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**EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES**

**APPLICATION OF THE CHARTER IN AUSTRIA**

**2nd monitoring cycle**

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

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

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

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

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

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

adopted by the Committee of Experts on 10 September 2008  
and presented to the Committee of Ministers of the Council of Europe  
in accordance with Article 16 of the Charter

### **Chapter 1. Background Information**

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

1. The Republic of Austria signed the *European Charter for Regional or Minority Languages* (hereafter referred to as "the Charter") on 5 November 1992, and ratified it on 28 June 2001. The Charter entered into force in Austria on 1 October 2001. The Austrian authorities presented their first periodical report to the Secretary General of the Council of Europe on 14 February 2003.
2. The instrument of ratification is set out in Appendix I of this report. Austria declared at the time of deposit of the instrument of ratification that the regional or minority languages in Austria, within the meaning of the Charter, were the Burgenland-Croatian, the Slovenian, the Hungarian, the Czech, the Slovakian languages as well as the Romani language of the Austrian Roma minority.
3. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers.<sup>1</sup> The Austrian authorities presented their second periodical report to the Secretary General of the Council of Europe on 12 December 2007.
4. In its first evaluation report on Austria (ECRML (2005) 1), the Committee of Experts of the Charter (hereinafter referred to as "the Committee of Experts") outlined particular areas where the legal framework, policy and practice could be improved. The Committee of Ministers took note of the report presented by the Committee of Experts and adopted recommendations (RecChL (2005) 1), which were addressed to the Austrian authorities.

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

5. This second evaluation report is based on the information obtained by the Committee of Experts from the second periodical report of Austria, as well as through interviews held with representatives of the regional or minority languages in Austria and the Austrian authorities during the "on-the-spot" visit, which took place from 20 to 23 April 2008. The Committee of Experts received a number of comments from bodies and associations legally established in Austria, submitted pursuant to Article 16, paragraph 2 of the Charter.
6. In the present second evaluation report the Committee of Experts will focus on the provisions and issues under both Part II and Part III which were singled out in the first evaluation report as raising particular problems. It will evaluate in particular how the Austrian authorities have reacted to the issues found by the Committee of Experts and, where relevant, to the recommendations made by the Committee of Ministers. The report will firstly recall the key elements of each issue. It will then refer to the paragraphs in the first report which set out the Committee of Experts' reasoning,<sup>2</sup> before evaluating how the Austrian authorities have reacted. The Committee of Experts will also look at the new issues emerging during the second monitoring round.
7. The present report contains detailed observations which the Austrian authorities are encouraged to take into account when developing their policy on regional or minority languages. On the basis of these detailed observations, the Committee of Experts has also established a list of general proposals for the preparation of a second set of recommendations to be addressed to Austria by the Committee of Ministers, as provided in Article 16, paragraph 4 of the Charter.

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

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

8. This report is based on the political and legal situation prevailing at the time of the Committee of Experts' second "on-the-spot" visit to Austria (20 – 23 April 2008).

9. The present report was adopted by the Committee of Experts on 10 September 2008.

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

10. The Committee of Experts refers to the relevant paragraphs of the first evaluation report (paragraphs 8 - 37) for the basic presentation of the situation of regional or minority languages in Austria. The regional or minority languages covered under the Charter in Austria are Burgenland-Croatian, Slovenian, Hungarian, Czech, Slovak and Romani.

11. The Committee of Experts was informed by representatives of the regional or minority language speakers in Austria of ongoing plans to reform the Federal Constitutional Act. An Austria-convent (Österreich-Konvent) was convoked in May 2003 in order to present suggestions for a substantial state and constitutional reform. As a result of this convent, proposals were put forward that aimed at strengthening the rights of ethnic groups (*Volksgruppen*).

12. The proposals were presented in a report in January 2005 to the Austrian National Assembly. In 2007, the new Federal Government set up an expert group within the Federal Chancellery that should make proposals to reform the Constitution. The Committee of Experts hopes that the constitutional reform will lead to a strengthening of the position of all regional or minority languages in Austria and looks forward to receiving information from the Austrian authorities on the outcome of this reform in the next periodical report.

13. The Committee of Experts has also been made aware of the fact that the Advisory Councils of the ethnic groups as well as other representatives of the ethnic groups call for a reform of the 1976 Ethnic Groups Act (*Volksgruppengesetz*).

### **1.4. General Issues arising from the evaluation of the report**

14. Austria submitted its second periodical report with a delay of almost two years, which has severely hampered the monitoring process. The Committee of Experts regrets this delay and considers it detrimental to the good functioning of the Charter system, which depends on a structured dialogue between the speakers of regional or minority languages, the State authorities and the Committee of Experts.

***The Committee of Experts urges the Austrian authorities to comply with their obligation to report on the application of the Charter in accordance with Article 15 of the Charter.***

15. During the on-the-spot visit, representatives of several regional or minority languages pointed out that the federal laws concerning regional or minority languages as well as the application of the Charter in Austria were in their view too restrictive. In their view, given the historical presence of the regional or minority languages in Vienna, the growing migration of regional or minority language speakers to urban areas and the presence of the Romani language throughout Austria, the territorial approach of the government with regard to regional or minority languages is outdated. Although the Committee of Experts understands that most of the undertakings of the Charter apply to those territories where the language is traditionally used and where the number of speakers justifies the application of the Charter, the Committee of Experts nevertheless encourages the Austrian authorities in the light of the situation described above, to consider applying as far as possible a more flexible approach to the Charter and giving stronger protection to those regional or minority languages that are spoken outside the territory where they currently receive legal protection.

16. During the on-the-spot visit, the Committee of Experts also observed that, in the case of Austria, and most notably in Vienna, the distinction between traditional regional or minority languages and varieties of the same languages as migrant languages is becoming increasingly blurred. The Committee of Experts is of the

view that advantages can be drawn from this development for the benefit of the traditionally spoken regional or minority languages. The migratory flow of speakers from Croatia, Slovenia and other neighbouring countries can lead to a reinforcement of regional or minority languages, which is especially important considering the ongoing trend towards assimilation in Austria (see second periodical report, page 10). At the same time, strengthening regional or minority languages can also lead to a better integration of migrants.

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

### 2.1. Preliminary Issues

17. In its first evaluation report (paragraphs 46 – 49), the Committee of Experts raised the question whether the Polish language may be considered as a language traditionally spoken in Austria within the meaning of Article 1.a of the Charter, as had been claimed by representatives of the Polish-speakers in Austria. The Committee of Experts therefore encouraged the Austrian authorities to examine the traditional presence of the Polish language in Austria, and asked for further information on this issue in the next periodical report.

18. Unfortunately, no information on the Polish language is provided in the second periodical report. During the on-the-spot visit, meetings were held with representatives of Polish-speakers who gave examples to the Committee of Experts indicating that the Polish language in Vienna had been present for at least two centuries.

19. The Committee of Experts urges the Austrian authorities to clarify, in co-operation with the Polish-speakers, the traditional presence of the Polish language in Vienna.

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

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

Article 7, Paragraph 1, e ;  
Article 7, Paragraph 1, i.

## Article 7 – Objectives and principles

### Paragraph 1

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

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

21. In its first evaluation report (paragraphs 54 – 55), the Committee of Experts observed that Burgenland-Croatian in Vienna received comparatively little support from the authorities, despite the fact that a substantial number of Burgenland-Croatians lived in Vienna and that, according to the speakers, the language has a traditional presence there. The Committee of Experts asked the authorities to provide in-depth information on this issue in the next periodical report.

22. The second periodical report (pages 8 – 9) confines itself to stating that Part II of the Charter applies to Burgenland-Croatian in Vienna even though there is no specific “autochthonous settlement area” for Burgenland-Croatian within Vienna, as is the case, for example, for the Czech and Slovak languages. During the on-the-spot visit, representatives of the Burgenland-Croatian-speakers reiterated their concern over the lack of state funding and education with regard to the language in Vienna due to the lack of its official recognition there.

23. During the on-the-spot visit, the Committee of Experts received information that not only Burgenland-Croatian, but also the Czech, Hungarian, Romani, Slovenian and Slovak languages have a traditional presence in Vienna. Due to internal migration, the number of speakers of these languages has increased considerably in the Vienna region to the extent that, for example for Burgenland-Croatian, one third of all speakers live in Vienna

(see 1<sup>st</sup> evaluation report). The importance of Vienna from the point of view of the Charter therefore also increases for these languages.

24. The Committee of Experts therefore encourages the Austrian authorities, including the Vienna authorities, to find a solution, together with the speakers, to apply Part II protection for all regional or minority languages in Vienna.

**“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;”**

25. In its first evaluation report (paragraph 60), the Committee of Experts had been informed that Slovenian schools were the only remaining public institutions in many Slovenian-speaking villages in Carinthia, and their closure posed a threat to the continued presence of Slovenian in public life in some Slovenian-speaking communities. The Committee of Experts therefore encouraged the Austrian authorities to ensure that changes concerning the district and status of certain schools in the Slovenian language area in Carinthia do not have negative effects on the protection and promotion of the Slovenian language in public life. Since this issue concerns mainly the effects of demographic changes on education, the Committee of Experts will deal with it in more detail under Article 8 (see paragraphs 200 - 205 below).

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

#### *Constitutional Court Rulings*

26. In its first evaluation report (paragraphs 61 – 66), the Committee of Experts was particularly concerned about the fact that the Constitutional Court rulings regarding the use of Slovenian before the authorities and regarding bilingual topographical signs had not been implemented. In the current monitoring round, the Committee of Experts observes that the refusal of the *Land* Carinthia to enforce the Constitutional Court rulings continues to have a negative impact on the situation regarding regional or minority languages in general.

27. The Constitutional Court decision of 13 December 2001 stipulated that localities where more than 10% of the population are Slovenian-speakers are required to put up topographical signs (as was the case with St. Kanzian/ Škocjan). Subsequent rulings on 12 December 2005 (file number V64/05) and 26 June 2006 (file number V20/06) limited the application of the previous ruling: While confirming earlier rulings, the Court decided that a locality (which is not already mentioned in the Ordinance on topographical signs) may lose its status as a “mixed language administrative district” if the Slovenian-speaking part of the population was below 10% in the two most recent censuses and if there was a downward trend. The Committee of Experts understands that asserting the share of speakers of a locality’s population is a problem in itself.

28. The two recent rulings also affected the municipality of St. Kanzian/ Škocjan whose authorities, according to the Slovenian-speakers, have reacted vehemently against putting up topographical signs. The Committee of Experts was furthermore informed that other localities have refused to implement the rulings, most notably in the district of Völkermarkt/ Velikovec.

29. During the on-the-spot visit, the Committee of Experts was of the impression that no government level felt responsible for the implementation of the rulings, and it seems to be left to the individual locality or municipality to decide on whether to implement them. It was also informed that statements made by the Governor of Carinthia aggravated the situation.

30. The Committee of Experts was informed by the Centre for Ethnic Groups that in the summer of 2006, the federal authorities brought forward a proposal for a new topographical Ordinance for Carinthia to replace the Ordinance of 1977 which was considered incomplete and unconstitutional by the Constitutional Court. However, the proposal did not reach the 2/3 majority in the Parliament needed to adopt the Ordinance.

31. The second periodical report (page 36) states that on 4 July 2007, a government bill was submitted to the Parliament Council concerning a federal law amending the Ethnic Groups Act which affects the scope of application of bilingual topographical signs as well as the use of regional or minority languages as official languages. The Committee of Experts asks the Austrian authorities to provide information on the effects of the decision taken and on further developments in the next periodical report.



32. During the on-the-spot visit, the Committee of Experts was also informed that the Constitutional Court ruling of 4 October 2000 (V 91/99-11) concerning the right to use Slovenian before the administrative authorities has still not been implemented in certain municipalities. For further information on this matter, the Committee of Experts refers to the relevant undertakings in paragraphs 236 - 249 below.

33. While welcoming some efforts made by the federal authorities, the Committee of Experts considers that more resolute action needs to be taken in order to implement the Constitutional Court rulings which constitute an important step in implementing the Charter in Austria.

#### *Funding*

34. With regard to funding, during the on-the-spot visit representatives of all regional or minority languages showed their discontent over the fact that the annual budget of the Federal Chancellery allocated to ethnic groups has remained unchanged at €3 768 000 since 1995. The representatives of the Federal Chancellery responded that budget cuts have affected several other areas of funding whereas the same level of funding devoted to ethnic groups was sustained. The Committee of Experts, however, observes that, in order to fulfil the obligations undertaken by Austria under the Charter, the present level of funding seems to be insufficient.

35. The Committee of Experts' attention was also drawn to the fact that the application procedure for funding in the frame of the Federal Chancellery's promotion scheme for ethnic groups was bureaucratic and inappropriate in several ways. Firstly, the funds were disbursed with a considerable delay. Secondly, the speakers complained that application for funding for long-term support had to be made annually. Furthermore, representatives of the Hungarian-speakers complained once more that their share in the annual distribution scheme remained disproportionately low (see also paragraphs 342 - 345 below). Finally, representatives of the Advisory Councils complained that funding from the *Land* government depended on the protection afforded to the ethnic group in the Ethnic Groups Act (*Volkstgruppengesetz*). For example, Roma were only entitled to funding from the *Land* Burgenland, and not, for example, from Vienna. The Advisory Councils requested that the Ethnic Group Act be applied to the entire territory of Austria. Without entering into discussion on the application of the Ethnic Groups Act, the Committee of Experts encourages the Austrian authorities to protect and promote the Part II languages in all areas where they are used.

#### *Slovenian in Styria*

36. With regard to the Slovenian-speakers in Styria, in the first evaluation report, the Committee of Experts welcomed the increased co-operation and positive dialogue with the local and *Land* authorities. It was of the opinion, however, that more determined measures were required and therefore encouraged the Austrian authorities to take the necessary measures for the protection and promotion of the Slovenian language in Styria.

37. The Committee of Experts was informed by a representative of the Slovenian-speakers in Styria that goodwill characterises the co-operation with the Styrian authorities, but that language promotion relied on the initiative of the Slovenian-speakers themselves. The representative of the Styrian government confirmed that the authorities have not adopted an overall language policy for Slovenian in Styria, but that there was an open dialogue with speaker representatives.

38. The Committee of Experts therefore encourages the Styrian government to develop a structured policy for the Slovenian language in Styria, especially in the field of education.

#### *Hungarian in Vienna*

39. With regard to the Hungarian-speakers in Vienna, the Committee of Experts noted in the first evaluation report that the progress concerning the protection and promotion of Hungarian in Vienna had been very limited and invited the authorities to take further measures in this respect. During the on-the-spot visit, representatives of the Hungarian-speakers repeated that the protection of their language in Vienna was not strong enough. In addition to this, the Committee of Experts refers to the relevant paragraphs below on new information with regard to the situation of the Hungarian language in Vienna.

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

40. In its first evaluation report (paragraphs 69 – 71), the Committee of Experts welcomed the amendment of the ORF Act in 2001 which makes a provision for regional or minority language programmes to be promoted by the ORF (*Österreichischer Rundfunk und Fernsehen* – Austrian Broadcasting Corporation). The Act allows the ORF to co-operate with private broadcasters to fulfil its mandate. However, the Committee of Experts was made aware of difficulties of private radio stations to obtain a broadcasting licence - which was the condition of co-operation with the ORF - especially in Vienna, due to an unfavourable interpretation of the Private Radio Act. The Committee of Experts invited the Austrian authorities to take measures to render effective the new section 5 of the ORF Act. The new section makes it possible to partly replace the disappearing private broadcasting in regional or minority languages.

41. With regard to Slovenian broadcasting in Carinthia, as a result of the new section 5 of the ORF Act, the Committee of Experts was informed during the on-the-spot visit of the co-operation between ORF and two private radio stations (*Radio Agora* and *Radio Dva*) which provide for daily private and public radio programmes in Slovenian.

42. In Burgenland, there has been a slight increase in the number of public radio programmes broadcast in Burgenland-Croatian and Hungarian, and a marginal increase in programmes broadcast in Romani. During the on-the-spot visit, the Committee of Experts was informed by representatives of the federal authorities that a request had been made to the Federal Communication Senate (*Bundeskommunikationssenat*), the highest broadcasting authority in Austria, to define the amount of broadcasting meant by the term “reasonable programme shares” in paragraph 1 of Section 5 of the ORF Act. According to the information received, the Senate decided in July 2008 that the offer in Burgenland was adequate (see paragraphs 52 – 53 below for further information on the decision).

43. For more detailed information on radio broadcasting in Burgenland-Croatian and Hungarian, the Committee of Experts refers to the relevant paragraphs under Article 11 (see paragraphs 151 – 154 and 325 – 327 below respectively).

44. In its first evaluation report, the Committee of Experts observed that the speakers of Burgenland-Croatian, Hungarian, Czech and Slovak were satisfied with the broadcasting level in their respective languages in Vienna, although there was some discontent with regard to the medium wave service. Some representatives repeated this concern during the second on-the-spot visit. The amount of broadcasting in Hungarian in Austria has increased, since “Radio 1476” broadcasts a 30-minute programme in addition to the existing 45 minutes. The Committee of Experts welcomes this development. During the on-the-spot visit, the Committee of Experts was informed that Radio 1476 also offers opportunities for students to practice journalist tasks.

45. With regard to television programmes, the Committee of Experts noted with interest that ORF subtitles some television programmes in the Slovenian language.

