on the issue of the protection and promotion of their languages.***

## **2.2. The evaluation in respect of Part III of the Charter**

54. The Committee of Experts examined in more detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter. The languages in question are Romansh and Italian.

55. The paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Switzerland.

### **2.2.1. The Romansh Language**

#### **Article 8 - Education**

56. The organisation of the education system in the canton of Grisons is based on a cantonal law and on the programmes applicable to the different school levels. The choice of languages in the education system (pre-school, primary and secondary education) falls within the competence of the municipalities, the cantonal law only requiring that the second language be one of the official languages of the canton.



### ***“Paragraph 1***

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

#### **Pre-school Education**

- a i to make available pre-school education in the relevant regional or minority languages; or***
- ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or***
- iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or***
- iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;”***

57. Article 1 paragraph 1 of the Law on Nursery Schools provides that nursery schools are responsible for encouraging language expression. With the exception of the Samedan region, Romansh is the predominant language in nursery schools in the Romansh towns and villages. The percentage of nursery schools functioning in Romansh in the Romansh area is 97.5%. In the towns and villages on the language border some nursery schools operate in Romansh, others in German, while a few are bilingual. In Chur, the principal town of the Canton, the Lia Rumantscha runs a Romansh nursery school. The 4 nursery schools of Samedan have, since 1996, been running a pilot project introducing bilingualism. Those municipalities within the traditional Romansh area (Ilanz, Flims, Domat/Ems and St Moritz) that are nowadays German-speaking municipalities, offer pre-school education in Romansh, in German and even on a bilingual basis (Ilanz).

58. The Romansh nursery schools have (and are recognised as having) an important role to play in helping children who speak other languages to acquire Romansh, and thereby in protecting the Romansh language. The Canton therefore contributes towards the cost of hiring the auxiliary staff needed to integrate non-Romansh-speaking children (Article 29 paragraph a of the Law on Nursery Schools).

59. The Committee considers this undertaking fulfilled.

#### **Primary Education**

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

60. The Law on Compulsory Education, the Order implementing that law and the school curricula are required to distinguish between German-language, Italian-language and Romansh-language primary schools. Each town or village chooses the language which is

most appropriate for its school. Thus under the regulation on schools, it is also possible to operate Romansh-speaking schools in Romansh territory.

61. The school language is usually the language traditionally spoken in the language zone concerned. Schools may certainly decide to change their language if a majority of the population no longer speaks the language traditionally spoken in the area, but this does not necessarily follow. For example, in some municipalities schools still use Romansh although it has been a minority language in the municipality for a considerable time (this applies to many municipalities in the Upper Engadine). Depending on the municipality and the language zone, the choice of the language traditionally spoken in the area or of the language actually spoken by a majority of the local population may be governed by very different criteria. In the canton of Grisons, 67 primary schools (from a total of 191) now use Romansh.

62. It is unusual for a school to decide to change its language – firstly because the school language is a matter of local usage, and secondly because language zones do not evolve rapidly. However, in the 20<sup>th</sup> century, a number of traditionally Romansh-speaking municipalities have permanently changed language. In many cases, their schools have switched to German as the classroom language. Some of the municipalities concerned – Ilanz, Flims, Domat/Ems, Rhäzüns, Feldis, Scheid, Andeer, Zillis, Vaz/Obervaz, Alvaneu, Surava, Bergün and St-Moritz - have gone on to make Romansh, as the first foreign language, compulsory. In these municipalities, pupils having Romansh as their mother tongue can thus extend the knowledge of their own language.

63. Apart from the traditional models (German, Romansh or Italian), various bilingual teaching models are currently being studied. These might help bilingual municipalities to promote and preserve both languages, removing the need to choose between them. The scheme being tried out in the municipality of Samedan should be mentioned here. In this case, an exclusive emphasis on Romansh has been replaced by a conscious effort to promote bilingualism in Romansh and German. Both languages are taught in parallel, from pre-school to the end of compulsory schooling. Personalised lessons are also provided to remedy individual language deficits. The scheme is at present being evaluated, but the response to this approach – from teachers, pupils and parents – already seems very positive.

64. Romansh may be chosen as the first foreign language in towns or villages with German-language primary schools (Article 4d of the Law on Compulsory Education, which entered into force on 1 August 1999). A number of towns or villages on the border between the Romansh and German language areas have chosen this option. Apart from traditionally Romansh-speaking municipalities, some adjacent German-speaking municipalities have introduced Romansh as the first foreign language. In Chur, the chief German-speaking town of the canton, an experimental bilingual class in German and Romansh was due to start operating in the 2000/2001 academic year.

65. The Canton provides Romansh-language primary schools with the necessary Romansh teaching materials (Article 19 of the Law on Compulsory Schooling). These materials are produced by the education committee and educational publishers.

66. In the opinion of the Committee, this undertaking seems to be fulfilled. However, the Committee considers that the freedom of choice of the municipalities and the absence of clear criteria guiding this choice may hamper the implementation of this obligation.

## Secondary education

*“c. iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum;”*

67. The Swiss report states that the law on middle schools, revised on 27 September 1998, significantly upgraded the status of Romansh at this level of education. From the 1999/2000 academic year, pupils are able to receive a bilingual (Romansh/German) school-leaving diploma in the Canton of Grisons. In addition to the teaching of Romansh, two basic subjects have to be taught in Romansh. Since the revision of the law on middle schools, Romansh may also be chosen at secondary school as the principal language, with the corresponding number of hours of teaching, or as a foreign language, a specific or a free option.

68. The Committee considers this undertaking fulfilled.

## Technical and vocational 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;”*

69. The syllabi of vocational schools are determined by the Confederation for the majority of jobs. There are three vocational schools on arts and crafts (Ilanz, Samedan, St-Maria) and two specialising in commerce (Ilanz, Samedan). Classes given in Romansh in these schools account for approximately 10% of the whole. Romansh carries scarcely any weight in these syllabi. In addition, the majority of arts and crafts vocational schools in Grisons train students with different mother tongues. For practical reasons it is difficult to suggest that Romansh be used in vocational schools. The teaching of Romansh in vocational schools varies. The school of arts and crafts in Chur has not managed to include Romansh in its syllabus for the 1999/2000 academic year. The possibility of allowing Romansh students to pursue part of their courses in general culture in their own language in future is being investigated. This would involve considerable expense and might prove politically difficult to put into practice. At the School of Arts and Crafts in Samedan, German is used as a rule, but Romansh is included in the courses for Romansh students.

70. In Ilanz, Romansh is used on a very pragmatic and integrated basis, depending on the composition of the class, in the teaching of general culture. In the colleges of commerce in Ilanz and Samedan, Romansh students have one compulsory hour of Romansh per week. In a decree adopted on 11 April 2000, the government approved a project to increase the teaching of Romansh at the vocational arts and crafts school in Ilanz. From the 2000/2001 academic year, at least one-third of general subject teaching was due to be in Romansh. Making heavy organisational and financial demands, this scheme will initially be run on a pilot basis. Its future will essentially depend on the number of Romansh-speaking apprentices taking this course at Ilanz, instead of attending the German-speaking vocational school in Chur.

*The Committee acknowledges the efforts made by the Swiss authorities to strengthen the place of Romansh in vocational education and invites the cantonal authorities to follow up on the pilot experiences currently run in Chur and Ilanz.*

## **University and higher education**

***“e. ii. to provide facilities for the study of these languages as university and higher education subjects;”***

71. There is no university in the canton of Grisons. This lack of supply in higher education results in a lack of researchers and scientific institutions and professionals (such as journalists) in the canton of Grisons and affects the status of Romansh, as the students are obliged to choose French or German as the language of their university studies. According to the report, the University of Friburg has a Chair in Romansh Language and Culture. The Federal “Ecole Polytechnique” in Zurich also has a Chair in Romansh Literature (currently vacant). Efforts are being made, in co-operation with the Canton of Grisons, to fill the vacant chair and ensure that it continues. Seminars, courses and conferences on the Romansh language and culture are offered in the universities of Zurich, Geneva, St.Gallen and Bern.

72. The Committee considers this undertaking fulfilled.

## ***Adult and continuing education***

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

73. In the Canton of Grisons adult education is organised by the private sector. The syllabi of the various organisations generally include courses in Romansh. The Canton makes a contribution to the fees payable for these courses, under Article 6 of the Law on Further Training. This Act generally defines the types of further training which the canton helps to fund. Language courses are the first mentioned, but the act does not require further training establishments to provide courses in Romansh. Like a Subsidies Act, it encourages the provision of financial support for language courses (between 20% and 40% of costs may be covered). Whether courses in Romansh are provided or not depends, above all, on the demand for them. In practice, such courses are provided in both Romansh and non-Romansh parts of the canton.

74. The Committee considers this undertaking fulfilled.

## ***Teaching of history and culture***

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

75. According to the Swiss report, the history of culture and literature forms an integral part of the teaching of Romansh under the syllabi of Romansh-language general schools and secondary schools. Following the revision of the law on middle schools and the wider teaching of Romansh, certain aspects of the history of culture, linguistic policy, etc. can be taught in greater detail at secondary level. Suitable teaching materials are provided.

76. The Committee considers this undertaking fulfilled.

## **Basic and further education of teachers**

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

77. The Canton assumes responsibility for Romansh nursery schools by training Romansh-speaking nursery school teachers in a special department of the Teacher' Training College in Chur.

78. The Canton also provides training for Romansh-language primary school teachers. At present they are trained in the Grisons Teacher' Training College. Following the revision of the Law on Further Education Institutions and the adoption of the Law on the College specialising in teaching educational methods on 27 September 1998, their training has been completely reorganised. From the 2003/04 academic year, these teachers will be trained in the College specialising in teaching educational methods, still to be established. For the purpose of training Romansh-speaking primary school teachers, the teaching of Romansh will be significantly improved at secondary school level. Romansh will be available as a first language in secondary schools. A bilingual (Romansh/German) school-leaving diploma will also be established.