*Romani*

46. In its first evaluation report, the Committee of Experts noted that the regional studio of Burgenland prepared a 15-minute weekly radio programme in Romani, as well as a 45-minute television programme which was broadcast four times a year and contained some Romani. The Committee of Experts encouraged the Austrian authorities to take steps to improve this very limited provision.

47. According to the information contained in the second periodical report (pages 72ff), a 56-minute trilingual radio magazine is broadcast weekly in Burgenland and contains 15 minutes of Romani. During the on-the-spot visit, the Committee of Experts was informed that a 30-minute mixed Romani and German language programme called “Radio Kaktus” is broadcast twice a week on Radio 1476. The Committee of Experts welcomes this development but still considers the amount limited. All broadcasting on “Radio Kaktus” is carried out on a voluntary basis. Representatives of the Romani-speakers further expressed the wish for a television programme in Romani, for example on the citizens channel “Okto-Sender”.

### *Czech*

48. With regard to the written press, according to the information submitted by the Austrian Centre for Ethnic Groups (*Volksgruppenzentrum*), a fortnightly Czech newspaper is issued in Vienna by the Czech association.

### *Slovenian in Styria*

49. In its first evaluation report, the Committee of Experts noted that the Slovenian-speakers in Styria could not receive the ORF productions broadcast in Carinthia. According to the representative of the Slovenian-speakers that the Committee of Experts met during the second on-the-spot visit, the Slovenian radio programmes cannot be received in all the parts of Styria where there are Slovenian-speakers. The Committee of Experts was further informed that the Austrian Centre for Ethnic Groups filed a suit against Radio Styria in August 2007 for not broadcasting programmes in Slovenian.

50. The Committee of Experts was informed during the on-the-spot visit that as a result of digitalisation, the Slovenian-speakers in Styria will be able to watch Slovenian language television programmes from Carinthia. The Committee of Experts asks the Austrian authorities to provide information on this development in the next periodical report.

51. The Committee of Experts welcomes the developments with regard to the co-operation between ORF and private broadcasters. Nevertheless, the broadcasting of some other languages is based on restricted human resources and to a high extent based on personal commitment. Broadcasting time is also limited. The Committee of Experts has been informed that the current agreement expires in 2011 and the legal case regarding Slovenian in Styria is still unsettled.

52. The Committee of Experts was informed that the Federal Communication Senate decided in July 2008 that the ORF was in breach of the legal duties from 1 January 2006 to 30 June 2007 to broadcast adequate shares of radio and television programmes in Slovenian in parts of Styria, as well as in Slovak, Czech and Hungarian in Vienna. It decided that the broadcasting of "Radio 1476" on medium wave was inappropriate and should be placed on an FM frequency.

53. The Committee of Experts encourages the Austrian authorities, in co-operation with ORF, the private radio broadcasters and the speakers, to develop and guarantee long-term solutions for the broadcasting in the regional or minority languages, including beyond the year 2011. The Committee of Experts also requests the Austrian authorities to provide information on the measures taken by the ORF as a result of the above mentioned decision of the Senate in the next periodical report.

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

54. In its first evaluation report (paragraphs 81 – 92), the Committee of Experts first of all noted that the teaching of regional or minority languages outside Burgenland and Carinthia was not regulated by a Minority Schools Act. The call for such an act was raised by representatives of several regional or minority languages during the present monitoring cycle, especially with regard to Vienna. When addressing this issue, the central authorities informed the Committee of Experts that they were aware of this problem, but did not see the possibility of introducing the same legal framework as in the *Länder*.

### *Burgenland-Croatian in Vienna*

55. In the first evaluation report, the Committee of Experts had been informed of one nursery school group in Vienna using Burgenland-Croatian as well as of plans to offer Burgenland-Croatian at a public primary school in Vienna. The Committee of Experts requested further information in the following periodical report.

56. No such information is provided in the second periodical report. However, according to representatives of the Burgenland-Croatian-speakers whom the Committee of Experts met during its on-the-spot visit, the primary school in Vienna is in its fourth pilot year of offering bilingual schooling (Standard Croatian and German). The Committee of Experts understands that this project is upheld with a lot of effort and work from the parents and associations.

### *Czech and Slovak in Land Vienna*

57. In its first evaluation report, the Committee of Experts was informed that some bilingual education was offered in the Komensky-School, but that pupils often had to follow classes in Czech, since not many classes were given in Slovak. The Committee of Experts therefore encouraged the Austrian authorities to take measures to improve access to Slovak-medium education, in co-operation with the Slovak speakers.

58. No information in this respect is provided in the second periodical report.

59. In its first evaluation report, the Committee of Experts observed that the privately run Komensky-School offered Czech and Slovak bilingual education from pre-school to upper secondary level. The school was supported by the Austrian authorities which covered the expenses of the teaching staff. The Czech-speakers were concerned with the lack of flexibility with regard to the minimum number of pupils required to set up a class as well as the growing difficulties in covering the running costs of the school. Roughly 80% of the funding allocated to their ethnic group from the federal promotion scheme is used for the maintenance of the school. The Committee of Experts encouraged the Austrian authorities to increase their co-operation with the Czech-speakers to find lasting solutions to the funding difficulties of the Komensky School and allow for more flexibility regarding the minimum number of children to open a class.

60. No further information is provided in the second periodical report. According to the information provided during the on-the-spot visit by representatives of the Czech-speakers, the Komensky-School, in addition to providing Slovak education, has also taken the responsibility of providing pre-school education in Hungarian. The situation of the school does not seem to have improved since the previous monitoring round but its key role as a promoter of several regional or minority languages in Vienna has become even more pronounced. The authorities informed the Committee of Experts that the issue is regularly discussed within the ministries, but the Committee of Experts was not informed of any results.

***The Committee of Experts urges the Austrian authorities to increase their co-operation with the Komensky-School to find lasting solutions to its funding difficulties and allow for more flexibility regarding the minimum number of children required to open a class.***

61. The Committee of Experts was informed by the Ministry of Education that some primary and secondary schools offer Czech and Slovak as optional subjects. This does not, however, explicitly target the speakers of Czech and Slovak as regional or minority languages.

### *Romani in the Land Burgenland*

62. In its first evaluation report, the Committee of Experts was informed that there was no legal framework for the provision of Romani pre-school education in Burgenland, but that there was a small kindergarten group at a primary school in Oberwart/ Erba. It also noted the discontinuation of Romani as a subject at one primary school. Furthermore there was a lack of teaching materials and qualified teachers. The Committee of Experts encouraged the Austrian authorities to take measures with a view to providing appropriate forms and means for the teaching and study of Romani in Burgenland, and in particular, with respect to the development of teaching materials and the training of teachers.

63. According to the information contained in the second periodical report (pages 160f), it was decided in October 2005 to use funds from the Reconciliation Fund for educational activities for and related to Roma. The funds are distributed among others to the *RomBus* of the association Roma Service. *RomBus*, which is a mobile Romani language information service, began four years ago and is responsible for supporting educational activities for Roma children.

64. During the on-the-spot visit, representatives of the Romani-speakers voiced their concern over practical problems relating to the teaching of Romani, such as the threshold of five pupils in order to set up a Romani class as well as integrating these classes into the normal curriculum. So far classes are only offered as optional classes outside the curriculum without formal assessment ('Unverbindliche Übung'). The representatives further pointed to the lack of qualified teachers that can teach Romani. Instead, as a temporary solution, 'native speakers' receive basic teacher training. The new Pedagogical University of Burgenland so far only offers

modules for teachers with regard to awareness raising of Roma, but not with regard to language training. A module on the language and culture of Roma was offered by the summer academy of the University but was subsequently cancelled as only six teachers had registered for it.

65. The representatives furthermore informed the Committee of plans to extend the offer of Romani education for mother tongue speakers to Vienna, after having conducted a needs assessment. The needs with regard to teaching materials in Burgenland are to a certain extent met, which could facilitate the production of teaching materials in other areas in Austria. The Committee of Experts welcomes this development.

66. According to representatives of the Romani-speakers, there is a demand for Romani education in other regions in Austria outside Burgenland, but so far there is no offer.

67. According to a representative of the regional school inspectorate for Burgenland (*Landesschulrat für Burgenland*) whom the Committee of Experts met during its on-the-spot visit, if the minimum number of pupils required to set up a class is not reached, then it is possible to establish a group across several classes and that this was in practice already carried out with regard to Romani.

68. The second periodical report states that from 2004 to 2006, two primary schools and one lower secondary school offered Romani as an optional subject to a total of about 20 pupils. However, Romani education was not offered in the school year 2007/ 2008 due to a lack of pupils.

69. Despite the overall development in the field of Romani education, the Committee of Experts is concerned about the latest developments that led to the discontinuation of Romani education. It encourages the Austrian authorities to continue their efforts in making Romani education available at all levels, also with regard to teacher training.

#### *Slovenian in the Land Styria*

70. In the first evaluation report, the Committee of Experts observed that no teaching of Slovenian took place at pre-school or upper secondary school levels. Four primary schools and four lower secondary schools offered Slovenian as an optional or compulsory subject.

71. According to comments received from the Austrian Centre for Ethnic Groups, Slovenian classes at primary schools are not set up at 1<sup>st</sup> and 2<sup>nd</sup> class level. According to the second periodical report (page 166), there is no Slovenian education at pre-school level due to a lack of demand. This information was confirmed during the on-the-spot visit by a representative of the Styrian Government who at the same time informed the Committee that parents were not made aware of the offer. There is, however, a partnership between the nursery schools of Bad Radkersburg/ Radgona and the nursery school of Gornja Radgona in Slovenia. The situation remains unchanged with regard to upper secondary level. According to a representative of the Slovenian-speakers, attempts were undertaken to introduce Slovenian classes at vocational schools. However, this failed due to the strong competition with other languages. The Slovenian-speakers demand an increase in the number of hours taught in Slovenian at primary and secondary school level. According to them, there is an increasing demand for Slovenian education, which has not been met with an increasing offer. In Styria, there are only two qualified teachers for the Slovenian language. According to the representative of the Styrian government negotiations are taking place with the *Land* district. The representative further informed the Committee that there was no strategy with regard to the teaching of Slovenian in Styria, for example with regard to establishing a continuity in the offer of Slovenian from pre-school to secondary, nor with regard to teacher training.

72. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Slovenian-speakers that the schools used textbooks from Carinthia, but that these were only suitable to a limited extent due to the regional references. The Committee of Experts was also informed of plans to produce teaching materials for Styria and looks forward to receiving further information on this development in the next periodical report.

#### *Hungarian in the Land of Vienna*

73. In the first evaluation report (paragraph 92), the Committee of Experts observed that no teaching of Hungarian had taken place at pre-school or secondary school level in Vienna. Four primary schools offered

Hungarian as an optional subject in the framework of the 'Hungaricum' project, then supported by the EU. This does not, however, explicitly target the speakers of Hungarian as a regional or minority language.

74. Representatives of the Hungarian-speakers informed the Committee of Experts that six primary schools offer Hungarian as an optional subject twice a week in afternoon classes.

75. The second periodical report states (page 170f) that the Komensky-School opened a Hungarian nursery group. While welcoming this development, the Committee of Experts gained the impression that the establishment of such a group is mainly due to the efforts and initiative of the school itself and has not received additional support from the authorities (see paragraphs 57 - 60 above).

***The Committee of Experts encourages the Austrian authorities to pursue their efforts to create conditions for education in all regional or minority languages in Vienna, Burgenland and Styria.***

***“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;”***

76. During the on-the-spot visit, the Committee of Experts was informed by several representatives of the regional or minority languages and of the authorities that an increasing number of children are being registered for bilingual education with no knowledge of the regional or minority language, and that there is in general an increasing demand for regional or minority language education among non-speakers at all levels. While welcoming this development, the Committee of Experts observes that the increasing enrolment of pupils with a varied language competence at bilingual schools has led to practical problems (see also paragraphs 100 - 129 and 189 – 217 with regard to Burgenland-Croatian and Slovenian respectively, both for instruction of and in these languages, as well as teacher training for them). Another problem is that the growing demand is not always met.

77. The Committee of Experts encourages the Austrian authorities to take measures to meet the growing demand for education in or of regional or minority languages for non-speakers and to take into account the required teaching quality for pupils who are already speakers of the regional or minority languages.

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

78. Research on Romani within the framework of the Austrian Romani Project which is documenting and codifying the Romani language in Austria (see 1<sup>st</sup> evaluation report – paragraph 97) has been successfully continued. Part of the results have been integrated into educational activities. They have also been transformed into efforts which aim at strengthening the use of Romani in public life.

#### **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.”***

79. According to the information contained in the second periodical report (pages 50 ff), EU directives on anti-discrimination and equal treatment have been transposed into federal law in Austria in 2004. During the on-the-spot visit a government representative informed the Committee of Experts, however, that the new anti-discrimination act does not directly target the use of regional or minority languages. The Committee of Experts' attention has not been drawn to any cases of discrimination relating to the use of regional or minority languages in Austria.

#### **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.”**

80. In its first evaluation report (paragraph 101), the Committee of Experts had not been informed of any measures specifically targeted at furthering respect, understanding and tolerance in relation to regional or minority languages among the majority language speakers in mainstream education and the mass media. It seemed that especially Romani-speakers were still mostly ignored by the public and there was little taught about Roma at school. The Committee of Experts requested further information from the Austrian authorities with regard to this provision in the following periodical report.

81. The second periodical report (page 63) states that the general primary school curriculum in Austria promotes intercultural learning, with an “emphasis on the cultural heritage of the respective national minority”, especially if children belonging to such a national minority are part of the class. The present curriculum further emphasises the value of cultural diversity and the fact that inter-cultural learning can contribute to mutual understanding. The Committee of Experts welcomes this information and looks forward to receiving further information on the extent to which this aspect of the curriculum is taught in practice at schools, especially with regard to the Romani language.

82. During the on-the-spot visit, the Committee of Experts was informed that the new Pedagogical University in Burgenland offers courses on Roma. Also, the Roma-Service association has conducted many awareness-raising workshops, mainly in the centre and south of Burgenland, on the language and history connected to Roma. The new Pedagogical University of Burgenland offers modules for teachers with regard to awareness raising of Roma.

83. In its first evaluation report (paragraph 102), the Committee of Experts expressed its concern about the negative statements of certain politicians, most notably those made by the Governor (*Landeshauptmann*) of Carinthia in relation to the Constitutional Court Rulings on topographical signs since this has led to tensions and tangible negative effects for the Slovenian-speakers in Carinthia.

84. In their second periodical report, the Austrian authorities do not provide any new information on this undertaking.

85. During the on-the-spot visit, the Committee of Experts was informed by representatives of regional or minority languages that the situation in the *Land* Carinthia has not improved, in fact it seems that it has deteriorated. One example is the political campaign in 2006 of the Governor’s party promising a monolingual (i.e. German) Carinthia. The Committee of Experts has also been informed that attempts to harmonise the electoral system in Carinthia with that of other *Länder* and the federal level, which requires a 5% threshold to gain a mandate (as opposed to a 10% threshold in Carinthia), have been refused because the ruling parties in Carinthia are opposed to the participation of Slovenians from Carinthia in the regional parliament.

86. The Committee of Experts has also been informed that the rulings on topographical signs continue to create tensions. According to the evidence received, the Carinthian authorities’ apparently attempted to give only conditional support to the Slovenian-speakers. Also, the Governor referred to Slovenian-speakers in one context as being a threat to the social peace in Carinthia. The Committee of Experts is deeply concerned about such statements and the negative effect these can have on mutual understanding, respect and tolerance towards the Slovenian-speaking population.

87. The development and the strong politicisation of the Slovenian language in Carinthia also negatively influence the situation of other linguistic groups in Austria. During the on-the-spot visit, both Slovenian-speakers and different levels of authorities pointed out the need to depoliticise language issues in Carinthia.

88. The Committee of Experts was also informed by Slovenian-speakers during the on-the-spot visit that while local and regional media show some support for the concerns of the Slovenian-speakers, some media coverage can be negative and portray the Slovenian minority as extremists.

89. The Committee of Experts regrets the hostile attitude of the ruling political parties in Carinthia towards Slovenian, an attitude that is contrary to the promotion of respect, understanding and tolerance in relation to the regional or minority languages.

**Paragraph 4**

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

90. In its first evaluation report (paragraphs 103 – 108), the Committee of Experts noted that the Advisory Councils for Ethnic Groups set up at the Federal Chancellery represented the interest of regional or minority language speakers and had a consultative role at the federal level.

91. The Committee of Experts is pleased to note that an Advisory Council for the Slovak ethnic group was set up in April 2008, meaning that all presently recognised ethnic groups are now represented by Advisory Councils.

**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.”***

92. In its first evaluation report (paragraphs 109 – 110), the Committee of Experts noted that Romani was also spoken to a large extent outside the territory of Burgenland, predominantly in big cities. It was therefore of the opinion that Romani in Austria corresponded to the Charter’s definition of non-territorial languages and asked for information on the application of this provision with respect to the Romani language outside Burgenland.

93. In their second periodical report (page 55), the Austrian authorities repeat that this undertaking is of little practical relevance for the Republic of Austria and that Romani is a territorial language spoken in Burgenland. On page 21, the periodical report shows the history of migration of Roma to Austria and the areas of settlement, which suggest that Romani has been spoken for over 100 years in several areas in Austria, including outside Burgenland. According to comments received from representatives of the Romani-speakers, Romani is spoken throughout the territory of Austria, most notably in Vienna. The representatives would like the language rights to be extended beyond Burgenland to the whole territory of Austria.