79. The Canton is responsible for providing permanent further training for teachers, especially in languages (Article 56 of the Law on Compulsory Schooling).

80. The Committee considers this undertaking fulfilled.

## **Monitoring**

***“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.”***

81. According to the information provided by the Swiss authorities, monitoring the implementation and quality of courses in Romansh forms part of the ordinary monitoring activities of the schools. It is carried out by the competent committees and inspectors (Article 59 et seq. of the Law on Compulsory Schooling). Following the revision of the Law on Middle Schools, a new quality control system has been introduced at that level. At cantonal schools, an external inspection is carried out in addition to the internal supervision and a report is sent to the Department of Public Education, Culture and Environmental Protection. The findings are not officially published.

***The Committee suggests that the findings of the institutions monitoring the teaching of and in regional or minority languages be made public in an appropriate manner.***

## Article 9 - Judicial authorities

### *“Paragraph 1*

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

#### **In criminal proceedings:**

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

82. Romansh is a national language of the canton pursuant to Article 46 of the Cantonal Constitution and may therefore be used in criminal proceedings. That is laid down in Article 28 of the order on the organisation and administration of the cantonal court, which provides as follows: the languages which may be used in court are the national languages of the canton, as provided for in the Constitution.

83. For the purposes of judicial investigations, the Code of Criminal Procedure provides in Article 87 paragraph 4 that statements made by the accused and the witnesses must be included in the record of the hearing in a national language of the Canton within the meaning of Article 46 of the Constitution. In practice, the question of the language which may be used in court is not governed by any express provision.

84. On 12 March 2000, the Canton of Grisons voted a project to review the organisation of the courts. This applies to criminal courts (local, district and cantonal courts).

85. The cantonal court, the chief court in the trilingual Canton of Grisons, employs the three cantonal languages (Article 28 of the Order on organisation and management of the cantonal court and Article 46 of the cantonal constitution). Romansh-speakers have the legal right to use their language, both orally and in writing, in criminal proceedings before the cantonal court, and to insist that the court give judgement in that language. In practice, however, this right is seriously restricted, for a whole series of reasons. It is unusual, for example, for all the members of the cantonal court to have a passive – let alone an active – knowledge of Romansh. Most Romansh-speakers, on the other hand, have a very good command of German. Because no legal training is provided in Romansh, the German legal language is usually more widely used than Romansh, even by Romansh-speaking judges. As a result, Romansh is very little used in cantonal court proceedings. Finally, because Romansh is not generally used in law, legal terminology in Romansh is incomplete or lacking.

86. Where the language is concerned, the district and local courts follow the territorial principle. Districts and localities where Romansh is the traditional language may also use it in court proceedings. In practice, however, this depends on whether court officials have a good command of the language, and on whether the parties insist on using it. Here again, Romansh – at least in writing – is very little used.

87. No basic demands are made concerning the use of Romansh in non-Romansh districts and localities (except, perhaps, in criminal proceedings, where Article 6, paragraph 3 e, of the ECHR may be cited).

88. The Committee concludes that, given the difficulties mentioned above, the right of the accused to use his/her language is not guaranteed in practice.

***“a. iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language - if necessary by the use of interpreters and translations involving no extra expense for the persons concerned;”***

89. Since Romansh is regarded as a language which may be used in court, requests and evidence submitted in Romansh are admissible.

90. The Committee considers this undertaking fulfilled.

#### **In civil proceedings:**

***“b.ii. to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; - if necessary by the use of interpreters and translations;”***

91. The language used in the district courts (civil courts of first instance) is not determined by cantonal law. In principle, each court is entitled to be decided on the language(s) used. Where a district is in Romansh territory, Romansh may be chosen as the language of the case and the proceedings will be conducted in that language. That practice is confirmed by the case law of the Federal Court on the principle of territoriality. In practice, the question of the language which may be used in court is not governed by any express provision: the fact that a Romansh-speaking party expresses him/herself in his/her own tongue before a court on Romansh territory is rather more a custom. When the re-organisation of the courts takes effect in the Canton of Grisons, criminal and civil cases will be dealt with by the same courts. For the use of Romansh in civil proceedings, reference may be made to the comments made on criminal proceedings.

92. The Committee considers that, given the difficulties indicated above and the fact that there are no clear criteria guiding the choice of languages used by civil courts, this undertaking is not fulfilled.

***“b.iii. to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;”***

93. Since Romansh is regarded as a language which may be used in court, requests and evidence may be formulated in that language.

94. The Committee considers this undertaking fulfilled.

**In proceedings before courts concerning administrative matters:**

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

95. Administrative disputes are dealt with by the administrative courts and, in some cases, the government as well. Most such cases are decided on the basis of written evidence. The parties are required to appear only in exceptional cases.

96. Under Section 20 of the Administrative Courts Act, the three cantonal languages – including Romansh – may be used in administrative proceedings. Accordingly, and on the basis of Article 47 of the cantonal constitution, all Romansh-speakers may use their language, orally or in writing, in administrative disputes and may insist on judgements being given in that language. However, Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court provides that deliberations are to take place only in German. In case of conflict, Section 20 of the Administrative Courts Act seems to prevail.

97. According to the information gathered by the Committee, the possibility of using Romansh in oral proceedings is limited by the fact that not all administrative court judges necessarily know that language. The president of the administrative court may call on the services of an interpreter when there is no guarantee that the language will be understood. However, since every Romansh litigant has a good command of German, this possibility is rarely used.

98. If a written application is submitted in Romansh to the administrative court, the judgement will also be given in Romansh. However, since the use of German by Romansh parties and their lawyers has also become general in administrative cases, applications in Romansh are again the exception.

99. The Committee considers that, given the difficulties mentioned already in the context of criminal and civil proceedings, this undertaking is not fulfilled in practice. Moreover, the Committee underlines the importance of establishing a clear legal framework for the use of languages before courts and therefore invites the Swiss authorities to consider amending Article 13 of the Order on the Organisation, Administration and Emoluments of the Administrative Court, which provides the deliberations are to take place only in German.

***“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;”*

100. According to the Swiss authorities, under Swiss law, the validity of legal documents does not depend on the language used. The choice of language is a private matter for the parties. It is therefore possible to use Romansh in all legal matters. Romansh can also be used for the purpose of authenticating legal documents.

101. The Committee considers this undertaking fulfilled



### **“Paragraph 3**

***“The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.”***

102. The Confederation determines, in consultation with the Canton of Grisons, which official texts are to be published in Romansh. The publication of legislative texts of some importance is regulated by Law. The translation of texts into Romansh is regulated in the “Directives on translations into Romansh by the Federal Authorities” of 26 November 1986. This applies mainly to important texts, such as the federal Constitution, language laws and texts put to referendum. The Languages Bill (now being drafted) will regulate all questions relating to the use of Romansh in texts issued by the Confederation and to the publication of official texts in that language. The Government is responsible for ensuring that the most important cantonal statutory measures are published in the Surselvan and Vallader languages. Both Romansh versions of the collection of legislation now include virtually all the laws which also exist in German.

103. As a rule, most general texts aimed at all or a large part of the population are systematically translated (e.g. all cantonal laws, texts for voting, press releases, publications in the canton’s official gazette). Romansh versions are chiefly lacking in the case of computerised official correspondence (bills, reminders, orders, etc.).

104. The use of Romansh for official purposes is complicated by the existence of several different variants. By bringing in a standard written form, Rumantsch Grischun, the canton hopes to ease the problem, but this standard form is still not widely used, and has yet to be accepted by all Romansh municipalities and all speakers of the language. Some Romansh-speakers still prefer the German version of official texts.

105. The Committee considers this undertaking fulfilled.

***The Committee invites the Swiss authorities to remove the practical and legal obstacles hampering the effective use of Romansh before the courts. In particular, the choice of the language by the courts should take into account the indigenous linguistic minority and efforts should be made to remedy the lack of command of Romansh by judges and lawyers and the deficiencies in the legal terminology.***

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

## State Administration

### *“Paragraph 1*

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

*“a. i.to ensure that the administrative authorities use the regional or minority languages;”*

106. Under Article 70, paragraph 1 of the Constitution, Romansh is a semi-official language of the Confederation. This means that the federal administrative authorities have to use Romansh when addressing Romansh-speaking persons. Moreover, Romansh is employed in important documents such as bank notes, passports or identity cards. The Committee was made aware of the fact that the use of Romansh by the federal authorities does not satisfy the requirements of the Charter. In particular, the lack of Romansh speakers within the federal administration and the fact that Romansh versions of documents may be delayed or are not available at all are serious obstacles to the practical use of Romansh.

107. The administration of the Canton of Grisons is also obliged to use Romansh in its official activities. The status of Romansh as a minority language in the Canton of Grisons nonetheless means that the official use of that language is guaranteed in the majority of cases by translations. The detailed arrangements, in particular the question as to what documents must be translated, are governed by the Government directives on the translation of official measures into Italian and Romansh.

108. With the exception of the federal level, this undertaking can be considered fulfilled.

*The Committee suggests that the federal authorities take all necessary measures to guarantee the presence in their administration of staff with a sufficient command of Romansh and that the documents in Romansh are available in due time.*

*“b. to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;”*

109. Article 10 of the Government directions on the translation of official documents into Italian and Romansh requires that the departments and services draft models in Romansh for decisions and letters whose content is repeated. That obligation has only partly been met. A significant proportion of standard press releases and forms for Romansh-speaking persons exists only in German.

110. According to the authorities, the use of Romansh in forms pre-supposes the existence of a single, standard Romansh language. If only for practical reasons, the inclusion of several different types of Romansh in (already multilingual) forms would be impossible. Recognition of Rumantsch Grischun by the State authorities as the official written form of Romansh seems to be essential to the use of Romansh in forms. In fact recognition of Rumantsch Grischun as an official cantonal language has been followed by an increase in the use of Romansh in forms.

111. The Committee considers this undertaking not fulfilled.

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

112. Romansh must in principle be used by the administrative authorities of the State in their official activities.

113. The Committee considers this undertaking fulfilled.

## **Local and regional authorities**

### *“Paragraph 2*

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

*“a. the use of regional or minority languages within the framework of the regional or local authority;”*

114. The official languages of the Canton of Grisons are German, Italian and Romansh (Article 46 of the Cantonal Constitution). The choice of language used officially at municipal or regional level is a matter for the municipality or the regional association (a corporation consisting of a number of municipalities) concerned. Romansh municipalities and regional organisations may therefore decree that Romansh is the official language. The Canton finances regional language services which are responsible for supporting the municipalities and any other organisation in the use of Romansh.

115. The Committee considers this undertaking fulfilled.

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

116. Romansh being one of the official languages of the Canton, it is possible to submit applications in this language to the cantonal authorities. Users of Romansh may submit and receive a reply in Romansh from the federal and cantonal administrative authorities. Official letters automatically despatched are normally drafted in German, unless the person or institution concerned has expressly requested that Romansh be used. The State Chancellery keeps a list of municipalities wishing to be written to in Romansh. Any Romansh-speaker contacted in German is entitled to a translation of the letter concerned.

117. As regards local authorities, the practice will depend on the official language of the municipality. Romansh may be used by individuals in their relations with the local authorities in those municipalities having chosen Romansh as a language of the administration.

118. The Committee considers that the fact that in practice, the speakers of Romansh might be deprived of their right to address the local authorities in that language on the basis of a decision of the municipality is in contradiction with the obligation of Article 10, 2b.

***The Committee invites the Swiss Government to guarantee that local authorities take into account their indigenous linguistic minorities and guarantee the effective implementation of Article 10.2.b with respect to Romansh.***

***“c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;”***

119. Cantonal official documents are published in Romansh, as stated above. In Romansh regional organisations, official documents are generally also published in Romansh.

120. The Committee considers this undertaking fulfilled.

***“d. the publication by local authorities of their official documents also in the relevant regional or minority languages;”***

121. In municipalities having chosen Romansh, official documents are generally published in this language. In these municipalities, the undertaking is fulfilled. The Committee considers that this undertaking is not fulfilled in the German-speaking municipalities with a sizeable minority of Romansh speakers.

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

122. The use of Romansh is allowed in the cantonal assembly.

***The Committee encourages the Swiss authorities to examine possible ways to foster the use of Romansh in the cantonal assembly.***

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

123. In municipalities where a high proportion of the population speaks Romansh, council meetings are held in Romansh. The situation is less straightforward in municipalities where the language mix is greater and in the so-called “regional associations”, which are generally not solely Romansh. In such cases, German is generally used as the language of deliberation even when the number of Romansh speakers is significant and would justify the use of Romansh as a language of deliberation. In these cases, the obligation is not fulfilled.

***“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.”***

124. According to the information provided by the Swiss authorities, in the Canton of Grisons, the names of many villages, districts and municipalities were indicated in German in the Romansh region. Things have changed, and the majority of departments, municipalities and villages now bear their authentic name. The listing and altering of names of villages, departments and municipalities are governed by the Order of the Federal Council on the names of places, municipalities and railway stations.

125. In Romansh areas, the authentic names are clearly the Romansh names, although this does not prevent Romansh municipalities from introducing bilingual names (Romansh - German). The spelling of Romansh can, however, cause problems. To ensure a certain uniformity, the canton does not allow the use of dialect forms. Spelling is determined by the written language of the region concerned.

126. At federal level, practical considerations impose certain restrictions on name changes. To be usable on road and railway station signs, names must not be too long. The possibility of introducing bilingual names is thus subject to certain practical restrictions.

127. The Committee considers this undertaking fulfilled.

## **Public services**

### ***“Paragraph 3***

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

***“b. to allow users of regional or minority languages to submit a request and receive a reply in these languages;”***

128. At federal level, public services (such as postal and transport services) make some use of Romansh. Any Romansh-speaking person may, in principle, use his or her mother tongue when dealing with the cantonal public services in the Romansh region. Replies are generally drawn up in the same language as the letters received: a request drafted in Romansh will therefore be answered in Romansh. Cantonal public services include the cantonal Bank of Grisons, the Rhaetian Railways “Raetische Bahn” and the cantonal hospitals. These institutions must also allow for the use of three languages. The cantonal Bank of Grisons issues trilingual forms. The cantonal authorities advertise employment vacancies in the canton’s three languages. Since the Raethian Railways and the cantonal Bank of Grisons expect staff in their regional branches to have certain language skills, one can assume that the public services also operate in Romansh.

129. Where healthcare services are concerned, there is no evidence of a policy to ensure the presence of Romansh, and the possibility of using it will depend on chance or on the good will of individuals working in hospitals.

130. The Committee considers that, in the cases reported to it, this undertaking is fulfilled.

***“Paragraph 4***

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

***a. translation or interpretation as may be required;”***

131. The Canton of Grisons has a professional translation department responsible for ensuring the consistent use of Romansh and Italian as official languages (Article 5 of the Government Directives on the translation of official measures into Italian and Romansh). There are three posts at present.

132. The Committee considers this undertaking fulfilled.

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

133. According to the Swiss authorities, where posts are to be filled in the public services whose activities cover the Romansh region of the Canton, knowledge of Romansh is generally required, or the candidate’s attention is drawn to the fact that some knowledge of Romansh would be preferred.

134. The Committee considers this undertaking fulfilled.

***“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.”***

135. Civil status, and therefore the family register in which the determinant family names appear are largely governed by Federal law. Federal law does not limit the use of Romansh surnames.

136. The Committee 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:*

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

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

137. The legislation on radio and television is a matter for the Confederation and the opportunities for the Canton of Grisons to influence the operation of radio and television are therefore limited. Under Article 23 paragraph 2 of the Federal Law on Radio and Television (LRTV), cantons are entitled to be heard when concessions are granted to local or regional broadcasters. Article 21 LRTV requires that the particular characteristics of the region served be taken into consideration. The Canton of Grisons insists that both minority languages (Romansh and Italian) be considered when concessions are being allocated to local and regional broadcasters.

138. The SSR's radio service in Romansh covers the entire canton of Grisons, and is relayed by cable to other parts of the country. It broadcasts 14 hours per day, including informative and cultural programmes in the Romansh variant used by the journalist. SSR employs 100 persons.

139. The Cuminanza rumantscha radio e televisium (CCR) was founded in 1946 and is now a part of SSR, where it represents the interests of Romansh within the bodies of the Alemanic and Romansh radio and television.

140. One of the main difficulties faced by the radio broadcasters is the lack of young journalists able to speak Romansh. At present, the limited training of Romansh journalists is organised by the Romansh Radio and Television, by the Lia Rumantscha or by a private school of linguistics in co-operation with the Lia Rumantscha in Zurich and Chur.

141. The Committee considers this undertaking fulfilled.

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

142. The private stations (Radio Grischa and Radio Piz) are obliged, under the licensing laws, to broadcast a number of programmes in Romansh and Italian. The canton does not verify whether local radio stations adhere to minimum air time requirements in Romansh and Italian. When it issued directives on the planning of networks of VHF transmitters, the Federal Council gave Lia Rumantscha and Pro Grigioni Italiano certain supervisory powers. To date, the Federal Communications Office has received no complaints, either from language organisations or individuals.

***The Committee considers that the provisions under the licensing laws only partially meet the objectives of Article 11.1.b.i. and urges the authorities to take further action.***

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

143. SSR broadcasts 8 minutes per day (during peak audience time) and produces a 25-minute weekly magazine, as well as some short programmes for children and documentaries. As stated above in the report, broadcasting in Romansh by SSR (as part of its public service mission) is already covered by paragraph 1.a.iii of Article 11. The Committee considers that the undertaking 1.c.ii concerning private television is not fulfilled.

***The Committee suggests the Swiss authorities explore the possibilities as to how the broadcasting of television programmes in Romansh may be encouraged.***

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

144. The Confederation and the Cantons, by providing the necessary financial assistance, have enabled a Romansh press agency to be set up. The services provided by this agency, which has been in operation since the end of 1996, should enable the Romansh press to grow and be brought up to date.

145. The launching of the Romansh daily *La Quotidiana* on 1 January 1997 has already considerably revived Romansh journalism. It is published five days a week in 16 000 copies, using the five variants. Nine journalists work for this newspaper, covering mainly regional and local news, but it is difficult to find professionals able to write in several variants and in rumantsch grischun. Where the latter is concerned, the level of acceptance of this new “compromise language” does not allow for publishing only in rumantsch grischun. There is a lack of “subscribers” and the editor stresses that it would be necessary to double the budget to ensure the survival of the newspaper.

146. The Committee considers this undertaking fulfilled, but is concerned by the lack of training of journalists in Romansh.

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

147. According to the initial periodical report, the Decree of the Grand Council on the cantonal subsidies paid each year to the body responsible for the Romansh press agency provides, in paragraph 2, that an allowance must be paid to the Romansh newspapers for the important services which they provide in promoting the language when they do not succeed in covering their outgoings. Two small daily newspapers receive financial assistance under that provision, which, however, is merely an ancillary measure. The decree is primarily concerned



with the indirect promotion of the Romansh press through the setting-up and operation of the Romansh press agency.

148. The Committee acknowledges the efforts of the Swiss authorities to provide financial support through different means (including the promotion of a Romansh Press Agency) and 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.”***

149. The Committee welcomes the fact that the interests of Romansh speakers are represented within the decision-making bodies of SSR. However, it did not find any evidence that the Swiss authorities have taken measures to ensure that the interests of users of Romansh are taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media.