94. The Committee of Experts urges the Austrian authorities to clarify the status of Romani with regard to the traditional presence outside of Burgenland as well as whether it is a non-territorial language.



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

95. The Committee of Experts has examined in greater detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter.

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

#### 2.3.1. *The Burgenland-Croatian language*

97. For the purposes of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Burgenland-Croatian in Burgenland, these provisions are the following:

- Article 8, paragraph 1. e.iii ; f.iii ;
- Article 8, paragraph 2 ;
- Article 9, paragraph 1. a.iii; b.iii; c.iii; d;
- Article 9, paragraph 2.a ;
- Article 10, paragraph 4.a;
- Article 10, paragraph 5 ;
- Article 11, paragraph 2 ;
- Article 12, paragraph 2.

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

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

### **Article 8 – Education**

100. As the Committee of Experts noted in the first evaluation report (paragraphs 111 – 112), the existing legal situation of regional or minority language education with regard to Burgenland-Croatian in Burgenland guarantees the speakers the right to education in or of their language. However, during the second on-the-spot visit, representatives of the speakers were concerned by the lack of definition of bilingual education (in particular the lack of a prescribed minimum number of hours taught in Burgenland-Croatian). In addition they perceived the need to extend the offer of Burgenland-Croatian as an optional subject to further German-medium schools.

101. During the on-the-spot visit, the Committee of Experts was informed by the regional school inspectorate that the maximum number of pupils in bilingual classes in lower and higher secondary schools was 18 as opposed to 25 in equivalent mainstream schools. The Committee of Experts welcomes this information.

## Paragraph 1

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

- a ii to make available a substantial part of pre-school education in the relevant regional or minority languages;“**

102. In its first evaluation report (paragraphs 113 – 115), the Committee of Experts noted that the provision of Burgenland-Croatian education at pre-school level was regulated by the 1995 Burgenland Act on Nurseries. There were 31 bilingual nursery schools in Burgenland with at least six hours of Burgenland-Croatian used per week. Although the Act was amended in 2004 to raise the minimum number of hours in Burgenland Croatian to nine hours a week, the Committee of Experts was unable to conclude on this undertaking, as it had been informed by representatives of the speakers that the language competence of the children was very low. The Committee of Experts therefore requested further information on the quality *and* quantity of pre-school education.

103. According to the information contained in the second periodical report (page 56) and received during the on-the-spot visit, there are at present 29 bilingual nursery schools. The Committee of Experts notes with satisfaction that in July 2005, the Burgenland Act on Nurseries was again amended to raise the hours taught in Burgenland-Croatian to twelve hours per week. Parents who do not wish their child to be taught in two languages must opt out of bilingual education. According to comments received from the Austrian Centre for Ethnic Groups, however, the amount of Burgenland-Croatian used in practice depends on the language competence and commitment of the nursery school teachers.

104. Following a new model, the *Land* government provides bilingual assistant nursery school teachers for two years for those nursery schools that do not employ trained bilingual nursery school teachers. During the on-the-spot visit, representatives of the Burgenland-Croatian-speakers said they welcomed this model as a positive development as it helps to overcome the current lack of qualified bilingual nursery school teachers. The *Land* is currently considering the transfer of costs for these assistants to the municipalities after two years. In practice this would mean that it would be possible to establish further bilingual kindergartens if the nursery schools were willing to hire an assistant in those cases where there is a lack of trained bilingual pre-school teachers.

105. According to the second periodical report, nursery school teachers are trained in Croatian and in bilingual didactics at the Training Institute for Nursery-School-Pedagogy. During the on-the-spot visit a representative of the *Land* government also informed the Committee of Experts that teachers with a knowledge of Burgenland-Croatian can receive further training in order to be able to teach at bilingual schools.

106. While welcoming the flexible approach taken by the Austrian authorities, the Committee of Experts stresses the need to employ trained bilingual nursery school teachers as the main option and therefore encourages the federal and regional authorities to promote the training of bilingual nursery school teachers.

107. The Committee of Experts considers the undertaking fulfilled at present.

- “b ii to make available a substantial part of primary education in the relevant regional or minority languages;“**

108. In the first evaluation report (paragraphs 116 – 121), the Committee of Experts noted that, according to the Minority Schools Act for Burgenland, new bilingual primary school classes can be established in the case of a long-term demand by at least seven pupils. The Committee of Experts asked for information on the criteria used to assess whether there is a long-term demand.

109. Unfortunately, no such information was provided by the Austrian authorities in the second periodical report.

110. Furthermore, in the previous evaluation report, it was unclear to the Committee of Experts, whether Burgenland-Croatian was available all over the Burgenland-Croatian language area. It was also concerned

about the limited number of hours taught through the medium of Burgenland-Croatian at some bilingual schools. Therefore, the Committee of Experts considered that this undertaking was only partly fulfilled in practice and urged the Austrian authorities to take measures to ensure that a substantial part of primary education is available in Burgenland-Croatian at all relevant bilingual schools.

111. The second periodical report states that the Minority Schools Act for Burgenland provides for Burgenland-Croatian-medium education, with a minimum of six hours taught in German. However, according to the comments submitted by the Austrian Centre for Ethnic Groups, the Act does not prescribe a similar fixed minimum number of hours with regard to the teaching in Burgenland-Croatian. The periodical report gives no information about the numbers of hours taught in Burgenland-Croatian at bilingual schools.

112. As stated in the report and confirmed by representatives of the speakers and the authorities during the on-the-spot visit, the language competence of the pupils continues to vary considerably. The Committee of Experts was informed that there is an increasing number (two-thirds) of children enrolling in bilingual education with no or little language competence. During the on-the-spot visit, representatives of Burgenland-Croatian-speakers informed the Committee of Experts that, depending on the school and on the region, many pupils' language competence was still very poor after four years of primary school. Therefore some representatives of the speakers called for a reform of the teaching model and apparently new methods are already being tested.

113. In the light of this information, the Committee of Experts concludes that the undertaking remains partly fulfilled. It urges the Austrian authorities to continue their efforts to ensure that a substantial part of primary education is taught in Burgenland-Croatian in order to guarantee the bilingual language competence of the Burgenland-Croatian pupils.

***The Committee of Experts again urges the Austrian authorities to take measures to ensure that a substantial part of primary education is available in Burgenland-Croatian at all relevant bilingual schools.***

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

114. In its first evaluation report (paragraphs 122 – 126), the Committee of Experts noted that Burgenland-Croatian was offered as a subject as well as being the language of instruction at bilingual schools. It noted in particular the highly regarded bilingual federal grammar school located in Oberwart/ Felsőőr/ Gornja Borta. The Committee of Experts understood, however, that the school was unable to cater for the entire language area and invited the Austrian authorities to devise solutions in order to extend the provision of bilingual education at upper secondary level to the rest of the Burgenland-Croatian language area. It nevertheless considered the undertaking fulfilled.

115. Apart from the already existing offer of Burgenland-Croatian education, the second periodical report (page 61) mentions two pilot projects at the federal grammar schools in Eisenstadt/ Kismarton/ Željezno and Oberpullendorf/ Felsőpulya/ Gornja Pulja. Unfortunately, the Committee of Experts was informed that the project in Eisenstadt/ Kismarton/ Željezno has been discontinued. The Committee of Experts looks forward to receiving further information on the development of the remaining project in the next periodical report.

116. The Committee of Experts was also informed by representatives of the Burgenland-Croatian-speakers during the on-the-spot visit that the schools are often too distant from the homes of the pupils, even if it is the case that school transport is guaranteed. The Burgenland-speakers also voiced their concern over the fact that, unlike at primary schools where children are automatically registered for bilingual education, pupils must actively demand and register for bilingual education at secondary school level, which has led to a considerable drop-out rate. The Committee of Experts understands that, in order to automatically enrol children for bilingual education at secondary school level, the Minorities' School Act for Burgenland would need to be amended. The Committee of Experts encourages the Austrian authorities to find solutions to the problem of discontinuity, in close co-operation with the speakers.

117. Despite the existing problems, the Committee of Experts considers the undertaking fulfilled.

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

118. In its first evaluation report (paragraphs 127 – 129), the Committee of Experts observed that Burgenland-Croatian was taught as a subject at three vocational schools. It considered the undertaking fulfilled, but asked the Austrian authorities to provide information about the efforts made to ascertain whether there is a wish among the speakers for further teaching of Burgenland-Croatian in vocational training.

119. The second periodical report provides no such information. However, the report states that Burgenland-Croatian is offered as an optional subject at four vocational schools and as an optional compulsory subject at one school. During the on-the-spot visit, a representative of the regional school inspectorate for Burgenland added that the offer exists at commercial schools and that it had been difficult to establish classes at the technical schools. The representative proposed the introduction of Burgenland-Croatian to other areas of vocational education, such as in the field of service and social care, but this has not happened so far.

120. The Committee of Experts welcomes the pro-active measures taken by the authorities and considers that the undertaking remains fulfilled. It nevertheless encourages the Austrian authorities to pursue their efforts in expanding the offer of Burgenland-Croatian education to other vocational schools.

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

121. In its first evaluation report (paragraphs 136 – 138), the Committee of Experts was pleased to observe that the curricula of minority schools take into account the history and culture reflected by the regional or minority languages, prescribed by an Ordinance of the Federal Ministry of Education. The Committee of Experts noted, however, that the teaching materials did not sufficiently deal with this topic. Nor had it received any information on the situation in monolingual German-medium schools in Burgenland. It therefore considered the undertaking not fulfilled at the time of the report and encouraged the Austrian authorities to take measures for the development of teaching materials in order to fulfil this undertaking.

122. The second periodical report states that the general primary school curriculum promotes inter-cultural learning, with an “emphasis on the cultural heritage of the respective national minority”, especially if children belonging to such a national minority are part of the class (see paragraph 81 above). The Committee of Experts has received additional information that teaching materials on the history and culture which is reflected by Burgenland-Croatian exist, but it has no information to what extent these materials are used in practice. It also remains unclear whether pupils in German-medium schools are taught about the history and culture which is reflected by Burgenland-Croatian. It seems to be the case that the extent of instruction about these issues depends on the individual teachers.

123. The Committee of Experts concludes that the undertaking is partly fulfilled and requests information in the next periodical report on the teaching of the history and culture which is reflected by Burgenland-Croatian in German-medium schools in practice.

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

124. In its first evaluation report (paragraphs 139 – 143), the Committee of Experts noted that while basic and further training offers existed, a lack of proficiency in Croatian among the teachers had been reported. It considered the undertaking fulfilled at the time of the report, and encouraged the Austrian authorities to continue

to co-operate with the Burgenland-Croatian speakers to find the most satisfactory solutions to the problems referred to.

125. The second periodical report (page 64) states that the Pedagogical Academies have been replaced by Pedagogical Universities starting from 1 October 2007, offering the same type of teacher training as the previous institutes. The Pedagogical University in Eisenstadt/ Kismarton/ Željezno also has a centre for applied research, where one of its priorities is to develop further teacher training in multilingualism. As part of this training, a year or a summer training in Croatia is offered and supported by the EU Comenius programme. It is not clear to the Committee of Experts however, how this new teacher training, including training in multilingualism, solves the problem of Burgenland-Croatian language skills among teachers in training and their future work as instructors of and in Burgenland-Croatian, and therefore asks the authorities to provide further information in this respect in the next periodical report.

126. During the on-the-spot visit, a representative of the *Land* government informed the Committee of Experts that there were currently not enough teachers of Burgenland-Croatian in training (with regard to the training of nursery school teachers, see paragraphs 102 - 107 above).

127. The Committee of Experts considers that the undertaking is still fulfilled at present. It nevertheless encourages the federal and regional Austrian authorities to increase their efforts to promote teacher training in Burgenland-Croatian, and asks the authorities to report on the effects of the new teacher training scheme in the next periodical report.

*“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.”*

128. In its first evaluation report (paragraph 144 – 146), the Committee of Experts observed that a degree of special inspection and evaluation of Burgenland-Croatian education existed. However, in the absence of periodic reports which are made public, the Committee of Experts concluded that the undertaking was not fulfilled at the time of the report.

129. The second periodical report contains no relevant new information with regard to this undertaking. During the on-the-spot visit, the representative of the regional school inspectorate for Burgenland was not aware of any reports within the meaning of this undertaking. The Committee of Experts must therefore maintain its previous conclusion that the undertaking is not fulfilled. It encourages the Austrian authorities to produce periodic reports and make them public.

***The Committee of Experts encourages the Austrian authorities to ensure that the supervisory body draws up periodic reports of its findings and makes them public.***

## **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:***

***a in criminal proceedings:***

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

***“b in civil proceedings:***

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

*“c in proceedings before courts concerning administrative matters:*

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

130. In its first evaluation report (paragraphs 151 – 153), 155, and 157 – 158 respectively), the Committee of Experts noted that by virtue of the Ordinance of the Federal Government of 1990, Croatian is admitted as an additional official language before six district courts and the regional court of Eisenstadt/ Kismarton/ Željezno. It also observed that the legislation governing the use of Burgenland-Croatian admitted Croatian as an official additional language before the Burgenland Independent Administrative Senate. The Committee of Experts, however, considered the undertakings only formally fulfilled, since difficulties existed regarding the use of Burgenland-Croatian in practice and encouraged the Austrian authorities to take the necessary steps to ensure that the possibility to use Burgenland-Croatian in criminal, civil and administrative proceedings is secured in practice.

131. According to the information contained in the second periodical report (page 67), the local court in Oberwart/ Felsőőr/ Gornja Borta as well as the regional court in Eisenstadt/ Kismarton/ Željezno employs staff, including judges, who speak Croatian. No further information with regard to the Committee of Experts' recommendation is provided in the second periodical report. The Committee of Experts has received contradicting information from the authorities regarding the actual use of Burgenland-Croatian before courts concerning administrative proceedings. According to the information received by the Austrian Centre for Ethnic Groups, Burgenland-Croatian has so far not been used in any proceedings. The Committee of Experts therefore asks the authorities to clarify this matter in the next periodical report.

132. While welcoming the fact that two courts have staff proficient in Burgenland-Croatian, the Committee of Experts is of the view that more efforts should be undertaken to employ Burgenland-Croatian-speaking staff at the other courts and to take pro-active measures of encouragement towards Burgenland-Croatian-speakers to use their language before courts.

133. The Committee of Experts concludes that the undertakings remain only formally fulfilled.

***The Committee of Experts urges the Austrian authorities to take the necessary steps to ensure that the possibility to use Burgenland-Croatian in criminal and civil proceedings and in proceedings before courts concerning administrative matters is secured in practice.***

## **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 iii to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages;”***

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

134. In its first evaluation report (paragraph 164 – 168), the Committee of Experts observed that the right to use Croatian as an additional official language existed before the administrative authorities of the Federation and the *Land*, which have their seat in Burgenland and within whose district one of the municipalities listed in the

Ordinance is located. The Committee of Experts, however, had been informed that Burgenland-Croatian was only rarely used in practice, due to a lack of written command of Burgenland-Croatian among civil servants and a lack of Burgenland-Croatian forms. Also, the Committee of Experts had no information regarding the extent to which federal authorities which directly perform federal administrative functions (*unmittelbare Bundesverwaltung*) ensure that the users of regional or minority languages may submit oral or written applications in practice and asked for further information in the next periodical report. The Committee of Experts considered these undertakings formally fulfilled.

135. According to some representatives of the Burgenland-Croatian-speakers whom the Committee of Experts met during its on-the-spot visit, written communication with the authorities only takes place occasionally.

136. The Committee of Experts was also informed by representatives of the *Land* government that the administration school offers Croatian language courses to civil servants. According to additional information received by the Federal Ministry of the Interior, 70 civil servants working at police departments in Burgenland have a command of Croatian. The Austrian Security Academy offers Croatian language courses to civil servants.

137. During the on-the-spot visit, the Committee of Experts was informed that regional or minority languages are used with federal authorities which directly perform federal administrative functions (*unmittelbare Bundesverwaltung*). However, the Committee of Experts does not know whether this applies to Burgenland-Croatian.

138. The Committee of Experts therefore cannot conclude on whether these undertakings are fulfilled or not and asks the authorities to clarify this matter in the next periodical report.

## **Paragraph 2**

### *Preliminary remark*

139. In its first evaluation report (paragraphs 162 – 163), the Committee of Experts observed that the use of Croatian as an official language was determined by the Ordinance of the Federal Government by defining certain municipalities. The Ordinance, however, does not cover the entire Burgenland-Croatian area and the Committee of Experts requested further information from the Austrian authorities in this respect in the following periodical report.

140. No further information in this respect was provided in the second periodical report. The problem thus remains that the Ordinance does not cover the entire Burgenland-Croatian area. Nor does it cover the town of Eisenstadt/ Kismarton/ Željezno which is the administrative capital where a number of Burgenland-Croatian speakers reside. The Committee of Experts urges the Austrian authorities to take measures to apply the chosen undertakings under Article 10, paragraph 2 of the Charter to the entire Burgenland-Croatian speaking area.

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

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

141. In its first evaluation report (paragraph 169 – 172), the Committee of Experts noted that oral communication in Burgenland-Croatian with the local authorities was common practice in some municipalities. It also observed however, that forms in Burgenland-Croatian were in short supply and that written applications occurred only very rarely. The Committee of Experts therefore considered the undertaking only partly fulfilled and encouraged the authorities to ensure that written applications in Burgenland-Croatian can be made in the relevant areas.