150. The Committee is not in a position to conclude that this undertaking is 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;”***

151. The new Law on the promotion of the culture of the Canton of Grisons (entered into force on 1 January 1998) provides that the promotion of cultural life is to include the aspect of the linguistic diversity of the regions and population groups of the Canton. The law mentions, as a particular area to be promoted, the safeguarding and protection of trilingualism in the Canton, in particular the minority languages (Article 3(c); Article 12 paragraph 1). The promotion of the culture of the Canton therefore also specifically operates in favour of the Romansh culture. In parallel with the support directly given to specific measures undertaken in this sphere, the Canton also promotes and safeguards the Romansh language and culture by providing annual subsidies to the Lia Rumantscha. Alongside the Canton, it is that organisation which encourages cultural creativity in theatre, music, literature etc. and makes it accessible to the population. The Lia Rumantscha is also responsible for the translation of foreign literary works into Romansh.

152. The Committee considers this undertaking fulfilled.

***“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;”***

153. Television programmes broadcast in Romansh are subtitled into other national languages (mainly German); Pro Helvetia also finances the translations into other official languages of works written in Romansh. The Committee considers this undertaking fulfilled.

***“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;”***

154. In the cultural area, many efforts aim to give access in Romansh to works produced in other national languages. This implies translation of literature, dubbing or subtitling of audiovisual works, etc.

155. The Committee considers this undertaking fulfilled.

***“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;”***

156. The Commission for the promotion of culture, which plays a central role in implementing the Law on the promotion of the culture of the Canton, must include specialists in the various linguistic and cultural areas among its members (Article 18 of the Law).

157. The Committee considers this undertaking fulfilled.

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

158. According to the information received by the Committee, the Lia Rumantscha is the main actor in the promotion of Romansh culture in the Canton of Grisons. It receives subsidies from the Confederation and the canton (80% of its 3 million CH budget). At federal level, Pro Helvetia and the Federal Office of Culture also encourage the direct participation of users of Romansh in providing facilities and planning cultural activities.

159. The Committee considers this undertaking fulfilled.

***“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;”***

160. The Lia Rumantscha is also responsible for collecting works produced in theatre, music and literature. Romansh television productions are kept at the Romansh Radio and

Television Company and are sometimes broadcast to the public. Alongside these institutions, the Cantonal library of Grisons is responsible for collecting and making public printed and audiovisual work relating to the Canton of Grisons, and therefore the media in Romansh and on Romansh language and culture.

161. The Committee considers this undertaking fulfilled.

***“h. if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.”***

162. The Canton has its own translation service, whose work includes keeping essential Romansh legal and administrative terminology up to date. This service co-operates closely with the language service of the Lia Rumantscha, which develops the Romansh terminology necessary to the various areas of life.

163. The Committee considers this undertaking fulfilled.

***“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.”***

164. A number of cultural institutions, such as the cantonal library of Grisons, the language organisation Lia Rumantscha, the Institut dal Dicziunari Rumantsch Grischun and the Romansh Radio and Television Company have their seat in the principal town of Grisons, that is to say, outside the Romansh traditional language region. For the many Romansh who live in Chur, works of Romansh culture are therefore readily accessible. Outside of the canton of Grisons, there is a network of Romansh associations which organise, in particular, cultural displays. The Lia Rumantscha and Pro Helvetia help to finance these activities in the form of annual subsidies. Romansh radio and television play a significant part in disseminating Romansh culture; they are broadcast well beyond the Romansh language frontiers.

165. The Committee considers this undertaking fulfilled.

***“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.”***

166. According to the information available, one of the major roles of Pro Helvetia is the promotion of the multilingual and multicultural image of Switzerland abroad.

167. The Committee considers this undertaking fulfilled.

## Article 13 - Economic and social life

### *“Paragraph 1*

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

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

168. The Lia Rumantscha is involved in promoting the use of Romansh in economic and social life. It is helped in this task by subsidies from the Canton. In addition to the Lia Rumantscha, the regional language services financed by the Confederation and the Canton undertake, *inter alia*, translation work for the banks, tourist organisations, sickness insurance funds etc. Romansh is therefore used in marketing and advertising, in the description of products, in invoices, correspondence with customers and other information available to consumers.

169. The Committee considers this undertaking fulfilled.

### *“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;”*

170. The Cantonal Bank of Grisons is an independent establishment governed by Cantonal public law. As a cantonal institution, it reflects the trilingualism of the canton. It therefore has a trilingual name and also provides a number of forms in Romansh and Italian. The subsidiaries of the cantonal bank in the Romansh territory endeavour to employ staff with a command of the regional language.

171. As a cantonal institution, Rhaetian Railways ensures that it, to a certain extent, uses both minority languages. A number of signs on trains and in stations are in Romansh and Italian, and on certain trains, the announcements are also made in Romansh.

172. This undertaking seems to be 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;”*

173. The Committee could not find any evidence of bilateral or multilateral agreements concluded with other States (and more particularly with Italy), likely to foster contacts between the Romansh speakers of Switzerland and the speakers of a similar language abroad. The Committee considers that this undertaking is not 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.”*

174. The conclusion of treaties with foreign States falls within the competence of the Confederation. The Canton of Grisons is a member of the Working Community of the Alpine Region (ARGE ALP), which deals with common interests in the areas of culture, society, economy and ecology through transfrontier co-operation. Questions of language may be addressed within the framework of this co-operation. Thus in the autumn of 1997, a meeting was held in Upper Engadine on the topic of multilingual schools, under the auspices of the Canton of Grisons. The Committee considers that this undertaking is fulfilled.

### 2.2.2. The Italian language

#### A. Canton of Grisons

#### Article 8 - Education

##### *“Paragraph 1*

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

##### *Pre-school education*

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

175. Article 1 paragraph 1 of the Law on Nursery Schools provides that nursery schools are responsible for encouraging language expression. Italian is the predominant language in nursery schools in the Italian-speaking municipalities.

176. All pre-school facilities (100%) in Italian-speaking areas of Grisons operate in Italian.

177. The Committee considers this undertaking fulfilled.

### *Primary education*

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

178. Unlike the Romansh regions, the Italian-speaking area is relatively stable. All primary schools in the Italian-speaking areas of Grisons operate in Italian. To date, no traditionally Italian-speaking municipality has changed school language. Grisons at present numbers 23 Italian-speaking primary schools (out of a total of 191).

179. Since the 1999/2000 academic year, German-speaking primary schools have also been required to introduce either Italian or Romansh as a first foreign language. Most of the municipalities concerned have opted for Italian. This considerable strengthening of the Italian language’s position in Grisons enables Italian-speaking children to learn their mother tongue in the many schools of the non Italian-speaking part of the canton. In addition, as from the 2000/2001 academic year, two pilot German/Italian bilingual classes were due to be introduced in Chur.

180. The Canton provides Italian-speaking primary schools with the necessary teaching materials in Italian. These materials are produced by the Education Committee and educational publishers.

181. The Committee considers this undertaking fulfilled.

### *Secondary education*

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

182. There are two kinds of secondary education in Switzerland: lower secondary education and gymnasium (after the second year of lower secondary education). Lower secondary education is offered in Italian in the valleys, but pupils wishing to go to the Gymnasium need to choose Chur (where they may learn German if they wish to continue their higher education in this language) or Bellinzona (if they wish to continue in Italian).

183. In the German-speaking and Romansh-speaking areas of the canton of Grisons, Italian is offered as a compulsory or optional choice. It is possible to obtain a bilingual diploma (German-Italian): the pupils are required to choose Italian as their first language and also study two basic subjects in Italian.

184. Throughout Switzerland, secondary schools were obliged, until now, to offer Italian as an option. However, if the introduction of English at an earlier stage is generalised, the position of Italian outside the cantons of Grisons and Ticino will suffer considerably.

185. The Committee considers this undertaking fulfilled.

## **Technical and vocational education**

*“d. i.to make available technical and vocational education in the relevant regional or minority languages;”*

186. Technical and vocational education in Italian is in a more favourable position than Romansh. There is a vocational education school in Poschiavo, where courses are given in Italian. In Samedan, where Italian-speaking students attend the vocational school, Italian is taught in blocks of courses. A large proportion of students choose to attend vocational schools in the canton of Ticino (the canton of Grisons pays a part of the expenses).

187. The Committee considers this undertaking fulfilled.

## **University and higher education**

*“e. ii. to provide facilities for the study of these languages as university and higher education subjects;”*

188. There is no university in the canton of Grisons, but courses in Italian language and literature are offered up to degree level at the universities of Basle, Bern, Fribourg, Geneva, Lausanne, Neuchatel and Zurich. The Italian-speaking university of Ticino offers Italian language courses in its three faculties (Architecture, Economics and Communication). Several universities in Switzerland make possible the study of Italian language and literature in the framework of Romance studies.

189. The Committee considers this undertaking fulfilled.

## **Adult and continuing education**

*“f.i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or”*

190. In the canton of Grisons, adult education is organised by the private sector. The programmes of the various organisations generally include courses in Italian. The canton makes a contribution to the fees payable for these courses (20-40% of their costs).

191. The Committee considers this undertaking fulfilled.

## **Teaching of the history and the culture**

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

192. According to the Swiss authorities, teaching of the history and culture of all parts of the canton of Grisons (including the Italian valleys) is an integral part of all cantonal curricula. The culture and history of the valleys is particularly well taught in the German-speaking municipalities that have chosen Italian as a first foreign language. The teaching materials designed for this teaching are geared to the special features of the Italian-speaking

part of the canton and seek to acquaint pupils with the Italian-speaking valleys and their culture.

193. The Committee considers this undertaking fulfilled.

### **Basic and further training of teachers**

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

194. As for Romansh, the Canton assumes responsibility for Italian nursery schools by training Italian-speaking nursery school teachers in a special department of the teachers' training college in Chur.

195. The Canton also provides training for Italian-language primary school teachers. At present, they are trained in the Grisons Teacher Training College, but thanks to several recent legislative measures, their training has been completely re-organised. From the 2003/04 academic year, teachers will be trained, at the college specialising in teaching education methods, still to be established. For the purpose of training Italian-language primary school teachers, Italian will be offered as a first language in secondary schools. A bilingual (Italian/German or German/Italian) final diploma will also be offered. Future teachers will still be able to compensate for their lack of knowledge of Italian at the College specialising in teaching educational methods.