142. No relevant information in this respect was given in the second periodical report. According to representatives of the Burgenland-Croatian-speakers and of the *Land* authorities that the Committee of Experts

met during its on-the-spot visit, it seems that the situation has remained unchanged since the previous monitoring round with regard to the level of written and oral use of Burgenland-Croatian with the local and regional authorities.

143. According to the information received by a representative of the *Land* government, certain application forms are available in paper format at the *Land* and municipal authorities. However, there have been problems making them available on the internet since the authorities report that the computer system cannot handle the diacritics of the Burgenland-Croatian alphabet, but they were looking for a solution.

144. According to representatives of the Burgenland-Croatian-speakers whom the Committee of Experts met during its on-the-spot visit, there are no job advertisements that would favour civil servants with language skills in Burgenland-Croatian in those areas where the language is official.

145. The Committee of Experts is pleased to note that the *Land* authorities, as part of their language policy, reward civil servants who process applications submitted in Burgenland-Croatian with a financial bonus. The authorities are considering extending this financial incentive to the federal level and to the courts. The Committee of Experts would welcome information on further developments in this direction in the next periodical report.

146. In the meantime however, the Committee of Experts must conclude that the undertaking remains partly fulfilled. It urges the authorities to ensure that written applications in Burgenland-Croatian can be submitted throughout the entire Burgenland-Croatian speaking area.

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

147. In its first evaluation report (paragraph 173), the Committee of Experts considered the undertaking not fulfilled in practice, since no local authorities seemed to make use of the legal right to publish official documents in Burgenland-Croatian, nor was the Committee of Experts aware of any measures to encourage or facilitate such publications.

148. No relevant information in this respect is provided in the second periodical report. According to representatives of the Burgenland-Croatian-speakers whom the Committee of Experts met during its on-the-spot visit, the local authorities do not publish any documents in Burgenland-Croatian.

149. Since the Committee of Experts has not received any information about initiatives or measures taken by the authorities to encourage or facilitate the publication by local authorities of their official documents in Burgenland-Croatian, the Committee of Experts must conclude that the undertaking is not fulfilled.

***The Committee of Experts encourages the Austrian authorities to take measures to facilitate the publication by local authorities of their official documents in Burgenland-Croatian.***

## **Article 11 – Media**

### *Preliminary remark*

150. The Committee of Experts recently decided to review its approach with regard to Article 11.1.b and Article 11.1.c taking into consideration the developments in the field of broadcasting media which have taken place since the Charter was adopted in 1992. The traditional distinction between a monolithic “public service broadcaster” and private broadcasters has eroded. By now, several categories of bodies exist which can be said to deliver a “public service mission” to a greater or lesser extent. Some are publicly owned or controlled, others are privately owned or are joint ventures. Some are closer to the voluntary sector (e.g. citizens’ channels). Furthermore, there is now a far greater variety in delivery methods and platforms (digital television and radio, internet broadcasting, etc.). Together these developments call for a more flexible interpretation of Articles 11.1.



b. and c., in particular so as not to exclude public service broadcasting from its ambit (see paragraph 17 of the third evaluation report of the Committee of Experts with regard to Germany, ECRML (2008) 4).

**Paragraph 1**

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

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

151. In its first evaluation report (paragraphs 176 – 178), the Committee of Experts observed that the public broadcaster ORF broadcast a 40-minute daily radio programme as well as a two-minute news programme in Burgenland-Croatian on its regional radio station. It had also been informed of ongoing negotiations between ORF and the regional or minority languages in Burgenland with a view to co-operating on the basis of the new section 5 of the ORF Act (see paragraph 69 of the first evaluation report). The Committee of Experts considered the undertaking not fulfilled, as there were no radio programmes in Burgenland-Croatian on private radio stations in Burgenland. It encouraged the Austrian authorities to take the necessary steps to encourage or facilitate the broadcasting of radio programmes in Burgenland-Croatian on private radio, without this affecting the existing level of public radio provision.

152. The second periodical report (page 72f) states that, in addition to the daily radio programmes mentioned above, ORF also broadcasts another 30-minute programme in Burgenland-Croatian every day, as well as a weekly one-hour trilingual magazine (in Burgenland-Croatian, Hungarian and Romani). According to a representative of the ORF, the trilingual magazine is very popular. It is possible to listen to the regional station over internet live-stream and the latest weekly radio programmes are also downloadable on the internet. While the Committee of Experts welcomes these developments, it was informed during the on-the-spot visit by a young representative of the Burgenland-Croatian that the weekly programme targeting the youth is not very appealing.

153. The Committee of Experts was also informed that there had been a project to set up a private radio station, which was unsuccessful.

154. The Committee of Experts regrets that there are no programmes in Burgenland-Croatian on private radio channels. It is nevertheless pleased to note the range and amount of broadcasting in Burgenland-Croatian on ORF. In accordance with the new approach of the Committee of Experts with regard to the undertakings concerning media broadcasting (see paragraph 150 above), the Committee of Experts considers this undertaking fulfilled.

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

155. In its first evaluation report (paragraph 179), the Committee of Experts observed that the ORF broadcast a weekly 30-minute television programme in Burgenland-Croatian on its regional television channel as well as a quarterly 45-minute programme broadcast in Burgenland-Croatian and three other languages. It nevertheless considered the undertaking not fulfilled since there were no television programmes on private television programmes. The Committee of Experts encouraged the Austrian authorities to take the necessary steps to encourage or facilitate the broadcasting of television programmes in Burgenland-Croatian on private television, without this affecting the existing level of public television provision.

156. No information with regard to private television broadcasting is provided in the second periodical report, nor has the Committee of Experts been informed of any developments. The Committee of Experts regrets that there are no programmes on private television channels in Burgenland-Croatian. However, in accordance with the new approach to media broadcasting as explained above (see paragraph 150 below), the Committee of Experts however considers this undertaking fulfilled.

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

157. In its first evaluation report (paragraph 180), the Committee of Experts did not have sufficiently detailed information at its disposal to evaluate whether this undertaking was fulfilled and requested further information in the following periodical report.

158. The Committee of Experts has been made aware of the production of several types of CDs and DVDs in Burgenland-Croatian. Some of these are listed in the second periodical report (see pages 78 – 81).

159. The Committee of Experts concludes that the 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;”**

160. In the first evaluation report (paragraphs 181 – 183), the Committee of Experts observed that there were two weekly newspapers in Burgenland-Croatian. They received part of their funding from the Austrian press promotion measures. The Committee of Experts considered the undertaking fulfilled under the former legislation. It asked the authorities to provide further information on the new Press Promotion Act of 2004 and its effects on regional or minority language press promotion.

161. In the second periodical report (page 75f), the authorities claim that the new Press Promotion Act provides easier access to press promotion funds for the media of the ethnic groups. The minimum requirements to receive funding are lower, the weekly newspapers of the ethnic groups are exempted from the minimum circulation of 5 000 copies, there is no longer a requirement of a minimum staff of two full-time employed journalists and there is no minimum price regulation. However, most of these exemptions already existed in the previous 1985 Press Promotion Act. The Committee of Experts understands however that the administrative procedure and the regulations concerning newspaper funding have become more transparent.

162. During the on-the-spot visit, the Centre for Ethnic Groups and representatives of the Burgenland-Croatian-speakers reported that due to changed general conditions for the production of newspapers, the financial situation of Burgenland-Croatian newspapers had deteriorated. For example, as a consequence, the volume of the main weekly, *Hrvatske Novine*, was reduced by 40%. The Committee of Experts encourages the authorities to provide information regarding the situation of Burgenland-Croatian newspapers. Furthermore, it encourages the authorities to take measures to secure the existence of at least one newspaper in Burgenland-Croatian.

163. The Committee of Experts nevertheless considers that the undertaking remains fulfilled at present.

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

164. In its first evaluation report (paragraph 184), the Committee of Experts had not received sufficient information in order to draw a conclusion on this undertaking and asked the Austrian authorities for further information in the next periodical report.

165. In the second monitoring round, the Austrian authorities provided no new information in this respect. The Committee of Experts therefore has no indication that general support schemes, such as the Austrian Film Institute (*Österreichisches Filminstitut*), allow for the qualification of audiovisual productions in Burgenland-Croatian in practice.

166. The Committee of Experts therefore must conclude that the undertaking is not 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;”***

167. In its first evaluation report (paragraphs 186 – 188), the Committee of Experts observed that cultural activities for the Burgenland-Croatian ethnic group are provided for under the Federal Chancellery’s support scheme for ethnic groups. However, the Burgenland-Croatian-speakers considered the allocation process of these funds as very bureaucratic. They also considered that the resources were targeted towards more traditional and folkloristic forms of cultural expression. The Committee of Experts nevertheless considered the undertaking fulfilled.

168. As pointed out in paragraphs 34 – 35 above, representatives of all regional or minority languages complained that the funding amount has remained unchanged since 1995 and that the process for receiving funds was lengthy. The authorities replied that the money arrived during the first half of the year and that the amount of funding allocated to the organisations depended on the quality of the projects proposed. The process is delayed partly due to the fact that the minority advisory councils are also consulted in the application process.

169. The Committee of Experts is concerned that the current level of funding and the delay in the allocation of funds hampers the effective promotion of regional or minority languages. In addition, the Committee of Experts reiterates its view that modern cultural initiatives can improve the image of a regional or minority language as a living language, in particular among younger generations.

170. The Committee of Experts nonetheless considers this undertaking fulfilled. It encourages the Austrian authorities to review the amount of funding as well as the funding allocation process and consider including modern cultural initiatives in the framework of their promotion of the Burgenland-Croatian language in addition to more traditional cultural expressions, which remain important.

- “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;”***

171. In its first evaluation report (paragraph 189), the Committee of Experts had not received sufficient information that would allow an evaluation of this undertaking and asked the Austrian authorities for further information in the next periodical report.

172. The second periodical report (page 77ff) lists a number of activities in the cultural field that are funded by the authorities and carried out by cultural organisations and associations of the Burgenland-Croatian-speakers.

173. The Committee of Experts considers the 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.”***

174. In its first evaluation report (paragraph 191 – 193), the Committee of Experts had been informed that Austria made provision for the Burgenland-Croatian language and culture mainly in the framework of the Alps-Adriatic Working Community which brings together regional authorities from different countries, including Burgenland. The Committee of Experts, however, had no information about the way in which the federal

authorities complied with this undertaking and therefore did not reach a conclusion on this undertaking but requested further information in the next periodical report.

175. According to the information contained in the second periodical report (page 84p), some Austrian embassies have co-organised some scientific and cultural events focussing on the Burgenland-Croatian minority.

176. Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad. This could consist of cultural exchanges, references to the regional or minority languages spoken in Austria in the context of exhibitions or events, or information material concerning Austria aiming at an international public.

177. In the light of the information received, the Committee of Experts considers that the undertaking is partly 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.”***

178. In its first evaluation report (paragraphs 194 – 196), the Committee of Experts was not informed of any positive measures within the meaning of this undertaking and requested further information in Austria's second periodical report.

179. The second periodical report (page 84f) lists a range of initiatives in the field of literature, church life and tourism, which all seem to have been supported by the general promotional funding for ethnic groups. The Committee of Experts was informed by representatives of the Burgenland authorities that some liturgies are held in the Burgenland-Croatian language.

180. The Committee of Experts considers the undertaking fulfilled.

## **Article 14 – Transfrontier exchanges**

***“ The Parties undertake:***

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

181. In its first evaluation report (paragraph 197), the Committee of Experts was informed about co-operation within the Alps Adriatic Working Community and the Austrian Institute of East and Southeast European Studies (see also paragraphs 174 - 177 above). However, the Committee of Experts was unable to conclude on this

undertaking, since it lacked information on specific projects or activities for the benefit of the Burgenland-Croatian language.

182. The second periodical report (page 85f) does not provide further details on the language content of these Alps-Adria transnational exchanges. The report does however mention other transfrontier activities such as school exchanges to Croatia and language holidays for children.

183. In the light of this information, the Committee of Experts considers the undertaking fulfilled at present.

### 2.3.2. *The Slovenian language*

184. For the purposes of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. In the case of Slovenian in Carinthia, these provisions are the following:

- Article 8, paragraph 1.d.iv ; e.iii ; f.iii ; i ;
- Article 8, paragraph 2 ;
- Article 9, paragraph 1. b.iii; c.iii; d;
- Article 9, paragraph 2.a ;
- Article 10, paragraph 4 a;
- Article 11, paragraph 2 ;
- Article 12, paragraph 1.f ;
- Article 12, paragraph 2.

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

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

#### *Preliminary Remark*

187. It has been brought to the attention of the Committee of Experts that the laws and regulations concerning the right to use Slovenian before administrative authorities and public services are extremely complex and incoherent. This right varies within the Slovenian-speaking area from one municipality to another and between administrative and public offices dealing with the same issues. The right to education also seems to vary. This makes it extremely difficult for the speakers to make use of their rights.

188. The Committee of Experts encourages the federal and regional authorities to take measures to make the rights for the Slovenian-speakers more transparent.

#### **Article 8 – Education**

189. As the Committee of Experts noted in the first evaluation report (paragraphs 111 – 112), the existing legal situation of regional or minority language education with regard to Slovenian in Carinthia guarantees the speakers the right to education in or of their language.

190. During the on-the-spot visit, the Committee of Experts was informed that an increasing number of children who lack knowledge of Slovenian are being registered for bilingual education. The Committee of Experts welcomes this positive development. However, it also acknowledges that this creates new challenges for the Austrian authorities: on the one hand the problem of meeting the demand of non-Slovenian-speaking pupils to learn the language, on the other hand taking care of the needs of the Slovenian-speakers to develop their language skills. This problem will be dealt with in more detail in the paragraphs below.

## Paragraph 1

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

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

191. In its first evaluation report (paragraphs 200 – 205), the Committee of Experts observed that Carinthia did not have a nursery school act like the one in Burgenland. It was further informed that the 2001 Carinthian Nursery Funds Act covered the operational costs of the existing eight private bilingual nursery schools, but would apparently not apply to any future ones. The Committee of Experts therefore encouraged the Austrian authorities to examine the possibility of enabling further private nursery schools to be covered under the Act.

192. The Committee of Experts furthermore noted that although there were eight bilingual municipal nursery schools, the speakers were dissatisfied with their quality. The Carinthian authorities were already dealing with this problem and the Committee of Experts requested further information in this respect in the following periodical report. It was also of the view that a clearer definition of the responsibilities of the municipalities with respect to municipal bilingual nursery schools was needed. The Committee of Experts considered the undertaking fulfilled.

193. The Committee of Experts is pleased to note that the Carinthian Nursery Funds Act does not exclude bilingual nursery schools that may be set up in the future, as stated in the second periodical report (page 87) and confirmed by *Land* representatives during the on-the-spot visit. Each of the current 13 nursery groups in nine nursery schools receive €41 000 per annum. Until 2007, the federal government shared this funding with the *Land* Carinthia, but Carinthia now bears the costs alone.

194. However, according to representatives of the Slovenian-speakers, funding of new pre-schools is not granted automatically.

195. According to the comments received from the Austrian Centre for Ethnic Groups in September 2008, Carinthia is making the attendance of the final year of pre-school education for children obligatory. The Committee of Experts asks the authorities to provide information in the next periodical report on the consequences this change will have for pre-school education in Slovenian.

196. The periodical report points out that the Federal Chancellery supports bilingual pedagogical care for a group of children under the age of three. The Committee of Experts welcomes this information.

197. According to representatives of the Slovenian-speakers that the Committee of Experts met during its on-the-spot visit, there is a shortage of Slovenian language pre-school teachers.

198. The Committee of Experts is of the view that efforts should be made to further strengthen and spread the offer of bilingual nursery schools, as children entering primary school still have a highly variable command of Slovenian and there is also a growing demand for bilingual nursery schools (see paragraph 201 below).

199. The Committee of Experts considers the undertaking fulfilled.

- “b** *ii* ***to make available a substantial part of primary education in the relevant regional or minority languages;***”

200. In its first evaluation report (paragraphs 206 – 211), the Committee of Experts noted that 65 out of 77 primary schools provided bilingual education to 1730 pupils in the 2003/ 2004 school year in the area in which the Minority Schools Act applies. The Committee of Experts was informed that in practice the amount of hours taught in Slovenian could vary. Also, some bilingual schools had headmasters that did not speak Slovenian, which was reported as being problematic since it is the headmaster's responsibility to ensure the quality of bilingual education. There were also concerns over negative effects on bilingual education for six primary schools that have been converted into external branches (*Expositur*) in Slovenian-speaking villages. This is a result of the reduced number of pupils in the municipalities. Another concern was the highly variable command of the Slovenian language among primary school pupils, which created considerable practical problems. While the Committee of Experts considered the undertaking fulfilled at the time of the report, it encouraged the Austrian authorities to pursue their dialogue with Slovenian speakers with a view to finding lasting solutions to these problems.

201. According to the information provided in the second periodical report (page 88ff), there are a growing number of pupils attending bilingual primary schools. In the report, the authorities admit to the problem that there is a highly variable command of Slovenian among the pupils and report that only about 15% of the children entering primary school already have Slovenian language skills. Therefore new concepts and teaching methods are being tested with regard to the methodology and didactics of instruction. The Pedagogical University (*Pädagogische Hochschule*) is also participating in this work.