196. The Canton is responsible for providing permanent further training for teachers, especially in languages (Article 56 of the Law on Compulsory Schooling).

197. The Committee considers this undertaking fulfilled.

### **Monitoring**

***“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.”***

198. According to the information provided by the Swiss authorities, monitoring the implementation and quality of courses in Italian forms part of the ordinary monitoring activities of the schools. It is carried out by the competent committees and inspectors (Article 59 et seq. of the Law on Compulsory Schooling). Following the revision of the Law on Middle Schools, a new quality control system has been introduced at that level. At cantonal schools, an external inspection is carried out in addition to the internal supervision and a report is sent to the Department of Public Education, Culture and Environmental Protection. The findings are not officially published.

***The Committee suggests that the findings of the institutions monitoring the teaching of and in Italian be made public in an appropriate manner.***



## Article 9 - Judicial authorities

### *“Paragraph 1*

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

*In criminal proceedings:*

- a.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or”*
- a. ii. to guarantee the accused the right to use his/her regional or minority language; and/or”*
- a.iii. to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language”.*

199. On 12 March 2000, Grisons voted to approve the restructuring of the judicial system. The project provides for the following: the President of the Local Court, the District Court and the Cantonal Court.

200. For the Cantonal Court, the three national languages are also official court languages (Section 28 of the Cantonal Court Ordinance and Article 46 of the Cantonal Constitution). By law, any Italian-speaker is entitled to use his or her language both orally and in writing in criminal proceedings before the Cantonal Court and to demand that the Court’s judgement be drawn up in Italian. As the members of the Cantonal Court generally understand Italian and the Italian-speaking parties are generally able to express themselves in German, the languages used in the Cantonal Court are determined pragmatically. The Cantonal Court Ordinance explicitly stipulates that the judgement must be drawn up in Italian for persons living in Italian-speaking areas.

201. For district and local courts, the language of the court is determined by the territorial principle. Where the traditional language is Italian, Italian may be used. That is established practice in the Italian-speaking districts and localities. The only exception is the Maloja District Court, which normally uses German, despite the fact that the district includes Val Bregaglia, which is Italian-speaking.

202. There is no fundamental demand for the use of Italian in non-Italian speaking districts and localities (except perhaps in criminal proceedings, relying on Article 6.3(a) of the European Convention on Human Rights).

203. The Committee considers that these undertakings are fulfilled, with the exception of the case of the Maloja District Court.

***In civil proceedings:***

***“b.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***

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

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

***if necessary by the use of interpreters or translations.”***

204. Before the restructuring of the judicial system, there was no law determining the language to be used by the courts. In practice, each court was entitled to choose the working language, but an Italian speaker was always entitled to request the proceedings to be conducted in Italian, if the court was situated in the Italian-speaking area.

205. Within the new structure of the judicial system, civil proceedings fall within the competence of the Cantonal Court and the District Courts, while the President of the Local Court retains jurisdiction in some civil law matters. Criminal law and civil law cases are dealt with by the same courts. As regards the use of Italian in civil proceedings, reference may therefore be made to the comments on criminal proceedings.

206. The Committee considers that these undertakings are fulfilled with the exception of the case of the Maloja District Court.

***In proceedings before courts concerning administrative matters:***

***“c.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or***

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

***d. to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.”***

207. Administrative disputes fall within the jurisdiction of the administrative courts or, sometimes, the government. They usually employ written procedures; the appearance of the parties is rarely required.

208. According to Section 20 of the Administrative Justice Act, the three cantonal languages are official court languages. In principle, any Italian-speaker is entitled to use his or her language both orally and in writing in administrative proceedings and to demand that the judgement be drawn up in Italian.

209. The possibility of using Italian in oral proceedings is limited insofar as not all administrative judges necessarily have a command of Italian. Moreover, the Administrative Court Ordinance stipulates that deliberations are to take place in German (which is seen as being contrary to the law on administrative proceedings and the Constitution). The President of the Administrative Court may have recourse to a translator where necessary. Judgements drawn up by the administrative courts for parties in the Italian-speaking area of the canton are drafted directly in Italian.

210. The Committee considers that there exist legal and practical obstacles to the fulfilment of this undertaking.

*The Committee invites the Swiss authorities to remove the practical and legal obstacles hampering the effective use of Italian before the courts. In particular, the Administrative Court Ordinance should be amended and efforts should be made to remedy the lack of command of Italian by administrative judges.*

***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;”***

211. Under Swiss law, the validity of legal documents does not depend on the language used. The choice of language is a matter for the parties. It is therefore possible to use Italian in all judicial cases. Italian can also be used for the purpose of authenticating legal documents.

212. The Committee considers this undertaking fulfilled.

***“Paragraph 3***

***The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.”***

213. According to the Swiss report, the Law obliges the Government to ensure that the most important cantonal statutory measures are published in Italian. The Italian version of the collection of legislation now includes virtually all the laws which also exist in German. In addition to the central translation service, some departments have their own Italian-speaking translators to translate official texts. This strong position of Italian is also due to the fact that Italian is an official language of the Confederation.

214. The Committee considers this undertaking fulfilled.

## Article 10 - Administrative authorities and public services

### *“Paragraph 1*

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

*a.i. to ensure that the administrative authorities use the regional or minority languages;”*

215. As regards the use of Italian by the federal authorities, the Committee was made aware of the fact that it does not satisfy the requirements of the Charter. In particular, the lack of Italian speakers within the federal administration and the fact that Italian versions of documents may be delayed or are not available at all are serious obstacles to the practical use of Italian.

216. The administration of the Canton of Grisons is required to use Italian in its official activities. The status of Italian as a minority language in the Canton of Grisons, nonetheless means that the official use of that language is guaranteed in the majority of cases by translations. The detailed arrangements, in particular the question as to what measures must be translated, are governed by the Government directives on the translation of official measures into Italian and Romansh.

217. The language of the administration in the municipalities of the Canton of Grisons is chosen by the local authorities. In the Italian-speaking valleys, standard Italian is the official language of their 38 municipalities, although German is becoming more and more important in certain areas (valleys of Bregaglia and Poschiavo).

218. With the exception of the situation at federal level, this undertaking can be considered fulfilled.

*“b. to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;”*

219. Italian-speakers insist on being sent correspondence and forms in their own language. The most common forms and documents are available in Italian.

220. The Committee considers this undertaking fulfilled.

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

221. In the Italian area, the 38 municipalities work in Italian. They may also correspond in this language with the cantonal and the federal authorities, as Italian is an official language at both levels.

222. The Committee considers this undertaking fulfilled.

**“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:***

- a. the use of regional or minority languages within the framework of the regional or local authority;***
- b. the possibility for users of regional or minority languages to submit oral or written applications in these languages;***
- c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;***
- d. the publication by local authorities of their official documents also in the relevant regional or minority languages;***
- e. the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;***
- f. the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;***
- 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.”***

223. Italian being the sole official language of the Italian-speaking area of the Canton of Grisons, the above mentioned provisions are considered fulfilled in the territories concerned. As regards services provided at cantonal and federal levels, Italian being one of the official languages of the Canton and the Confederation, it is possible to submit applications in this language to their authorities and to obtain answers and services from them in Italian. Official letters automatically dispatched are normally drafted in German, unless the person or institution concerned has expressly requested that Italian be used. The State Chancellery keeps a list of municipalities wishing to be written to in Italian. Any Italian-speaker contacted in German is entitled to a translation of the letter concerned.

### ***“Paragraph 3***

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

- a. to ensure that the regional or minority languages are used in the provision of the service;”*

224. The Committee considers that this undertaking is fulfilled.

### ***“Paragraph 4***

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

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

225. Where posts are to be filled in the public services whose activities cover the Italian-speaking region of the Canton, knowledge of Italian is generally required, or candidates' attention is drawn to the fact that some knowledge of Italian would be preferred. The Canton of Grisons has a professional translation department responsible for ensuring the consistent use of Italian as an official language. The Committee considers that all the undertakings of paragraph 4 are fulfilled.

### ***“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.”*

226. The Committee considers that this undertaking is 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:*

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

*a.i. to ensure the creation of at least one radio station and one television channel in the regional or minority languages;”*

227. The SSR, which is responsible for national and regional programmes, runs three radio stations and two television channels for Italian-speaking Switzerland.

228. The Committee considers that this undertaking is fulfilled.

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

229. The Italian-speaking part of the Canton of Grisons has a weekly newspaper of its own (“Il Grigioni italiano” plus the three Italian-language dailies published in Ticino). As the daily newspapers published in Ticino do not contain information on the Canton of Grisons, many Italian speakers of the valleys prefer the regional newspapers published in German.

230. The Committee considers that this undertaking is fulfilled.

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

231. Training of journalists is ensured by the SSR and vocational and higher education offered in the Canton of Ticino.

232. The Committee considers that this undertaking is fulfilled.

## **“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.”*

233. Thanks to the proximity of Italy, all broadcasts of the main radio stations and television channels of this country are received in the Canton of Grisons.

234. The Committee considers that this undertaking is 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.”*

235. The Committee could not find any evidence that the Swiss authorities have taken measures to ensure that the interests of users of Italian are taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media.

236. The Committee is not in a position to conclude that this undertaking is 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;*
- 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;*
- 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;*
- d. to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*
- e. to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;*
- f. to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*



- 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;*
- h. if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.”*

237. Compared to the situation of the Romansh language, the status of Italian in the Canton of Grisons is very satisfactory owing to different factors. Firstly, Italian is the only official language in the 38 municipalities situated in the Italian-speaking area. Secondly, Italian is an official language of the Canton and the Confederation. Thirdly, it can benefit from the culture, activities and services from both the Canton of Ticino and Italy.

238. Cultural initiatives are funded by the canton and the Confederation (Pro Helvetia, Federal Office of Culture). *Pro Grigioni Italiano* is a foundation whose aim is the promotion of Italian at canton level. According to the information gathered by the Committee, even if the cultural facilities offered in Italian is consistent, some efforts are still needed in the field of publishing. Italian speakers affirm that major publications issued both at federal and canton level will very often avoid the Italian version because of a lack of funds and market.

239. The Committee is aware of the existence of some minor problems but considers the undertakings a to g of Article 12, paragraph 1 fulfilled.

**“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”.*

240. Outside of the Italian-speaking region, there is a network of Italian language associations which organise, among other things, cultural activities. Pro Helvetia and the Federal Office of Culture promote these activities through the allocation of subsidies. However, the representatives of the Italian speakers of the valleys affirm that the specificity of their culture is not well represented outside of the cantonal borders. They complain that, very often, only the Canton of Ticino is represented as Italian Switzerland.

241. The Committee considers that this undertaking is fulfilled.

**“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.”*

242. Pro Helvetia’s functions include maintaining cultural relations with foreign countries by making known the work of Swiss writers and artists. Its Centro Culturale Svizzero in Milan plays an important part in this. There is also a Co-ordinating Committee for Switzerland’s presence abroad. The Confederation and the regions are involved in

transfrontier cultural co-operation under the Interreg I, II and III programmes (partly financed by the European Union).

243. In 1982, the Swiss and Italian governments set up the Italo-Swiss Cultural Advisory Committee for the purpose of promoting cultural co-operation and exchanges of opinion on cultural questions of common interest. This advisory committee was intended in particular to foster co-operation between the Italian-speaking cantons of Grisons and Ticino and Italian institutions in the bordering regions. Its scope was subsequently extended to become nationwide. The legal status and dissemination of Italian in Switzerland (which has a large foreign Italian-speaking community) remain among the advisory committee's priorities.

244. The Committee considers that this undertaking is fulfilled.

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

#### ***“Paragraph 1***

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

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

245. For the reasons already mentioned, Italian benefits from a good position in the economic and social life of the Canton of Grisons. Where necessary, the regional language services financed by the Confederation and the Canton undertake, *inter alia*, translation work for the banks, tourist organisations, sickness insurance funds etc. Italian is therefore used in marketing and advertising, in the description of products, in invoices, correspondence with customers and other information available to consumers. Pro Grigioni Italiano is also involved in promoting the use of Italian in economic and social life. It is helped in this task by subsidies from the Canton.

246. The Committee considers that this undertaking is fulfilled.

## **“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”***

247. The Cantonal Bank of Grisons is an independent establishment governed by Cantonal public law. As a cantonal institution, it reflects the trilingualism of the canton. It therefore has a trilingual name and also provides a number of forms in Italian. The subsidiaries of the cantonal bank in the Italian-speaking territory endeavour to employ staff with a command of the regional language.

248. As a cantonal institution, Rhaetian Railways ensures, to a certain extent, that it uses both minority languages. A number of signs on trains and in stations are in Romansh and Italian, announcements on trains are also made in Italian.

249. As far as the services reported to the Committee are concerned, this undertaking is fulfilled.

## **Article 14 - Transfrontier exchanges**

***The Parties undertake:***

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

250. As explained above (paragraphs 245 and 246), several existing initiatives aim to develop transfrontier contacts, especially with Italy, in order to increase co-operation in the fields of culture and education.

251. The Committee considers that this undertaking is 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.”***

252. The Canton of Grisons is a member of the Working Community of the Alpine Region (ARGE ALP), which deals with common interests in the areas of culture, society, economy and ecology through transfrontier co-operation. Questions of language may be addressed within the framework of this co-operation. Thus in the autumn of 1997, a meeting was held in Upper Engadine on the topic of multilingual schools, under the auspices of the Canton of Grisons.

253. The Committee considers that this undertaking is fulfilled.

## B. Canton of Ticino

### **Article 8 - Education**

#### ***“Paragraph 1***

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

#### ***Pre-school education***

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

#### **Primary education**

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

#### **Secondary education**

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

#### **Technical and vocational education**

***“d. i.to make available technical and vocational education in the relevant regional or minority languages;”***

254. Italian being the sole official language of the Canton of Ticino, education in Italian is the provided at all education levels mentioned in sub-paragraphs a.i. to d.i. of Article 8, paragraph 1.

255. The Committee considers that all the undertakings of paragraph 1 (a.i to d.i) are fulfilled.

#### **University and higher education**

***“e. ii. to provide facilities for the study of these languages as university and higher education subjects;”***

256. The offer of university studies in the Canton of Ticino is very recent and limited to three faculties (Architecture, Economics and Communication). Their courses are offered in Italian. Outside of the Canton of Ticino, courses in Italian language and literature are offered up to degree level at the universities of Basle, Bern, Fribourg, Geneva, Lausanne, Neuchâtel and Zurich.

257. The Committee considers that this undertaking is fulfilled.

## **Adult and continuing education**

*“f.i. to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages;”*

258. There is a wide offer of adult education in Italian in the Canton of Ticino.

259. The Committee considers that this undertaking is fulfilled.

## **Teaching of the history and the culture**

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

260. The teaching of Italian culture linked with the history of the Canton of Ticino forms an integral part of the education curricula of the canton.

261. The Committee considers that this undertaking is fulfilled.

## **Basic and further training of teachers**

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

262. Italian being the sole official language of the canton, teachers do not need a special training to teach in Italian.

263. The Committee considers that this undertaking is fulfilled.

## **Monitoring**

*“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.”*

264. Italian being the sole official language of the canton, the Committee does not consider this undertaking to be of relevance to this language.

## **Article 9 - Judicial authorities**

### ***“Paragraph 1***

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

*In criminal proceedings:*

*“a.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or*

*a. ii. to guarantee the accused the right to use his/her regional or minority language; and/or;*

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

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

*In civil proceedings:*

*“b.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or*

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

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

*if necessary by the use of interpreters and translations .”*

*In proceedings before courts concerning administrative matters:*

*“c.i. to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or*

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

*“d. to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.”*

265. The Committee considers the undertakings of paragraph 1 of Article 9 fulfilled.

## ***“Paragraph 2***

***The Parties undertake:***

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

266. As stated before, Italian is the sole official language of the Canton of Ticino. Italian is therefore the official language of the criminal, civil and administrative courts of its territory. However, the lack of a Faculty of Law in Ticino forces the students from this canton to pursue their studies in French or German in the faculties of Zurich, Bern or Fribourg. Although these universities offer some separate and terminology courses in Italian, students must pass an examination in Italian in the canton of Ticino before they are allowed to work as lawyers, for instance. For obvious reasons, law studies are not carried out in Italy by students wishing to work in Switzerland. Therefore, legal officers, notaries and lawyers may find difficulties in drawing up legal documents in the Italian language.

267. The Committee considers this undertaking fulfilled but the lack of a Faculty of Swiss Law in the Italian language creates practical problems with its implementation.

## ***“Paragraph 3***

***The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.”***

268. At cantonal level, all official texts are issued in Italian. At federal level, Italian being both a national and an official language of the Confederation, all national statutory texts and those relating to Italian speakers are available in Italian.

269. The Committee considers that this undertaking is fulfilled.

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

### ***“Paragraph 1***

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

***“a.i. to ensure that the administrative authorities use the regional or minority languages;”***

270. As regards the use of Italian by the federal authorities, the Committee was made aware of the fact that it does not satisfy the requirements of the Charter. In particular, the lack of Italian speakers within the federal administration and the fact that Italian versions of documents may be delayed or are not available at all are serious obstacles to the practical use of Italian.

271. As for the cantonal authorities, Italian being the sole official language of the Canton, they necessarily use this language.

272. With the exception of the situation at federal level, this undertaking can be considered fulfilled.

*“b. to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;”*

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

273. The Committee considers that the undertakings under paragraph 1 are fulfilled.

#### **“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:*

- a. the use of regional or minority languages within the framework of the regional or local authority;*
- b. the possibility for users of regional or minority languages to submit oral or written applications in these languages;*
- c. the publication by regional authorities of their official documents also in the relevant regional or minority languages;*
- d. the publication by local authorities of their official documents also in the relevant regional or minority languages;*
- e. the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*
- f. the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*
- 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.”*



274. Given the status of Italian as the sole official language in the Canton of Ticino, the Committee considers that the undertakings under paragraph 2 are fulfilled.

***“Paragraph 3***

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

- a. to ensure that the regional or minority languages are used in the provision of the service;”***

275. Within the territory of the Canton of Ticino, administrative and public services are all provided in Italian. Italian is the only official language to be used by administrative authorities at cantonal and local levels.

276. The Committee considers that this undertaking is fulfilled.

***“Paragraph 4***

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

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

277. The Committee considers that the undertakings under paragraph 4 are fulfilled.

***“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.”***

278. The Committee considers that this undertaking is 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:*

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

*a.i. to ensure the creation of at least one radio station and one television channel in the regional or minority languages”*

279. Radio and television needs in Italian are largely covered by the three radio channels and the two television channels of the Italian Swiss Radio Television (which, in 1997, broadcast 26,294 hours of radio and 5,510 hours of television programmes).

280. The Committee considers that this undertaking is fulfilled.

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

281. There are, at present, three daily newspapers in Italian published in the Canton of Ticino. In addition, a large number of fortnightly, three-weekly, weekly, bi-monthly and monthly publications are also published in Italian, whereas very few titles are published in other languages. According to the Swiss authorities, the Canton of Ticino is one of the regions of Europe with the greatest density of press publications.

282. The Committee considers that this undertaking is fulfilled.

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

283. The Law of 2 October 1991 on vocational schools provides in Article 21 for a “course in journalism”, which has the status of a higher training school and is “designed to prepare students for careers in journalism”. Training and research activities in the field of media are also provided by the Department of Communication Sciences of the University of Italian-speaking Switzerland, set up in 1995 in Ticino.