202. With regard to converting primary schools into school branches (*Expositur*), the second periodical report refers to the ruling of the Constitutional Court of 27 June 2002, file number B 1230/ 01, according to which it was not unconstitutional to close down bilingual primary schools, at least not in those cases in which the bilingual classes are continued at the respective school site in a school branch. Primary schools with less than ten pupils have closed down in four locations (which do not seem to have been replaced) due to the depopulation trend. Despite the Constitutional Court ruling, the Committee of Experts nevertheless shares the concern of the Slovenian-speakers about the negative effects of external school branches on the Slovenian language. It is, however, also aware of the fact that it is difficult to maintain Slovenian primary schools given the current demographic trend and a dwindling number of pupils.

203. According to the second periodical report, in the school year 2007/ 2008, 1892 pupils attended bilingual education at 64 primary schools, out of which five classes were external school branches.

204. According to the comment submitted by the Austrian Centre for Ethnic Groups, the amount of education in Slovenian at bilingual primary schools in practice depends on the number of pupils registered for bilingual education. The amount of Slovenian-medium education can be lower than the legally required 50% of the entire education. Also, the Centre repeats its concern that headmasters are not required to be bilingual.

205. The Committee of Experts considers the undertaking fulfilled. It is nevertheless concerned about the level of command of Slovenian among pupils in bilingual schools and asks the authorities to provide information on further developments in this respect in the next periodical report.

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

206. In its first evaluation report (paragraphs 212 – 215), the Committee of Experts noted that Slovenian was taught as a subject at 13 lower level secondary schools and at ten upper secondary schools. Furthermore, it noted that a highly regarded grammar school in Klagenfurt/ Celovec (*Bundesgymnasium/ Bundesrealgymnasium für Slowenen*) offered Slovenian-medium education with German as a compulsory subject. Speakers, however, reported that it was problematic that the school was located outside the settlement area of the Slovenian-speakers which makes it costly for the parents. The Committee of Experts considered the undertaking fulfilled, but requested further information on this issue in the next periodical report.

207. In the second periodical report, the authorities acknowledge this as a general problem. However, it has not had a significant impact on the total number of pupils attending the Slovenian language grammar school.



208. Apart from the grammar school, according to the information provided in the second periodical report (page 98), during the 2007/ 2008, 354 pupils were taught the Slovenian language in lower secondary school. Of these, 92 pupils attended bilingual schools, 133 pupils took Slovenian classes as a regular subject, and 129 as an optional subject.

209. During the on-the-spot visit, Slovenian-speakers showed particular concern over the fact that nearly half of the pupils did not continue with Slovenian-medium education from primary school to secondary school. Representatives of the *Land* Carinthia confirmed to the Committee of Experts that the *Land* did pay attention to the problem of continuity. The Committee of Experts encourages the Austrian authorities to find solutions to these problems, in close co-operation with the speakers.

210. The Committee of Experts nevertheless considers the undertaking fulfilled.

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

211. In its first evaluation report (paragraph 221), the Committee of Experts observed that the curricula of minority schools take into account the history and culture reflected by the regional or minority languages, prescribed by an Ordinance of the Federal Ministry of Education. The Committee of Experts had no information, however, on whether such teaching took place in practice. Nor had it received any information on the situation in monolingual German-medium schools. It was therefore not in a position to conclude on the undertaking and requested further information in the next periodical report.

212. The second periodical report states that the general primary school curriculum promotes inter-cultural learning, with an “emphasis on the respective national minority” , especially if children belonging to such a national minority are part of the class (see paragraph 81 above). The Committee of Experts has received additional information that teaching materials on the history and culture which is reflected by Slovenian exist, but it has no information as to what extent these materials are used in practice. It therefore remains unclear whether pupils in German-medium schools are taught about the history and culture which is reflected by Slovenian. It also seems to be the case that the extent of instruction about these issues depends on the individual teachers.

213. The second periodical report states (page 104) that the Slovenian language is taken into account in teacher training for minority schools with regard to the history and culture of Carinthia. The report further states that there is an additional provision concerning the curriculum that applies to the Slovenian grammar school stipulating that the history of the Slovenians in Carinthia must be dealt with as an integral part of the curriculum at all school levels. Two approved text books are available in this respect.

214. In the light of the information received, the Committee of Experts considers the undertaking only partly fulfilled. It encourages the authorities to promote the teaching of the history and culture related to the Slovenian language for all pupils in Carinthia.

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

215. In its first evaluation report (paragraphs 222 – 227), the Committee of Experts noted that teacher training took place at two teacher training institutions, but that there were some problems regarding bilingual teachers. There seemed to be a decreasing number of native Slovenian-speakers among these teachers, and the demand for bilingual teachers was now met with teacher candidates with lesser language skills. The Committee of Experts considered the undertaking fulfilled at the time of the report with regard to bilingual compulsory school teachers. However, it urged the relevant authorities and institutions to devise lasting solutions to the problems in the area of teacher training, in close co-operation with the Slovenian-speakers.

216. In October 2007, the Federal Pedagogical Academy in Carinthia was replaced by the Pedagogical University for Carinthia (*Pädagogische Hochschule*) (see second periodical report, page 104f). The college provides basic and further teacher training, including Slovenian as a subject at mainstream schools as well as training for bilingual teachers at Slovenian-German bilingual schools and team teachers. This is carried out at the college’s centre of competence for “Multilingualism and Intercultural Education”. During the on-the-spot visit,

the Committee of Experts was informed by representatives of Slovenian-speakers that there is no training for secondary school teachers who teach through the medium of Slovenian.

217. With regard to the reported low language competence of Slovenian teachers, representatives of the education authorities of Carinthia informed the Committee of Experts during its on-the-spot visit that the language level requirements at the entry of studies have been raised to A1/A2 of the Common European Framework of Reference for Languages as an entrance requirement, and to C1 in order to qualify as a bilingual teacher. According to the representatives, there is still a lack of qualified Slovenian-speaking teachers and although the profession of bilingual teacher is very popular, many students do not reach the minimum language requirements.

218. During the on-the-spot visit, Slovenian-speakers informed the Committee of Experts that the Federal Agency for Pre-school Teachers (*Bundesanstalt für Kindergartenpädagogik*) trains pre-school teachers for Slovenian nursery schools. In addition, the responsible department in the regional Carinthian government, the Working Party of Private Bilingual and Multilingual Nursery Schools and the Pedagogical Association offer further training possibilities for nursery school teachers (see second periodical report (page 88)).

219. The Committee of Experts considers that the undertaking remains fulfilled.

## **Article 9 – Judicial authorities**

### *Preliminary remark*

220. As mentioned in the first evaluation report (paragraph 233), Slovenian is admitted as an official language before the district courts of Ferlach/ Borovlje, Eisenkappel/ Železna Kapla and Bleiburg/ Pliberk as well as before the Klagenfurt Regional Court, as defined by the Ordinance of the Federal Government of 1977. The Committee of Experts understands that at all other courts in the Slovenian-speaking area of Carinthia, Slovenian can only be used before courts by those speakers who do not have a sufficient command of the German language. According to the Austrian Centre for Ethnic Groups, Slovenian should also be admitted before the district courts of Völkermarkt/ Velikovec, or at least the area of jurisdiction of the former district courts of Eberndorf/ Dobrla vas, Arnoldstein/ Podklošter and Völkermarkt/ Velikovec. The Committee of Experts asks the authorities to provide further information with regard to these issues in the next periodical report.

### **Paragraph 1**

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

***a in criminal proceedings:***

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

221. In its first evaluation report (paragraphs 233 – 235), the Committee of Experts observed that Austrian law provided for the right to use Slovenian in criminal proceedings, but that this right was hardly ever used in practice. Nor had the Committee of Experts been informed of any practical arrangements to render this possibility effective. It therefore considered that this undertaking was only formally fulfilled and encouraged the Austrian authorities to take the necessary steps to ensure that the possibility to use Slovenian in criminal proceedings is secured in practice.

222. According to a representative from the district court authority of Ferlach/ Borovlje, whom the Committee of Experts met during the on-the-spot visit, all three courts currently have bilingual civil servants within their staff. According to the representative, Slovenian-speakers are aware of the possibility to use their language in court proceedings since the signage on the court authority buildings is bilingual.

223. The judge who currently also holds a post in Eisenkappel/ Železna Kapla, is concerned about the future status of Slovenian as an official language in all three district courts, since there is currently no plan to secure the bilingual court system on a long-term basis. In addition, there is a tendency of merging district courts and it is unclear whether the position of a bilingual judge will pertain after the current judge's retirement.

224. According to additional information provided by the Federal Ministry of Justice, from 2005 to 2007, the Slovenian language was used in criminal proceedings at all three district courts, however there seems to be a slight downward trend. No proceedings involving the Slovenian language took place at the regional court in Klagenfurt/ Celovec.

225. In the light of this information, the Committee of Experts considers the undertaking fulfilled at present. It nevertheless encourages the Austrian authorities to take measures to secure the future status of the three bilingual courts.

**“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;”**

226. In the first evaluation report (paragraph 236), the Committee of Experts considered the undertaking fulfilled.

227. According to the information received from the Austrian Centre for Ethnic Groups, the computer software used in the courts cannot reproduce the diacritics of the Slovenian alphabet in documents (such as š, č and ž). The Committee of Experts understands that this is also a problem in the field of administration.

228. The Committee of Experts concludes that the undertaking remains fulfilled. However, it urges the Austrian authorities to solve the practical problems relating to the use of diacritical signs.

**“b in civil proceedings:**

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

229. In its first evaluation report (paragraph 237 – 239), the Committee of Experts was informed that Slovenian was hardly ever used before ordinary courts and that statistics would be provided in the next periodical report. It had also been informed that the use of Slovenian before the court would only apply to physical, as opposed to legal persons, as ruled by a High Court (*Oberlandsgericht*) in Graz. The Committee of Experts considered that the undertaking was only formally fulfilled and encouraged the Austrian authorities to take the necessary steps to ensure that the possibility to use Slovenian in civil proceedings is secured in practice.

230. According to the representative from the district court authority of Ferlach/ Borovlje whom the Committee of Experts met during the on-the-spot visit, the right to use Slovenian also applies to legal persons. The Committee however, still asks the Austrian authorities to clarify this in the light of the above-mentioned High Court ruling in the next periodical report. The Committee of Experts was further informed that the right to use Slovenian before the *Land* court of Klagenfurt/ Celovec only applies to those citizens from the three districts where Slovenian had additional official status.

231. According to additional information provided by the Federal Ministry of Justice, from 2005 to 2007, the Slovenian language was used in civil proceedings in Bleiburg/ Pliberk, Eisenkappel/ Železna Kapla and Ferlach/ Borovlje, however there seems to be a slight downward trend. According to the authorities, in 2007 for example, no proceedings involving the Slovenian language took place at the Regional Court in Klagenfurt/ Celovec. According to information provided by the Austrian Centre for Ethnic Groups, however, proceedings have been held in Slovenian before this court.

232. The issue of merging district courts which can possibly cause problems for the use of Slovenian before courts mentioned in paragraph 223 above also concerns the current undertaking.

233. In the light of the information above, the Committee of Experts considers the undertaking fulfilled at present. However, it asks the Austrian authorities to provide more information on the right of both physical and legal persons to use Slovenian in courts. It also encourages the Austrian authorities to take measures to secure the future status of the three bilingual courts.

*“c in proceedings before courts concerning administrative matters:*

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

234. In its first evaluation report (paragraphs 241 – 242), the Committee of Experts observed that the legal right to use the Slovenian language as an additional official language before the Carinthia Independent Administrative Senate (*Unabhängiger Verwaltungssenat*) was only sporadically made use of in practice. The Committee of Experts therefore considered the undertaking only formally fulfilled and encouraged the Austrian authorities to take the necessary steps to ensure that the possibility to use Slovenian in administrative court proceedings is secured in practice.

235. No relevant information is provided in the second state report. The Committee of Experts therefore concludes that the undertaking remains only formally fulfilled.

***The Committee of Experts urges the Austrian authorities to take the necessary steps to ensure that the possibility to use Slovenian in administrative court proceedings is secured in practice.***

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

### *Preliminary remarks*

236. As mentioned in the first evaluation report (paragraphs 246 – 247), the use of Slovenian as an official language before local administrative authorities of Carinthia is defined by the Ordinance of the Federal Government. These municipalities are in the political districts of Klagenfurt/ Celovec *Land* (6 municipalities), Völkermarkt/ Velikovec (5 municipalities) and Villach/ Beljak *Land* (2 municipalities). Slovenian is also admitted before the district administrative authorities (*Bezirkshauptmannschaften*) of these districts.

237. In the first evaluation report, the Committee of Experts had been informed that the Ordinance does not cover the entire Slovenian-speaking area. It took note of the Constitutional Court Ruling of 4 October 2000 (V 91/ 99 – 11) which decided that Slovenian should be an official language in the administrative district of Eberndorf/ Dobrla vas. The Committee of Experts welcomed this ruling, but noted that the Federal Government had not taken any measures to execute the ruling by identifying the Carinthian municipalities concerned by the ruling. On the basis of this observation, the **Committee of Ministers** addressed the following recommendation to the Austrian government: **"ensure that the ruling of the Constitutional Court relating to the use of the Slovenian language before administrative authorities in Carinthia is implemented without delay;" (RecChL(2005)1, Recommendation 2).**

238. From the information contained in the second periodical report, it does not seem that the federal authorities have taken any measures since the last monitoring round to ensure the execution of the Constitutional Court Ruling of October 2000, but rather that they leave it to the district or local authorities concerned to examine whether the ruling applies in their case.

239. Finally, as for the problem of the varying rights and regulations relating to the use of Slovenian before administrative authorities and public services, see paragraphs 187 – 188 above.

### **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     iii     to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages;”**

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

240. In the first evaluation report (paragraphs 248 – 252), the Committee of Experts understood that Slovenian is admitted as an official language before the administrative authorities of the Federation or of the *Land*. The Committee of Experts had no information at its disposal regarding the extent to which federal authorities which directly perform federal administrative functions (*unmittelbare Bundesverwaltung*) ensure that users of regional or minority languages may submit oral or written applications in practice and requested further information in the following periodical report. Finally, the Committee of Experts detected a lack of Slovenian language skills among civil servants and also a delay in translating administrative applications by the Office for Ethnic Groups, the creation and function of which the Committee of Experts welcomed. The Committee of Experts considered these undertakings fulfilled with respect to the *Land* authorities and requested further information with respect to the federal authorities.

241. Such information is not provided in the second periodical report. According to the evidence submitted by the Austrian Centre for Ethnic Groups, the situation is satisfactory with regard to the Völkermarkt/ Velikovec district administrative authority. During the on-the-spot visit, the Committee of Experts received conflicting information regarding the possibility of an applicant from a municipality where Slovenian is not official to use Slovenian before the Völkermarkt / Velikovec district administrative authority. The Committee of Experts asks the Austrian authorities to clarify this matter in the next periodical report.

242. According to the Centre for Ethnic Groups, applications submitted in Slovenian to the district administrative authority of Klagenfurt/ Celovec are ignored or processed with a delay. The Committee of Experts is pleased about the information received during the on-the-spot visit by a representative of the Klagenfurt/ Celovec district authority according to whom the district’s language policy includes the requirement of the Slovenian language with regard to some job announcements. It was also informed that the administration academy (*Verwaltungsakademie*) of the *Land* Carinthia in Klagenfurt/ Celovec offers Slovenian language courses, for which the costs are covered. The Committee of Experts is also pleased to have been informed of the exemplary practice of tax offices which have a bilingual language policy.

243. According to additional information received by the Federal Ministry of the Interior, 34 civil servants working at police departments in Carinthia have a command of Slovenian. The Austrian Security Academy offers Slovenian language courses to civil servants.

244. The Committee of Experts considers that the undertakings remain fulfilled but asks the Austrian authorities to provide information on the practical problems mentioned in paragraphs 241 and 242 above.

### **Paragraph 2**

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

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

245. In its first evaluation report (paragraphs 253 – 256), the Committee of Experts observed that the possibility to use Slovenian in practice appeared to vary greatly between the different local authorities and that many local authorities did not have employees with a sufficient command of Slovenian. It further noted that the Federal authorities had not taken any measures to implement the Constitutional Court Ruling of 4 October 2000 by amending the Ordinance which applied to Eberndorf/ Dobrla vas and other municipalities. The Committee of

Experts therefore considered the undertaking not fulfilled and encouraged the Austrian authorities to implement the Constitutional Court ruling of 4 October 2000 as a matter of priority, and to ensure the possibility of using the Slovenian language also in other municipalities in Carinthia, which fulfil the criteria of the ruling and which are not listed in the Ordinance.

246. As noted in the previous evaluation report, the municipality of Eberndorf/ Dobrla vas has in the meantime taken steps to implement the Constitutional Court ruling of 2000. According to the Centre for Ethnic Groups, the ruling necessitates an amendment of the Ordinance on official languages (see also paragraphs 26 – 33 above). The Committee of Experts understands that the ruling leaves room for interpretation and if interpreted in a restrictive way, is not applied to many municipalities. The Committee of Experts has received no information that indicates that the Constitutional Court ruling of 2000 has been implemented in any further municipalities.

247. According to representatives of the Slovenian-speakers whom the Committee of Experts met during the on-the-spot visit, Slovenian is only used in oral communication in those cases where the speakers know that there are Slovenian-speaking civil servants. Apart from a few municipalities, a structured policy with regard to the use of Slovenian seems to be lacking.

248. The Austrian Centre for Ethnic Groups regrets the fact that the Slovenian language is not admitted before the town of Klagenfurt/ Celovec which is the regional capital and where many Slovenian organisations have their seat and where there are many administrative offices that concern Slovenian-speakers.