284. The Committee considers that this undertaking is fulfilled.

### *“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.”*

285. Because of the proximity of Italy, all broadcasts of the main radio stations and television channels of this country are received in the Canton of Ticino.

286. The Committee considers that this undertaking is 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.”*

287. The Committee did not find any evidence that the Swiss authorities have taken measures to ensure that the interests of users of Italian are taken into account within the bodies responsible for guaranteeing the freedom and pluralism of the media.

288. The Committee is not in a position to conclude that this undertaking is 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;*
- 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;*
- 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;*

- d. *to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*
- e. *to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;*
- f. *to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*
- 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;*
- h. *if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.*

289. Most of the cultural activities in the Canton of Ticino aim at promoting Italian culture. They are financed by the Confederation, the Canton, institutions such as Pro Helvetia and private foundations. The Confederation contributes 2.500.000 CHF to the promotion of the Italian language in the Canton of Ticino, of which 110.000 CHF serve to finance the Osservatorio linguistico of the Italian language in the canton. The Osservatorio is a research institute on the Italian language that “observes” the evolution of the language in the different fields, the question of bilingualism, etc. Terminological services are rarely needed, thanks to the proximity of Italy.

290. The Committee considers that the undertakings under paragraph 1 are fulfilled.

**“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”.***

291. Outside of the Italian-speaking region, there is a network of Italian-language associations which organise, among other things, cultural activities. Pro Helvetia and the Federal Office of Culture promote these activities through the allocation of subsidies.

292. The Committee considers that this undertaking is fulfilled.

***“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.”***

293. As described above (see comments on Italian in the Canton of Grisons), Pro Helvetia’s functions include maintaining cultural relations with foreign countries by making known the work of Swiss writers and artists. Its Centro Culturale Svizzero in Milan plays an important part in this. There is also a Co-ordinating Committee for Switzerland’s presence abroad. The Confederation and the regions are involved in transfrontier cultural co-operation under the Interreg I, II and III programmes.

294. In 1982, the Swiss and Italian governments set up the Italo-Swiss Cultural Advisory Committee for the purpose of promoting cultural co-operation and exchanges of opinion on cultural questions of common interest. This advisory committee was intended in particular to foster co-operation between the Italian-speaking cantons of Grisons and Ticino and Italian institutions in the bordering regions. Its scope was subsequently extended to become nationwide. The legal status and dissemination of Italian in Switzerland (which has a large foreign Italian-speaking community) remain among the advisory committee’s priorities.

295. The Committee considers that this undertaking is fulfilled.

**Article 13 - Economic and social life**

***“Paragraph 1***

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

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

296. The Committee considers that this undertaking is fulfilled.

***“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;”***

297. The status of Italian as the sole official language of the Canton of Ticino has major consequences for the economic and social life of its territory, which occurs in Italian. The Law on Public Establishments and the Law on Public Signs and Notices may be cited as an example of the kind of measure taken to ensure the use of Italian. The Law on Public Establishments provides that “A list of prices of the main dishes and beverages and any supplementary charge, in Italian, must be displayed outside public establishments”. The Law on Public Signs and Notices provides “Signs, whether permanent or not, must be in Italian. In

addition, a translation in one or more national or foreign languages may also be displayed, provided that any such translation is not displayed in larger letters or in a more prominent manner than the original text and is presented in such a way as to make it clear that it is a translation”.

298. The Committee considers that this undertaking is fulfilled.

#### **Article 14 - Transfrontier exchanges**

##### *The Parties undertake:*

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

299. As already mentioned in this report, the Swiss and Italian governments have concluded agreements that comply with this obligation.

*“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.”*

300. As stated under Article 12, paragraph 3, the Canton of Ticino has traditionally co-operated with Italian authorities. Since 1995, this co-operation has been reinforced in the economic, cultural and university fields.

301. The Committee considers that this undertaking is fulfilled.

### **Chapter 3 Findings**

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

A. The measures undertaken by Switzerland in accordance with the Charter reflect the very high standard of protection and promotion of the four national languages in this country.

B. The deeply rooted respect for the inherited linguistic and cultural diversity of the country, together with the strong federalist tradition, have created an institutional environment that has effectively preserved the linguistic and cultural richness of Switzerland. The Committee has been made aware, however, that the degree of local autonomy existing traditionally in regions like the canton of Grisons might create problems for the speakers of languages that are locally in a minority position within the area where the language has been traditionally spoken.

C. The principle of territoriality as applied in the canton of Grisons leaves to the municipalities the freedom of choice as regards the language of instruction and administration. As there are no clear criteria guiding this choice, a municipality within the

traditional area of Romansh may choose German as the official language. As far as the Committee is aware, this has not yet produced practical problems in the field of education but sometimes excludes the use of Romansh in the field of local administration, even in those municipalities where the number of speakers of Romansh is still significant. Article 70.2 of the new Constitution provides:” *The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the traditional territorial distribution of languages, and take into account the indigenous linguistic minorities.*” This seems to offer an opening for the full respect of the relevant undertakings under the Charter and its implementation through the law currently under discussion should be closely monitored.

D. Where the place of Romansh in the judiciary is concerned, the implementation of the relevant provisions of the Charter is hampered both by legal and practical factors. The lack of clear criteria guiding the choice of the language by courts, as well as the existence of conflicting provisions (regarding administrative Courts) are obstacles to the use of Romansh in the judiciary. Furthermore, the lack of terminology and of judicial officers with a sufficient knowledge of Romansh leads, in practice, to the proceedings being conducted in German. Some practical arrangements are still needed to make the use of Romansh in court proceedings an operational possibility.

E. As for the presence of Romansh in the media, the Committee has found that there is a need for the education of journalists in Romansh in order to preserve and enhance the use of Romansh in newspapers, radio and television.

F. The Swiss authorities have identified Italian as being a less widely used official language within the meaning of the Charter. Although Italian is official in the cantons of Ticino and Grisons, the situation of the language varies. In the Canton of Ticino, Italian being the sole official language of the canton, most of the relevant undertakings applicable to Italian are fulfilled. Where the canton of Grisons is concerned, Italian is the sole official language of the 38 municipalities of the four Italian-speaking valleys and is one of the three official languages at canton level. The Committee also considers that most of the relevant undertakings applicable to Italian in Grisons are fulfilled. However, obstacles to the implementation of the undertakings relating to the use of Italian within the courts have been identified in both cantons. The problems are due to the lack of a comprehensive legal education in Italian. A specific problem concerns the Administrative Court Ordinance of the Canton of Grisons, which stipulates that the deliberations are to take place in German.

G. In its report, the Swiss government identifies Yiddish and Yenissh as the two non-territorial languages spoken in Switzerland, which are therefore covered by Part II of the Charter. However, the Committee could not find any evidence of measures undertaken to achieve the objectives and to respect the principles established by Article 7 of the Charter.

H. Concerning the field of competence of the federal authorities, the Committee was made aware of the fact that the use of Italian and Romansh does not satisfy the requirements of the Charter. The lack of Italian and Romansh speakers within the federal administration and the fact that the Romansh and Italian versions of the documents are issued late or are not available at all constitute serious obstacles to the practical use of both languages.

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

At its 773rd meeting on 21 November 2001, the Committee of Ministers adopted its Recommendation addressed to Switzerland which is set out in Part B of this document.



## Appendix I: INSTRUMENT OF RATIFICATION

### SWITZERLAND

#### **Declaration contained in the instrument of ratification deposited on 23 December 1997 - Or. Fr.**

The Swiss Federal Council declares, in accordance with Article 3, paragraph 1, of the Charter, that in Switzerland Romansh and Italian are the less widely used official languages to which the following paragraphs chosen in accordance with Article 2, paragraph 2, of the Charter, shall apply:

#### **a. Romansh**

##### Article 8 (education)

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

##### Article 9 (judicial authorities)

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

Paragraph 2, sub-paragraph a

Paragraph 3

##### Article 10 (administrative authorities and public services)

Paragraph 1, sub-paragraphs a (i), b, c

Paragraph 2, sub-paragraphs a, b, c, d, e, f, g

Paragraph 3, sub-paragraph b

Paragraph 4, sub-paragraphs a, c

Paragraph 5

##### Article 11 (media)

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

Paragraph 3

##### Article 12 (cultural activities and facilities)

Paragraph 1, sub-paragraphs a, b, c, e, f, g, h

Paragraph 2

Paragraph 3

##### Article 13 (economic and social life)

Paragraph 1, sub-paragraph d

Paragraph 2, sub-paragraph b

##### Article 14 (transfrontier exchanges)

Sub-paragraph a

Sub-paragraph b

#### **b. Italian**

Article 8 (education)

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

Article 9 (judicial authorities)

Paragraph 1, sub-paragraphs a (i), a (ii), a (iii), b (i), b (ii), b (iii), c (i), c (ii), d

Paragraph 2, sub-paragraph a

Paragraph 3

Article 10 (administrative authorities and public services)

Paragraph 1, sub-paragraphs a (i), b, c

Paragraph 2, sub-paragraphs a, b, c, d, e, f, g

Paragraph 3, sub-paragraphs a, b

Paragraph 4, sub-paragraphs a, b, c

Paragraph 5

Article 11 (media)

Paragraph 1, sub-paragraphs a (i), e (i), g

Paragraph 2

Paragraph 3

Article 12 (cultural activities and facilities)

Paragraph 1, sub-paragraphs a, b, c, d, e, f, g, h

Paragraph 2

Paragraph 3

Article 13 (economic and social life)

Paragraph 1, sub-paragraph d

Paragraph 2, sub-paragraph b

Article 14 (transfrontier exchanges)

Sub-paragraph a

Sub-paragraph b.