249. The Committee of Experts concludes that the undertaking is partly fulfilled.

***The Committee of Experts urges the Austrian authorities to ensure the possibility to submit oral or written applications in the Slovenian language in all municipalities in Carinthia where Slovenian has a traditional presence.***

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

250. In its first evaluation report (paragraph 257), the Committee of Experts considered this undertaking not fulfilled in practice, as it was not aware of any practical implementation of this undertaking, nor of any measures taken to encourage or facilitate such publications by local authorities.

251. The second periodical report does not provide any information in this respect. During the on-the-spot visit, the Committee of Experts received evidence that two local authorities (Feistritz ob Bleiburg/ Bistrica pri Pliberku and Zell/ Sele) publish their official documents in Slovenian. It has however not received any information about other local authorities.

252. The Committee of Experts considers that the undertaking is partly fulfilled. It encourages the Austrian authorities to take measures to encourage or facilitate publications by local authorities and provide concrete information about its progress with regard to this issue in the next periodical report.

#### **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.”***

253. In the first evaluation report (paragraph 259), the Committee of Experts noted that the Austrian legislation allowed for the registration of non-German names in their original spelling, including diacritic signs. It considered the undertaking fulfilled.

254. According to new information received during the on-the-spot visit, Slovenian-speakers often encounter problems registering and using their names in the original spelling. The Committee of Experts asks the Austrian authorities to remove any existing obstacles in this respect and report on this in their next periodical report.

## Article 11 – Media

255. With regard to the new approach of the Committee of Experts to media broadcasting, see preliminary remark in paragraph 150 above.

### Paragraph 1

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

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

256. In its first evaluation report (paragraphs 260 – 262), the Committee of Experts had been informed of the agreement signed by the ORF in 2003 with the private radio company AKO Lokalradio GmbH with a view to ensuring a daily 12-hour Slovenian radio programme, with programmes produced directly by the ORF as well as by private radio stations to be broadcast on private frequency. The Committee of Experts considered the provision adequate for the purpose of this undertaking, but it observed that despite the agreement, which constituted an improvement, the development since the end of 2002 indicated a deterioration of Slovenian-language radio provision in Carinthia.

257. Given the information contained in the second periodical report, it seems that the amount of broadcasting on the public regional radio station Radio Kärnten has indeed been reduced since the previous monitoring cycle, as the 50-minute daily radio programme is no longer broadcast. On the other hand, as part of the 2003 agreement mentioned above, the report states that ORF now broadcasts eight hours of programming on the private radio frequency of Radio Dva-Agora. During the on-the-spot visit, the Committee of Experts was informed by representatives of the private radios that the remaining time is filled with programmes produced by Radio Agora (two hours), Radio Dva (also two hours) and a multilingual, commercial programme. This private frequency can be received throughout the entire geographical area of Austria, and since May 2007 is also available over live-stream on the internet. The representatives stated that they were satisfied with the current radio programming which is stable until the agreement expires in 2011. However, the representatives were concerned that there is no more funding for free and non-commercial radio which as a consequence has reduced the number of staff dramatically.

258. The Committee of Experts nevertheless considers the undertaking fulfilled at present.

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

259. In its first evaluation report (paragraph 263), the Committee of Experts understood that there were no television programmes in Slovenian on private television channels, nor had it been informed of any initiatives taken under the new section 5 of the ORF in the field of television. The Committee of Experts therefore considered the undertaking not fulfilled and encouraged the Austrian authorities to take the necessary steps to encourage or facilitate the broadcasting of television programmes in Slovenian on private television, without this affecting the existing level of public television provision (which was a weekly 30-minute television programme in Slovenian on ORF).

260. According to the information provided in the second periodical report (page 117), the situation does not seem to have altered since the previous monitoring cycle. The authorities provided no information on steps taken to encourage or facilitate broadcasting in the private media. During the on-the-spot visit, representatives of the speakers showed their dissatisfaction with regard to the limited broadcasting amount. After the change to digital television by 2010, Slovenian-speakers in Vienna will however also be able to view the programme.

261. Following the new approach of the Committee of Experts as outlined in paragraph 150 above, the undertaking is nevertheless concluded to be fulfilled.

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

262. In its first evaluation report (paragraph 264), the Committee of Experts was informed that audio and audiovisual productions could be funded from the Federal Chancellery’s funds for ethnic groups. However, it did not have sufficiently detailed information at its disposal to evaluate whether the undertaking was fulfilled and requested further information in the following periodical report.

263. According to the information contained in the second periodical report (page 120), some music CD productions in the Slovenian language were funded by the Federal Chancellery budget for ethnic groups. The Committee of Experts has not been made aware of any other audio or audiovisual productions supported by the authorities. In the light of this information, the Committee of Experts concludes that the undertaking is partly fulfilled and encourages the Austrian authorities to provide further information with regard to the audio and audiovisual works that have been produced in Slovenian in the next periodical report.

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

264. In its first evaluation report (paragraphs 265 – 267), the Committee of Experts noted that there were two weekly newspapers in Slovenian. It considered this undertaking fulfilled at the time of the report, but asked the authorities to provide further information on the new Press Promotion Act and its effects on regional or minority language press promotion.

265. In the second periodical report (page 75f), the authorities claim that the new Press Promotion Act provides easier access to press promotion funds for the media of the ethnic groups. The minimum requirements to receive funding are lower, the weekly newspapers of the ethnic groups are exempted from the minimum circulation of 5 000 copies, there is no longer a requirement of a minimum staff of two full-time employed journalists and there is no minimum price regulation. However, most of these exemptions already existed in the previous 1985 Press Promotion Act. The Committee of Experts understands however that the administrative procedure and the regulations concerning newspaper funding have become more transparent.

266. Due to the changes in the conditions for publishing newspapers, the situation for the Slovenian general newspaper *Novice* has become increasingly critical. According to the information received during the on-the-spot visit, the publication of the newspaper *Novice* now depends mainly on financial support from Slovenia.

267. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Slovenian-speakers that the *Land* Carinthia adopted its own press promotion fund in June 2007. One of the funding criteria is that the newspaper must have a print run as high as at least three per cent of the population of Carinthia, which is too high for Slovenian language weeklies. As a result of this, they could not benefit from this press promotion fund.

268. The Committee of Experts regrets that the Slovenian newspapers cannot benefit from the press promotion fund of the *Land* Carinthia. It nevertheless considers that the undertaking remains fulfilled. The Committee of Experts encourages the authorities to provide information regarding the situation of Slovenian newspapers and to take measures to secure the existence of at least one newspaper in Slovenian.

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

269. In the first evaluation report (paragraph 268), the Committee of Experts did not have sufficient information at its disposal to evaluate whether the undertaking was fulfilled and requested further information in the following periodical report.

270. In the second monitoring round, the Austrian authorities provided no new information in this respect. The Committee of Experts therefore has no indication that general support schemes, such as the Austrian Film Institute (*Österreichisches Filminstitut*), allow for the qualification of audiovisual productions in Slovenian in practice.



271. The Committee of Experts must therefore conclude that the undertaking is not 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;”***

272. In its first evaluation report (paragraphs 270 – 271), the Committee of Experts observed that cultural activities for the Slovenian ethnic group are provided for under the Federal Chancellery’s support scheme for ethnic groups. However, the Slovenian-speakers considered the allocation process of these funds as very bureaucratic. The Committee of Experts also noted that in the view of the Slovenian-speakers, the Slovenian Music School in Carinthia received a disproportionately small amount of financial support from the regional and local authorities. It invited the Austrian authorities to comment on this situation and to provide additional information on the activities supported under the existing federal support measures, including the allocation process, in the following periodical report.

273. As pointed out in paragraphs 34 - 35 above, representatives of all regional or minority languages complained that the funding amount has remained unchanged since 1995 and about the lengthy process of receiving funds. During the on-the-spot visit, representatives of the federal authorities replied that the money arrived during the first half of the year and the amount of funding allocated to the organisations depended on the quality of the projects proposed. The process is delayed partly because of the fact that the minority advisory councils are also consulted in the application process. Furthermore, in the second periodical report (pages 39 ff and pages 119ff respectively) the authorities give details on the allocation process for funding of cultural activities under the federal support scheme.

274. During the on-the-spot visit, the Committee of Experts met with a representative of the Slovenian Music School who informed the Committee that the School is funded by support from Slovenia, by the Federal Chancellery and by the *Land* Government. No funding is provided by the municipalities. The representative repeated his concern that the funding from the *Land* was disproportionately low compared to other music schools and that the funding application procedure, which had to be repeated annually, was complicated. Given that the school is successful in that it is very popular among pupils, the Committee of Experts urges the Austrian authorities to comment on this situation in the next periodical report.

275. The Committee of Experts considers this undertaking fulfilled. It however encourages the Austrian authorities to review the amount of funding as well as the funding allocation process.

- “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;”***

276. In its first evaluation report (paragraph 272), the Committee of Experts had not received sufficient information that would allow an evaluation of this undertaking and asked the Austrian authorities for further information in the next periodical report.

277. The second periodical report (page 119ff) lists a number of activities in the cultural field that are funded by the authorities and carried out by cultural organisations and associations of the Slovenian-speakers.

278. The Committee of Experts considers the 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.”***

279. In its first evaluation report (paragraphs 275 – 277), the Committee of Experts had been informed that Austria made provision for the Slovenian language and culture mainly in the framework of the Alps-Adriatic Working Community which brings together regional authorities from different countries, including Carinthia. The Committee of Experts, however, had no information about the way in which the federal authorities complied with this undertaking and therefore did not reach a conclusion on this undertaking but requested further information in the next periodical report.

280. According to the information contained in the second periodical report (page 125f), some Austrian embassies have co-organised some events on the Slovenian minority, including its language.

281. The Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad. This could consist of cultural exchanges, references to the regional or minority languages spoken in Austria in the context of exhibitions or events, or information material concerning Austria aiming at an international public.

282. In the light of the information received, the Committee of Experts concludes that the undertaking is partly fulfilled at present and encourages the authorities to provide more information with regard to this undertaking in the next periodical report.

## Article 13 – Economic and social life

### Paragraph 1

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

- 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.”***

283. In its first evaluation report (paragraphs 278 – 280), the Committee of Experts was not informed of any positive measures within the meaning of this undertaking and requested further information in Austria's next periodical report.

284. The second periodical report (page 127) mentions activities carried out by two associations in the field of economy (for example a glossary of technical terms in Slovenian in the field of farming technologies) which have been supported by the general promotional funding for ethnic groups.

285. During the on-the-spot visit, the Committee of Experts was informed of the strong position of the Slovenian language in church life in Carinthia. According to the representatives of the Slovenian-speakers, the position of the Slovenian language is secured by a regulation of the 1970s. Today, there are a number of Slovenian-speaking priests, the language is used at church festivities and there is a weekly church newspaper “Nedelja”, liturgies are held in Slovenian, even in those municipalities where the Slovenian language is not used much otherwise. 69 out of 337 parishes are bilingual. Representatives of the *Land* Carinthia informed the

Committee of Experts that there is no additional funding from the authorities or encouragement for the use of the Slovenian language in church life, since the churches administer themselves.

286. The Committee of Experts looks forward to receiving more examples in the next periodical report but considers the undertaking fulfilled at present.

#### **Article 14 – Transfrontier exchanges**

*“ The Parties undertake:*

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

287. In its first evaluation report (paragraph 281), the Committee of Experts was informed about co-operation within the Alps Adriatic Working Community and the Austrian Institute of East and Southeast European Studies (see also paragraphs 279 – 282 above). However, the Committee of Experts was unable to conclude on this undertaking, since it lacked information on specific projects or activities for the benefit of the Slovenian language.

288. The second periodical report does not provide any further details on the language content of these Alps-Adria transnational exchanges. Representatives of the Carinthian government informed the Committee of Experts during its on-the-spot visit that some projects within the Alps-Adria exchanges dealt with the Slovenian language. The periodical report mentions other transfrontier activities such as school exchanges to Slovenia and cultural exchanges.

289. In the light of this information, the Committee of Experts considers the undertaking fulfilled at present.

### 2.3.3. The Hungarian language

290. For the purposes of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of its implementation. In the case of Hungarian in Burgenland, these provisions are the following:

- Article 8, paragraph 1. e.iii ; f.iii ;
- Article 8, paragraph 2 ;
- Article 9, paragraph 1. a.iii; b.iii; c.iii; d;
- Article 9, paragraph 2.a ;
- Article 10, paragraph 5 ;
- Article 11, paragraph 2 ;
- Article 12, paragraph 2.

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

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

#### **Article 8 – Education**

293. The Committee of Experts was informed by the regional school inspectorate during the on-the-spot visit that the maximum number of pupils in bilingual classes at lower and higher secondary schools was 18 as opposed to 25 in mainstream schools. The Committee of Experts welcomes this information.

##### **Paragraph 1**

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

- a ii to make available a substantial part of pre-school education in the relevant regional or minority languages;“***

294. In its first evaluation report (paragraphs 283 – 285), the Committee of Experts noted that pre-school education in Hungarian is regulated by the Burgenland Act on Nurseries of 1995 and is offered at four bilingual nursery schools. The Committee of Experts considered the undertaking fulfilled.

295. The second periodical report (page 130f) states that the Burgenland Act on Nurseries was amended on 8 July 2005 in order to raise the minimum hours to be taught per week in Hungarian from nine to twelve. Parents who do not wish their child to be taught in two languages must opt out of bilingual education.

296. The Committee of Experts welcomes the amendment and concludes that the undertaking remains fulfilled.

- “b ii to make available a substantial part of primary education in the relevant regional or minority languages;“***

297. In its first evaluation report (paragraphs 286 – 290), the Committee of Experts noted that there were two bilingual primary schools in Burgenland and that Hungarian was taught as a compulsory subject in four schools and as an optional subject at a further 19 schools. The Committee of Experts observed that primary education

in Hungarian is regulated by the Minority Schools Act for Burgenland according to which new bilingual school classes can be established in the event of a long-term demand by at least seven pupils. The Committee of Experts requested the authorities to provide information on the criteria used to assess the demand in the following periodical report. It considered the undertaking fulfilled.

298. According to the information provided in the second periodical report (page 132ff), in addition to the educational offer stated above, in the school year 2007/ 2008, bilingual classes were offered at another five schools. According to representatives of the Hungarian-speakers, bilingual primary schools teach about three to four hours per week in Hungarian which the Committee of Experts does not consider a substantial part of primary education. At a further 59 schools, Hungarian is taught mostly as a subject with no formal assessment (*Unverbindliche Übung*). The second report does not reveal the criteria used to assess a long-term demand for bilingual classes outside the autochthonous settlement area.

299. In the light of the new information concerning the very limited amount of hours taught in Hungarian, the Committee of Experts must revise its previous conclusion and considers that the undertaking is only partly fulfilled. It encourages the Austrian authorities to provide a substantial part of primary education in Hungarian.

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

300. In its first evaluation report (paragraphs 291 – 293), the Committee of Experts noted that the Minority Schools Act for Burgenland provides for basic secondary education where Hungarian is taught as a compulsory subject. In the school year 2003/ 2004, Hungarian was taught as a compulsory subject at three basic secondary schools (*Hauptschulen*) and as an optional subject at a further nine schools. Furthermore, Hungarian was taught as a subject at two federal grammar schools (*Bundesgymnasien*) and there was a bilingual grammar school in Oberwart /Felsőőr/ Gornja Borta. The Committee of Experts considered the undertaking fulfilled.

301. According to the information provided in the second periodical report (pages 134 – 136), in the school year 2007/ 2008, Hungarian is taught as an optional compulsory subject at six lower level secondary schools and is taught as a subject with no formal assessment at a further 19 schools. The periodical report states that those lower secondary schools that are in the catchment area of bilingual primary schools must offer Hungarian-medium education even if the demand is as low as one pupil. The Committee of Experts welcomes this regulation, and asks the Austrian authorities to provide further information on how this regulation is implemented in practice.

302. The Hungarian-speakers criticise that after 16 years of existence, the bilingual federal grammar school still has the status of a pilot project. According to the comments received by the Hungarian-speakers, many pupils at the bilingual federal school do not have sufficient language skills to follow the instruction in Hungarian, even if they have attended bilingual nursery and primary schools. This situation was confirmed by a representative of the *Land* Burgenland during the on-the-spot visit.

303. The Committee of Experts considers that the undertaking nevertheless remains fulfilled. It encourages the Austrian authorities to address the above-mentioned problems and provide information on their developments in the next periodical report.

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

304. In its first evaluation report (paragraphs 294 – 295), the Committee of Experts noted that Hungarian was taught as a subject at six vocational schools. It considered the undertaking fulfilled, but invited the Austrian

Government to provide information in the following periodical report about the efforts made to ascertain whether there is a wish among the Hungarian speakers for further teaching of Hungarian in technical and vocational training.

305. No such information is provided in the second periodical report. During the on-the-spot visit, a representative of the *Land* Burgenland informed the Committee of Experts that it has been difficult to introduce Hungarian classes at technical schools. The authorities also proposed the introduction of Hungarian for example in the field of social care and service, but this failed.

306. The Committee of Experts notes the efforts undertaken by the authorities and considers that the undertaking remains fulfilled. It looks forward to receiving information about possible further progress in the next periodical report.

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

307. In its first evaluation report (paragraphs 300 – 302), the Committee of Experts observed that the curricula of minority schools takes into account the history and culture reflected by the regional or minority languages, prescribed by an Ordinance of the Federal Ministry of Education. The Committee of Experts was informed, however, that the existing teaching materials were inadequate to ensure such teaching in practice. The Committee of Experts did not receive any information on the teaching of the history and culture related to Hungarian in monolingual German-medium schools. The Committee of Experts considered the undertaking not fulfilled at the time of the report, and encouraged the Austrian authorities to take measures for the development of teaching materials in order to fulfil this undertaking.

308. The second periodical report states that the general primary school curriculum promotes inter-cultural learning, with an “emphasis on the cultural heritage of the respective national minority”, especially if children belonging to such a national minority are part of the class (see paragraph 81 above).

309. The Committee of Experts considers that the undertaking is partly fulfilled, and asks the Austrian authorities to provide more detailed information on the existing teaching materials.

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

310. In its first evaluation report (paragraph 303 – 307), the Committee of Experts was informed that the teacher training academy in Eisenstadt/ Kismarton/ Željezno did not provide teacher training in Hungarian, due to a lack of demand and that many teachers have been trained in Hungary. Although the Federal Teacher Training Institute in Burgenland offered further training activities, there was a serious shortage of Hungarian-speaking teachers in Burgenland. The Committee of Experts therefore considered that the undertaking was not fulfilled at the time of the report and encouraged the Austrian authorities to take the necessary measures to ensure the training of Hungarian-speaking bilingual teachers and to provide the necessary facilities for their initial and further training.

311. The second periodical report (page 138) states that the newly founded Pedagogical University, which replaced the Federal Teacher Training Institute launched a new study course in 2008 for basic and further training of teachers of Hungarian at primary school and lower secondary school levels. While the Committee of Experts welcomes this development, it was informed during the on-the-spot visit by a representative of the regional school inspectorate for Burgenland that there is currently an insufficient number of teachers in training. According to the representatives of the Hungarian-speakers, there is no possibility to receive teacher training for Hungarian as the language of instruction for higher secondary school level, but merely for Hungarian as a subject.

312. The Committee of Experts welcomes this new study course and hopes that it will be able to meet the demand for teaching in and of Hungarian. It asks the Austrian authorities to provide information in this respect in the next periodical report.

*“j 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.”*

313. In its first evaluation report (paragraph 308), the Committee of Experts observed that in line with the legislation, a special division responsible for bilingual education was set up within the regional school inspectorate for Burgenland (*Landesschulrat*), including a specialised inspector for Hungarian-language teaching. The Committee of Experts, however, had not been informed as to whether this inspector drew up periodic reports nor whether these were made public. It therefore could not conclude on this undertaking and requested further information in the following periodical report.

314. The second periodical report does not provide any further information in this respect. During the on-the-spot visit, the representative of the Regional School Board informed the Committee of Experts that no reports were drawn up by the inspector or any other body. The Committee of Experts must therefore conclude that the undertaking is not fulfilled.

***The Committee of Experts encourages the Austrian authorities to ensure that the supervisory body draws up periodic reports of its findings and makes them public.***

## **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:***

***a in criminal proceedings:***

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

***“b in civil proceedings:***

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

315. In its first evaluation report (paragraph 312), the Committee of Experts noted that, by virtue of the Ordinance of the Federal Government which entered into force in 2000, Hungarian is admitted as an additional official language before the district courts of Oberpullendorf/ Felsőpulya and Oberwart/ Felsőőr/ Gornja Borta and the regional court of Eisenstadt/ Kismarton/ Željezno. The Committee of Experts, however, could not conclude on the undertakings, because up to the time of the report, there had been no established practice with respect to the use of Hungarian before judicial authorities.

316. The second periodical report does not contain any information on the practical implementation of these undertakings apart from the fact that seven persons, including three judges, have Hungarian language skills at the local court of Oberwart/ Felsőőr/ Gornja Borta. According to representatives of the Hungarian-speakers whom the Committee of Experts met during the on-the-spot visit, Hungarian is very seldom used in court. According to supplementary information received from the Federal Ministry of Justice, in 2007 the Hungarian language was not used in any proceedings.

317. The Committee of Experts must therefore conclude that these undertakings are only formally fulfilled and encourages the relevant authorities to take measures to facilitate the use of Hungarian in practice before courts.

**“c in proceedings before courts concerning administrative matters:**

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

318. In its first evaluation report (paragraph 316), the Committee of Experts observed that the legislation governing the use of Hungarian admitted it to be an official additional language before the Burgenland Independent Administrative Senate. Since the Ordinance regarding the use of Hungarian as an official language had only recently entered into force, the Committee of Experts refrained from drawing a conclusion on this undertaking and requested further information in the following periodical report.

319. The second periodical report gives no information on the practical implementation of this undertaking. The Committee of Experts therefore considers the undertaking only formally fulfilled and urges the Austrian authorities to provide further information in the next periodical report.

## **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 iii to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages;”**

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

### **Paragraph 2**

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

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

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

320. In its first evaluation report (paragraphs 320 – 323), the Committee of Experts observed that Hungarian is admitted as an official language in four municipalities as well as before the district administration (*Bezirkshauptmannschaften*) of the districts of Oberpullendorf/ Felsőpulya and Oberwart/ Felsőőr/ Gornja Borta, as defined by the Ordinance of the Federal Government. Since the Ordinance entered into force only in 2000, the Committee of Experts found it difficult to evaluate its application in practice at the time of the report and therefore did not reach a conclusion. The Committee of Experts requested further information on the implementation of the Ordinance with respect to administrative authorities in the following periodical report.

321. The second periodical report gives no concrete information in this respect. According to the information received by the Hungarian-speakers during the on-the-spot visit, the authorities have not taken any measures to actively encourage or facilitate the use of Hungarian with regard to administrative authorities, for example by giving preference to candidates with Hungarian language skills in job announcements in the civil service. According to the speakers, there are no Hungarian-speakers within the administration.

322. According to representatives of the *Land* Burgenland, application forms in paper format are available in Hungarian, both at the municipal and *Land* level. According to additional information received by the Federal Ministry of the Interior, 20 civil servants working at police departments in Burgenland have a command of Hungarian. The Austrian Security Academy offers Hungarian language courses to civil servants.



323. The Committee of Experts is pleased to note that the *Land* authorities, as part of their language policy, reward civil servants who process applications submitted in Hungarian with a financial bonus. The authorities are considering extending this financial incentive to the federal level and to the courts. The Committee of Experts would welcome further information on this in the next periodical report.

324. The Committee of Experts concludes that these undertakings are partly fulfilled and asks the Austrian authorities to provide concrete examples of the implementation of this undertaking in the next periodical report.

**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;”***

325. The Austrian authorities state in the second periodical report that written and oral applications in Hungarian have to be translated into German *ex officio* by the relevant administrative authorities by virtue of Article 14, paragraph 1 of the Ethnic Groups Act. Article 15 of the same act provides that the services of interpreters have to be used if necessary. If records of these proceedings are drawn up in German, they have to be translated immediately into Hungarian. Article 22 provides that the costs arising from such translations or interpretations have to be borne *ex officio*. The Committee of Experts considers this undertaking fulfilled.

**Article 11 – Media**

326. With regard to the new approach of the Committee of Experts to media broadcasting, see preliminary remark in paragraph 150 above.

**Paragraph 1**

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

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

327. In its first evaluation report (paragraphs 325 – 327), the Committee of Experts observed that the ORF broadcast a daily five-minute news programme in Hungarian, as well as a 30-minute Hungarian programme on Sundays and a trilingual programme on Mondays which includes 15 minutes of Hungarian. The Committee of Experts nevertheless considered the undertaking not fulfilled since there were no radio programmes on private radio programmes. The Committee of Experts encouraged the Austrian authorities to take the necessary steps to encourage or facilitate the broadcasting of television programmes in Hungarian on private radio, without this affecting the existing level of public radio provision.

328. The second periodical report (page 145ff) states that, in addition to the already existing provision, one of the Hungarian programmes is re-broadcast twice per week. In addition, the radio station “Radio 1476” broadcasts a weekly 30-minute radio programme. However, the information in the second periodical report on the exact amount of broadcasting in Hungarian appears to be contradictory (compare pages 145 and 146). The second periodical report states (page 118) that “Radio 1476” can be received on medium wave throughout Austria. Representatives of the speakers were discontented with regard to the medium wave service and preferred a slot on FM frequency. “Radio 1476” broadcasts programmes in regional or minority languages some of which are produced by the regional ORF studios in Burgenland and Carinthia, and others which are its own productions. The programmes are also available as live-stream on the internet and can be downloaded after the radio broadcast.

329. The Committee of Experts welcomes this overall development. However, it has no information at its disposal concerning the extent to which the authorities actively promote the broadcasting of radio programmes in

Hungarian, and asks the authorities to provide this information in the next periodical report. It also asks the authorities to provide information on the actual amount of radio broadcasting in Hungarian. Nevertheless, in the light of the overall information and the new approach of the Committee of Experts (see paragraph 150 above), it considers the undertaking fulfilled.

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

330. In its first evaluation report (paragraph 328), the Committee of Experts observed that the regional television channel ORF broadcast a 25-minute programme in Hungarian six times year and a multilingual 45-minute programme which was broadcast four times a year on the same channel. The Committee of Experts however considered the undertaking not fulfilled since there were no television programmes on private television channels. The Committee of Experts encouraged the Austrian authorities to take the necessary steps to encourage or facilitate the broadcasting of television programmes in Hungarian on private television, without this affecting the existing level of public television provision.

331. Based on the information contained in the second periodical report (page 146), the situation remains the same as in the previous monitoring cycle.

332. Even in the light of the new approach of the Committee of Experts with regard to the current undertaking (see paragraph 150 above), the Committee of Experts considers the undertaking not fulfilled. It encourages the authorities to increase the offer of Hungarian language television programmes.

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

333. In its first evaluation report (para 329), the Committee of Experts did not have sufficiently detailed information at its disposal to evaluate whether the undertaking was fulfilled and requested further information in the following periodical report.

334. According to the second periodical report (see page 149), funds have been provided for the production of one Hungarian folk music CD. While welcoming this information, the Committee of Experts considers that it is not sufficient to comply with this undertaking.

335. The Committee of Experts therefore considers the undertaking not fulfilled.

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

336. In its first evaluation report (paragraph 330), the Committee of Experts observed that there was a monthly Hungarian magazine, but no daily or weekly newspapers in Hungarian in Burgenland. The Committee of Experts had not been informed of any initiatives to encourage or facilitate the creation of a daily or weekly newspaper. The Committee of Experts therefore considered the undertaking not fulfilled.

337. During the on-the-spot visit, representatives of the Hungarian-speakers informed the Committee of Experts that the Hungarian magazine was only published every two months and depended on voluntary work. The second periodical report (page 147) states that there is also a children’s and a youth magazine in Hungarian which also receive funding from the national budget to promote ethnic groups. However, none of these magazines correspond to a definition of a newspaper.

338. Therefore the Committee of Experts must conclude that the undertaking remains not fulfilled.

***The Committee of Experts encourages the Austrian authorities to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in Hungarian.***

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

339. In its first evaluation report (paragraph 331), the Committee of Experts considered that the information it had received from the Austrian authorities did not allow it to conclude whether this undertaking is or is not fulfilled. The Committee requested further information in the following periodical report.

340. In the second monitoring round, the Austrian authorities provided no new information in this respect. The Committee of Experts therefore has no indication that general support schemes, such as the Austrian Film Institute (*Österreichisches Filminstitut*), allow for the qualification of audiovisual productions in Hungarian in practice.

341. The Committee of Experts therefore must conclude that the undertaking is not 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;”***

342. In its first evaluation report (paragraphs 333 – 334), the Committee of Experts was informed that the funds allocated by the Federal Chancellery’s support scheme for ethnic groups to the Hungarian ethnic group (€330 000 in 2003) were mainly used for cultural activities promoting the Hungarian language. The Committee of Experts however understood that the Hungarian-speakers were dissatisfied with what they considered to be disproportionately small funds for their ethnic group as well as with the allocation process. The Committee of Experts was therefore not in a position to conclude on this undertaking.

343. According to the information provided in the second periodical report (page 148ff), €204.560 were allocated to Hungarian organisations in 2007, followed by a detailed enumeration regarding the use of this sum.

344. During the on-the-spot visit, the representatives of the Hungarian-speakers reiterated their dissatisfaction with regard to the disproportionately low and complicated allocation of funding. The Hungarian-speakers complained that the funding arrived with a considerable delay. The authorities replied that the money arrived during the first half of the year and that the amount of funding allocated to the organisations depended on the quality of the projects proposed. According to the authorities, the process is delayed partly due to the fact that the minority advisory councils are also consulted in the application process.

345. The Committee of Experts considers the undertaking fulfilled. It asks the Austrian authorities to increase their efforts in order to solve the problems relating to the administration of the funding, and to settle the issue of low proportion of funding for Hungarian speakers, in cooperation with the speakers.

***“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;”***

346. In its first evaluation report (paragraphs 335), the Committee of Experts did not have sufficient information at its disposal to evaluate whether or not this undertaking was fulfilled, and invited the Austrian authorities to provide this information in the following periodical report.

347. The second periodical report (page 172ff) lists a number of activities in the cultural field that are funded by the authorities and carried out by cultural organisations and associations of the Hungarian-speakers.

348. The Committee of Experts considers the 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.”***

349. In its first evaluation report (paragraphs 337 – 339), the Committee of Experts had been informed that Austria made provision for the Hungarian language and culture mainly in the framework of the Alps-Adriatic Working Community which brings together regional authorities from different countries, including Burgenland. The Committee of Experts, however, had no information about the way in which the federal authorities complied with this undertaking and therefore did not reach a conclusion on this undertaking but requested further information in the following periodical report.

350. No further information with regard to this undertaking is provided in the second periodical report. Committee of Experts underlines that the present provision concerns above all the way in which the country presents its own linguistic and cultural heritage abroad. This could consist of cultural exchanges, references to the regional or minority languages spoken in Austria in the context of exhibitions or events, or information material concerning Austria aiming at an international public.

351. The Committee of Experts must therefore conclude that the undertaking is not 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.”***

352. In its first evaluation report (paragraphs 340 – 342), the Committee of Experts had not been informed by the Austrian authorities of any positive measures within the meaning of this undertaking, and requested further information in Austria’s following periodical report.

353. The second periodical report gives the example of a book of religious songs in Hungarian that was published for a parish in Mitterpullendorf/ Középpulya and financed by the budget for the promotion of ethnic minorities.

354. The Committee of Experts considers the undertaking partly fulfilled and would welcome further examples of the facilitation or encouragement of the use of Hungarian in connection with economic and social activities in the next periodical report.

## Article 14 – Transfrontier exchanges

*“ The Parties undertake:*

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

355. In its first evaluation report (paragraph 343), the Committee of Experts had been informed about co-operation within the Alps Adriatic Working Community and the Austrian Institute of East and Southeast European Studies (see also paragraphs 349 - 351 above). However, the Committee of Experts was unable to conclude on this undertaking, since it lacked information on specific projects or activities for the benefit of the Hungarian language.

356. According to the information provided in the second periodical report (pages 151f), several transfrontier activities take place with neighbouring countries relating to the promotion of the Hungarian language, especially targeting the youth, and are mainly carried out by the Hungarian language association UMIZ.

357. The Committee of Experts considers the undertaking fulfilled.

## Chapter 3 Findings

### 3.1. Conclusions of the Committee of Experts on how the Austrian authorities have reacted to the recommendations of the Committee of Ministers

#### Recommendation 1

*"adopt a structural policy for the protection and promotion of all Part II languages and create conditions for their use in public life;"*

358. With regard to this recommendation, in the second periodical report, the Austrian authorities refer to the programme of the Federal Government for the legislative period 2007 – 2010. Although regional or minority languages are to be taken into consideration within the general policies in the fields of education, culture, media and in the context of the constitutional and administrative reform, the Committee of Experts has not been made aware of the adoption of a structured policy for the protection and promotion either of regional or minority languages spoken in Vienna, nor for Slovenian in Styria, nor for Romani (in Burgenland). Indeed, representatives of the City of Vienna informed the Committee of Experts during the on-the-spot visit that there was no structured policy for the use of regional or minority languages in Vienna.

#### Recommendation 2

*"ensure that the ruling of the Constitutional Court relating to the use of the Slovenian language before administrative authorities in Carinthia is implemented without delay;"*

359. The Austrian authorities respond in their second periodical report that on 4 July 2007, a government bill was submitted to the Parliament concerning a federal law amending the Ethnic Groups Act (*Volksgruppengesetz*). The government proposed in the bill to extend the territorial scope of application of official use of Slovenian in local and regional administration.

360. Apart from this motion, it does not seem that the federal authorities have taken any measures since the last monitoring round to ensure the execution of the Constitutional Court Ruling related to the use of the Slovenian language before administrative authorities in Carinthia, but rather that they leave it to the district or local authorities concerned, to examine and decide whether the ruling applies in their case.

#### Recommendation 3

*"ensure that bilingual teaching takes place in practice in all relevant schools in Burgenland;"*

361. The legislation for the teaching of Burgenland-Croatian and Hungarian has been strengthened by increasing the number of hours taught in the respective language at nursery schools from nine to twelve. It seems however that in practice the amount of hours can still vary.

362. At primary school level, the number of hours taught in Burgenland-Croatian and Hungarian seem to vary and in the case of Hungarian seem to be as low as three to four hours per week. A positive development is that Hungarian-medium education has been extended to other schools.