**Period covered: 01/04/98 -**

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

## Appendix II

### COMMENTS BY THE SWISS AUTHORITIES CONCERNING THE REPORT OF THE COMMITTEE OF EXPERTS

Mr Sigve Gramstad  
Chair  
Committee of Experts  
European Charter for Regional or Minority Languages

Bern, 9 October 2001

Dear Sir,

I acknowledge receipt, via our representative at the Council of Europe, Mr Jean-Claude Joseph, of your letter of 18 July 2001 accompanying the report of the Committee of Experts on the Charter's application in Switzerland, asking us to take note of the report. We are very grateful for your letter and take this opportunity to offer our comments. These are based on information from federal departments responsible for these matters at various levels, departments of the cantons of Grisons and Ticino, and organisations concerned.

#### 1. Reactions to the Committee's findings

##### 1.1 *Findings B and C*

Article 70.2 of the Constitution establishes the principles according to which cantons shall designate their official languages. This constitutional provision is applied by the cantons, since it grants them basic and exclusive competence in this domain (Marco Borghi: *Langues nationales et langues officielles*, in Thürer/Auber/Müller, *Droit constitutionnel suisse*, 2001, § 37 n. 31 p. 602). The Confederation therefore has no legislative powers in this area. So, in contrast to what is stated in the draft report (p. 9, paragraph 28, last two sentences, finding C and recommendation 1, p. 55), the Confederation cannot give practical effect to Article 70.2 of the Constitution in its draft federal legislation on official languages.

As a result, the cantons are responsible for linguistic policy and language law in their geographical areas. The question of whether or not the territoriality principle is applicable and if so on what basis is thus for the cantons to decide. The canton of Grisons considers areas where Romansh is traditionally used to be of very great importance.

Nevertheless, it also considers that the language must be linked to persons as speakers rather than to geographical factors. Commitment to maintaining the language must come from the grassroots rather than from *diktats* imposed from above. The fundamental freedom to choose one's language is enshrined in the federal Constitution. It is a minimum right, whose essential purpose is to protect the use of languages by national minorities in given areas. If this right is not protected, the matter may be brought before the courts. The case-law of the Federal Court shows that cases are decided in favour of linguistic minorities and in accordance with the territoriality principle. Self-determination by local authorities and speakers themselves takes precedence over state intervention. Experience shows that in many municipalities that are

traditionally Romansh speaking but where German speakers are in the majority, Romansh still retains its status as first language in primary schools.

## *1.2 Findings D and F*

In considering the place of Romansh and Italian in the judicial system, a distinction must be drawn between the cantonal (Grisons and Ticino) and federal levels.

### *Cantonal level*

The report indicates that in practice, Romansh and Italian are often supplanted by German in the Grisons courts. In view of the two communities' limited size, the judicial authorities do not have sufficient language capacity, even in areas where Romansh and Italian are traditionally spoken. Nevertheless, any party is entitled to address the judicial authorities in writing in Romansh or Italian. Theoretically, it is also possible to do so orally, with the aid of simultaneous interpretation. But since all Italian and Romansh speakers also know German, this option is not generally taken up.

In a referendum on 10 June 2001, the Romansh population adopted Rumantsch Grischun as the official cantonal language. As a result, the laws of the canton of Grisons are now only published in Rumantsch Grischun. This innovation is enabling the canton to make further progress in the field of legal terminology.

The Committee of Experts also rightly refers in its report to the Order on the Administrative Courts, in which German is identified as the only language used in judicial proceedings. This is incompatible with the Grisons Constitution, which provides for the use of the three official languages. The cantonal authorities plan to amend this order.

On the other hand, the statement that judicial bodies in the canton of Ticino only partially respect the use of Italian is totally without foundation (finding F).

### *Federal level*

In the case of Italian, there are no obstacles concerning the Federal Court. Under existing law, appeals may be lodged in Italian, irrespective of the language of the decision appealed against (Article 4 of the Constitution and section 30, paragraph 1, OJ (Federal Legal System Act) [RS 173.110]), and many judgments are written in Italian. The Federal Court has several judges and numerous other legal specialists who are Italian speaking. However, it should be noted that the language of proceedings in the Federal Court is generally the one used in the contested decision (section 37, paragraph 3, sub-paragraph 1, OJ). Federal Court judgments may nevertheless be written in another official language if all the parties speak this language. The proposed revision of the entire federal legal system (FF 2001 4000) will not change the situation.

Appeals may be lodged in Romansh (no matter what idiom), irrespective of the language of the contested decision (Article 4 of the Constitution and section 30, paragraph 1, OJ). When the Federal Court rules on an appeal lodged by municipalities or individuals against decisions of the canton of Grisons, the decisions are written in Romansh (Rumantsch Grischun)(ATF 122 I 93). The Federal Courts Bill (P-LTF) presented by the government treats Romansh in the same way as the other official languages, except that only Rumantsch Grischun can be

used by the Federal Court (section 50 P-LTF, FF 2001 4292). There is a Romansh judge on the Federal Court.

In the case of the other courts of the Confederation, the federal appeals commissions, the legal situation is similar to that of the Federal Court (section 37 PA, RS 172.021).

To summarise, there is no legal obstacle to parties to proceedings before the confederal courts using Italian or Romansh. The report and the proposed recommendation should therefore be revised. If the legal obstacles and practices alluded to by the Committee of Experts concern the canton of Grisons, this should be made explicit.

### *1.3 Finding H*

When it is said that the federal authorities' use of Italian and Romansh is not in compliance with the Charter (p. 21, paragraph 108, and p. 54, H), a distinction must be drawn between:

- a. internal use, in Confederation working documents; and
- b. use in contacts with the outside world (public and media).
  - a. Only the official languages - German, French and Italian - are considered to be working languages, in accordance with instructions issued by the Federal Council on 19 February 1997 on promoting multilingualism in the general administration of the Confederation.
  - b. Contacts with the outside world are conducted in the language of the intended recipient, be it French, German, Italian or Romansh.

The shortage of Italian and Romansh speakers in the federal government service is an acknowledged fact. Following an assessment report on the first period of promoting multilingualism in the general administration, the Federal Council adopted a series of measures in October 2000 to rectify this imbalance. The situation of Romansh speakers is somewhat distinctive. Even though it is hoped to increase their representation, this will not lead to greater use of Romansh as an internal language of communication, since Romansh is not a working language, as defined by the aforementioned instructions. However, greater representation is important for contacts between government and the public. It is intended to make a key contribution to ensuring that citizens of all the country's regions see it as *their* public service. From this standpoint, multilingualism in government is a political rather than simply an administrative and quantitative issue.

### *1.4 Finding E*

The room for manoeuvre regarding the use of Romansh in the media is fairly limited, given the language's limited geographical scope. The canton of Grisons is aware of the need to do more in this regard and has intensified its efforts to encourage in-service and continuing training of Romansh journalists. In doing so, it is co-operating closely with newspaper publishers, radio and television stations, the relevant organisations and education and training institutions.

## 1.5 Finding G

Our position on Yiddish and Yenish in our report on the application of the Charter is as follows: the existence of these two minorities is recognised in Switzerland but the travelling people are supported by the Federal Council as a cultural minority and not as part of the country's language policy, within the meaning of Article 7 of the Charter. In response to the conclusions of the experts' report, we have invited the persons concerned once more to state their position.

The position of the Swiss Federation of Jewish Communities is as follows (full translation):

*"The Swiss Federation of Jewish Communities considers that the Yiddish language has never served as a minority language in Switzerland. Although there is a certain Yiddish tradition among the inhabitants of Endingen and Legnau, the two Jewish communities of the Surbtal, in Switzerland the language has never satisfied the criteria for autonomy laid down in the European Charter. Since this ancient tradition has not endured, a state commitment to encourage the language appears to be unnecessary. It is true that there are certain persons in Switzerland who speak Yiddish, particularly in the Orthodox community, but it does not seem reasonable to promote Yiddish."*

In the statement on their position, the travelling people lay particular stress on the following points:

*"For the travelling people, the following are appropriate measures for preserving and promoting their language: enhancing the literature, drawing up a glossary, casting light on its origins, researching into the history and importance of the terms used and developing the language."*

We will examine these points in more detail with the representatives of the travelling people.

## 2. Reactions to the Committee's proposals for recommendations

### Recommendation 1:

It is clear from our comments on the scope of Article 70.2 of the Constitution (see 1.1) that the Confederation does not have legislative powers on this subject.

### Recommendation 2:

Regarding the use of Italian and Romansh in the judicial system we have described practice at the different levels of state and painted a somewhat varied picture. The following points should be emphasised:

- the possibilities are limited on account of the relatively small number of Romansh speakers;
- there is no legal obstacle to the use of Italian or Romansh by parties to proceedings in the Confederal courts;

- the Committee's finding that there are obstacles to the use of Italian in the Ticino judicial system are not justified.

Recommendation 3:

The proposed federal legislation on official languages, which the Federal Council will shortly be submitting for consultation, will enable the Confederation to implement this recommendation.

Yours etc.

Federal Office of Culture  
Culture and Society Section

Marimée Montalbetti  
Head of Section







**European Charter for Regional or Minority Languages**

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

(adopted on 21 November 2001 at the 773rd meeting  
of the Ministers' Deputies)

**COUNCIL OF EUROPE**  
**COMMITTEE OF MINISTERS**

**Recommendation RecChL(2001)6**  
**of the Committee of Ministers on the application of the**  
**European Charter for Regional or Minority Languages by Switzerland**

*(Adopted by the Committee of Ministers  
on 21 November 2001  
at the 773<sup>rd</sup> meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Bearing in mind the instrument of ratification submitted by the Swiss Confederation on 23 December 1997;

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

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

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

Recommends that Switzerland, whether at federal, cantonal or municipal level as the case may be, take account of all the observations of the Committee of Experts and, as a matter of priority:

1. enact legislation in application of Article 70.2 of the new Constitution in order to enable the Romansh-speaking community to benefit fully from the protection provided by the Charter;
2. make all possible efforts to remove the legal and practical obstacles to the use of Romansh and Italian in court proceedings in the Canton of Grisons;
3. explore possibilities of improving the use of Romansh and Italian at the level of the federal administration.