363. There is a considerable drop-out rate in Burgenland-Croatian education from primary to secondary school. With regard to Burgenland-Croatian and Hungarian, the language competence of the pupils continues to vary greatly, although it seems that these problems are currently being addressed by the Austrian authorities.

364. Problems also persist with regard to the varying levels of language skills among teachers of Burgenland-Croatian. Due to this, the quality of instruction of the mother-tongue/minority-language speaking children in bilingual education cannot be guaranteed.

**Recommendation 4**

*"ensure that changes to the status of schools or to the rules regarding the appointment of staff of schools in the Slovenian language area do not negatively affect Slovenian-language education in Carinthia;"*

365. The Austrian authorities state in the second periodical report that the case law of the Constitutional Court ensures that this recommendation is followed. The recommendation seems to be followed in the case of converting primary schools into school branches (*Expositur*), whereby it must be guaranteed that bilingual classes are continued at the respective school site in a school branch. As regards the new rules on the appointment of staff, there have been no changes. Slovenian-speakers are still concerned about the possible negative effects that the appointment of non-bilingual headmasters at schools may have on the Slovenian-language education.

**Recommendation 5**

*"ensure that the Burgenland-Croatian, Slovenian and Hungarian languages can be used before the relevant judicial and administrative authorities in practice;"*

366. The Austrian authorities state that internal organisational measures as well as legislation ensure that this recommendation is followed. Indeed, there seem to be a number of relevant court staff with proficiency in the regional or minority languages, but so far only Slovenian has been used in practice, although with a downward trend. However, there does not seem to be any structured policy concerning the bilingual competence in the courts.

367. A positive measure taken in the field of administration is the financial incentive awarded to staff dealing with applications in a regional or minority language in Burgenland. However, the actual use of the language with administration bodies still remains poor, especially with regard to Hungarian.

368. The legislation governing the use of the Slovenian language in administration in Carinthia results in an overly complex legal regime. Speakers are therefore not aware of all their rights and which bodies can be addressed in Slovenian. In addition, the Constitutional Court rulings on the use of Slovenian before administrative authorities have not been fully implemented.

**Recommendation 6**

*"increase radio broadcasting in Burgenland-Croatian and Hungarian, and television broadcasting in Burgenland-Croatian, Slovenian and Hungarian".*

369. The evaluation of the implementation of this recommendation is based on the new approach taken by the Committee of Experts which is more flexible with regard to the strict division of broadcasting between public and private broadcasting offers (see paragraph 150 above).

370. The number of radio programmes in the Burgenland-Croatian and Hungarian languages has increased: In addition to the existing provision of radio programmes of the last monitoring round, the regional studio of ORF (*Österreichischer Rundfunk und Fernsehen – Austrian Broadcasting Corporation*) in Burgenland broadcasts a daily 30-minute programme in Burgenland-Croatian. The Vienna based ORF "Radio 1476" broadcasts a 30-minute programme in Hungarian which can be received on medium wave throughout Austria. An increasing amount of programmes are accessible via the internet.

371. There has been no improvement in private television broadcasting in Burgenland-Croatian, Slovenian or Hungarian. However, there is a certain offer of regular programmes in Burgenland-Croatian and Slovenian on public television.

372. The Federal Communication Senate (*Bundeskommunikationssenat*), the highest broadcasting authority in Austria, decided in July 2008 that the ORF was in breach of the legal duties from 1 January 2006 to 30 June 2007 to broadcast adequate shares of radio and television programme in Slovenian in parts of Styria, as well as in Slovak, Czech and Hungarian in Vienna. It decided that the broadcasting of "Radio 1476" on medium wave was inappropriate and should be placed on an FM frequency.

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

A. The Committee of Experts appreciates the constructive dialogue with Austria and the excellent co-operation it enjoyed with the Austrian authorities in the organisation of its “on-the-spot” visit.

B. Austria submitted its second periodical report with a delay of 22 months which hampers the effectiveness of the monitoring system. The Committee of Experts regrets that in their report, the Austrian authorities in many cases did not respond to the requests for further information. The lack of requested information with regard to many undertakings also reduces the efficiency of the monitoring mechanism and makes it difficult for the Committee of Experts to assess whether any changes or progress have been made on the ground.

C. Although Part II languages benefit from traditional promotion measures for the ethnic groups (*Volksgruppen*), the continued lack of a structured and coherent policy specifically furthering their use in public and private life hampers their effective protection and promotion. Such a policy is needed in particular in Vienna, where a large number of regional or minority language speakers are concentrated, as well as for the Slovenian-speakers in Styria and for the Romani-speakers on the whole territory of Austria. By contrast, Austrian regional or minority language policy with respect to Part III languages is characterised by a very extensive legislative framework. However, there remain certain gaps with respect to the implementation of existing legal provisions and speakers find it difficult to understand their rights which can vary from one municipality to another.

D. The Committee of Experts continues to be concerned about the lack of implementation of the Constitutional Court rulings regarding the use of the Slovenian language in Carinthia. The present state of affairs creates considerable tension, which could negatively affect mutual understanding and tolerance towards all regional or minority languages in Austria. Both Slovenian-speakers and different levels of authorities have pointed out the need to depoliticise language issues in Carinthia. The radical politicisation of language issues in Carinthia hampers the protection and promotion of Slovenian.

E. With regard to funding, the annual budget of the Federal Chancellery allocated to ethnic groups has remained unchanged at €3 768 000 since 1995. The funding application procedure remains bureaucratic and the allocation is conducted with a considerable delay. The Committee of Experts observes that in order to fulfil the obligations undertaken by Austria under the Charter, the present level of funding seems to be insufficient. The Committee of Experts is concerned that the current level of funding and the delay in the funding allocation hampers the effective promotion of regional or minority languages.

F. The ongoing trend towards linguistic assimilation in Austria is paralleled by a growing demand for regional or minority language education by non-speakers of these languages. Although the Austrian authorities recognise this growing demand and have reacted to it, more efforts need to be undertaken to reconcile the disparate levels of language competence in the classroom, and to ensure that all pupils of regional or minority languages receive quality education corresponding to their level of competence.

G. The dialogue between the Slovenian-speakers in Styria and the *Land* authorities continues on a positive basis. However, a language strategy for Slovenian in Styria is still lacking, which is particularly needed in the field of education where there is no continuity between school and class levels. In the field of Slovenian-language media shortcomings persist.

H. There have been overall positive developments regarding the Romani language in Burgenland, most notably in the field of education, where teaching materials have been developed and educational activities carried out by *RomBus*. The Committee of Experts, however, regrets that Romani education has been discontinued as an optional subject in the school year 2007/2008. Radio programming in Romani has increased, but the Committee of Experts must conclude that the total amount is still quite limited.

I. There have been some positive developments in the field of education in Vienna. One example is the introduction of Hungarian at pre-school level at the Czech and Slovak Komensky School. The financial situation of this school however remains difficult. Burgenland-Croatian education is still in need of development in Vienna. The Committee of Experts is of the view that there is a need for a structured regional or minority language policy



in Vienna and a need for an improved cooperation with the Komensky School, which is in a unique position, supporting three regional or minority languages in Vienna.

J. With respect to the teaching of Part III languages, the Committee of Experts welcomes the establishment of the Pedagogical Universities in Burgenland and Carinthia. The new model improves among other things the teacher training offers for teaching regional or minority languages as a subject as well as a language of instruction. The varying language skills among school children and the lack of qualified teachers continue to create practical challenges. The Committee of Experts understands that these issues are already being addressed.

K. The Committee of Experts is pleased to note the second amendment to the Burgenland Act on Nurseries which raises the number of hours used in Burgenland-Croatian and Hungarian at nursery schools from nine to twelve. At primary and secondary school level, this fixed minimum of hours taught at bilingual schools is however lacking and in practice seems to be too low at many schools. A sufficient number of hours is all the more important considering the varied language competence of many pupils at these schools. The Committee of Experts is concerned about the significant drop-out rate between primary and secondary school and the discontinuation of one of the two secondary school pilot projects in Burgenland-Croatian. There is still a lack of Burgenland-Croatian teachers. Furthermore, the reports of supervisory bodies responsible for monitoring Burgenland-Croatian or Hungarian education are not periodically made public in the sense of the undertaking.

L. Although the overall provision of Slovenian education is satisfactory, the varied command of the Slovenian language of school pupils continues to be a problem. The amount of Slovenian-medium education can in practice be lower than the required share of 50%. The problems arising from converting small schools into external branches (*Expositur*) of bigger schools and the appointment of non-Slovenian speaking headmasters to bilingual schools have not been addressed.

M. The Committee of Experts observes that, despite the fact that some courts have the necessary bilingual staff at their disposal, neither Burgenland-Croatian nor Hungarian have so far been used in proceedings. Furthermore, there has been a slight downward trend in the number of proceedings involving the Slovenian language. The future status of the bilingual courts in Carinthia is insecure. The Committee of Experts finds that more efforts need to be undertaken to inform the speakers at large of their rights.

N. The Committee of Experts is pleased to note that both in Carinthia and Burgenland good practices have been put in place that facilitate and encourage the use of regional or minority languages with administrative bodies. For example, administration schools offer language courses to civil servants. Burgenland gives financial incentives to bilingual civil servants. However, more could be done: for example there are no job advertisements giving preference to civil servants with relevant language skills in Burgenland. In Burgenland, communication with administrative bodies still very rarely takes place in Burgenland-Croatian or Hungarian, especially in writing.

O. Although the situation of Slovenian in Carinthia is good with regard to the frequency of communication in Slovenian in administrative dealings, also thanks to the Office for Ethnic Groups (*Volksgruppenbüro*), applications in the language are processed with a considerable delay. The Committee of Experts notes that the legislation governing the right to use Slovenian before administrative authorities and public services is extremely complex and incoherent. The Committee of Experts finds that the rights of the Slovenian-speakers need to be made more transparent. It does not seem that any measures have been taken to ensure the execution of the Constitutional Court Ruling of October 2000, file number V 91/99-11, with regard to making Slovenian an official language in some municipalities in Carinthia in addition to those defined in the relevant Ordinance. It seems to be left to the district or local authorities concerned to examine whether to apply the ruling in their case. Decisive steps and responsibilities need to be taken by the Austrian authorities to render this right effective.

P. The Committee of Experts is pleased to note that the amount of radio broadcasting in the Burgenland-Croatian and Hungarian languages has increased. In Carinthia, the agreement with the private radio station company in 2003 has led to a daily twelve-hour public and private radio provision in Slovenian. However, there has been no improvement in television broadcasting in Burgenland-Croatian, Slovenian nor Hungarian.

Q. The economic situation for regional or minority language newspapers has become worse. Public support for regional or minority language media seems to be insufficient to secure the survival of the Burgenland-Croatian and Slovenian newspapers. There is still no Hungarian language newspaper.

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

At its 1050th meeting on 11 March 2009, the Committee of Ministers adopted its Recommendation addressed to Austria, which is set out in Part B of this document.

## Appendix I: Instrument of Ratification



### **Austria :**

#### **Declaration contained in the instrument of ratification deposited on 28 June 2001 - Or. Engl./Aus.**

Austria declares that minority languages within the meaning of the Charter in the Republic of Austria shall be the Burgenlandcroatian, the Slovenian, the Hungarian, the Czech, the Slovakian languages and the Romany language of the Austrian Roma minority.

Pursuant to Article 3, paragraph 1, of the Charter, the Republic of Austria shall specify the minority languages to which the provisions selected pursuant to Article 2, paragraph 3, of the Charter shall apply upon the entry into force of the Charter in the Republic of Austria :

Burgenlandcroatian in the Burgenlandcroatian language area in the Land Burgenland :

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

Slovenian in the Slovenian language area in the Land Carinthia :

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

Hungarian in the Hungarian language area in the Land Burgenland :

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

The separate specification of these provisions for the territories of each individual Land is in keeping with the federal structure of the Republic of Austria and takes into account the situation of each of these languages in the Land in question.

Part II of the Charter shall be applied to the Burgenlandcroatian, the Slovenian, the Hungarian, the Czech, the Slovakian languages and the Romany language of the Austrian Roma minority upon its entry into force in the Republic of Austria. The objectives and principles laid down in Article 7 of the Charter shall form the bases with regard to these languages. At the same time, Austrian law and established administrative practice thus meet

individual requirements laid down in Part III of the Charter.

With regard to Czech in the Land Vienna :

Article 8, paragraph 1 a iv;  
Article 11, paragraph 1 d; f ii; paragraph 2;  
Article 12, paragraph 1 a and d; paragraph 3;  
Article 14 b.

With regard to Slovakian in the Land Vienna :

Article 8, paragraph 1 a iv;  
Article 11, paragraph 1 d; f ii; paragraph 2;  
Article 12, paragraph 1 a and d; paragraph 3;  
Article 14 b.

With regard to Romany in the Land Burgenland :

Article 8, paragraph 1 f iii;  
Article 11, paragraph 1 b ii; d; f ii;  
Article 12, paragraph 1 a and d; paragraph 3;  
Article 14 b.

With regard to Slovenian in the Land Styria :

Article 8, paragraph 1 a iv; e iii; f iii;  
Article 11, paragraph 1 d; e i; f ii; paragraph 2;  
Article 12, paragraph 1 a and d; paragraph 2; paragraph 3;  
Article 13, paragraph 1 d;  
Article 14 b.

With regard to Hungarian in the Land Vienna :

Article 8, paragraph 1 a iv; e iii; f iii;  
Article 11, paragraph 1 d; e i; f ii;  
Article 12, paragraph 1 a and d; paragraph 2; paragraph 3;  
Article 13, paragraph 1 d;  
Article 14 b.

The separate specification of these provisions for the territory of each individual Land is in keeping with the federal structure of the Republic of Austria and takes into account the situation of each of these languages in the Land in question.

In accordance with the national distribution competencies, the way in which the above-mentioned provisions of Part III are implemented through legal regulations and Austria's administrative practice with due regard to the objectives and principles specified in Article 7 of the Charter shall be the responsibility of either the Federation or the competent Land.

**Period covered: 1/10/2001 -**

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

## Appendix 2: Comments by the Austrian authorities

### BUNDESKANZLERAMT ÖSTERREICH

Re.: European Charter for Regional or Minority Languages –  
Report of the Committee of Experts on Austria's Second Country Report –  
Statement of the Republic of Austria

Austria acknowledges with thanks the communication of the report of the Committee of Experts and will take account of its conclusions in its future endeavors concerning national minorities and, in particular, measures to preserve and promote the regional and/or minority languages.

In this connection, Austria would like to point out that the Austrian Federal Government – in its recently presented government program for the period 2008 to 2013 – expressly states that it is planned

- to incorporate all fundamental rights into a transparent catalogue of fundamental rights which will also embody the grown linguistic and cultural diversity of the autochthonous national minorities, as well as to review the National Minorities Act;
- to provide possibilities – as part of the measures to promote the national minorities – which will take account of intercultural projects that will serve to foster the cohabitation of the different national minorities;
- to provide safeguards for the implementation of the arrangements in the decisions of the Constitutional Court concerning topographical signs, achieving the broadest possible consensus with the national minorities, on the basis of the proposals made to date.

There is a link – as regards substance – between the aforementioned new arrangements for topographical signs and the implementation of the decision pronounced by the Constitutional Court concerning Slovene as an official language before administrative agencies, which the Committee of Experts has urged.

In connection with the “adoption of a policy protecting and promoting minority languages especially in Vienna”, which the Committee of Experts recommended, it is pointed out that the approach followed by Austria is based, in particular, on supporting the organizations of the national minorities in drawing up the language programs that they offer, as well as to support them financially (unless existing other commitments such as, for example, obligations under Article VII of the State Treaty of Vienna, already resulted in specific arrangements). It is therefore mainly a “bottom up” approach that is being pursued. The organizations of the national minorities therefore also play a special role in connection with networking and informing the members of their respective national minority of the available language programs. On many occasions, programs in the languages of the national groups that are offered in schools were also implemented in a cooperation between the school authorities and the organizations of the national minorities. Examples in this connection are the “Hungaricum Project” in Vienna and instruction in the Slovak mother tongue of pupils at school; these were set up at state-run schools upon the initiative taken by the organizations of the national minorities.

Mention is also made of the fact that for more than two years Austria has been part of the LEPP process (Language Education Policy Profile), which is promoted by the Council of Europe. This is a broad-based process which deals with German as the official national language, English as the international language of communication, the recognized languages of the national minorities, on the one hand, and the languages of the immigrant population, on the other hand. Especially when considering the higher demands placed on foreign-language skills (which also apply to members of the national minorities), the linguistic diversity in the population centers and the low settlement density of the autochthonous minorities in the Vienna conurbation, it appears to be meaningful and necessary to pursue a global approach in this context, without such an approach affecting the

particular status of the languages used by the recognized national minorities. The priority subjects of the LEPP process are, in particular:

- teaching languages to children at an early age,
- training teachers and engaging into research on the teaching of languages, and
- to study the problems at the interface when transferring from one educational facility to another. The problems arising at these interfaces also find expression, for example, in the fact that, for various reasons, some of the pupils will not continue learning their mother tongue when transferring from primary school to secondary school. This phenomenon can also be observed in the region covered by the minority school laws for Carinthia and Burgenland.

However, this also implies that the findings obtained from the LEPP process and the resulting measures will also be of particular benefit for the national minorities.

Considerable expectations attach to establishing pedagogical colleges, as well as to the increasing networking of and cooperation among universities and pedagogical colleges, as well as the educational institutes for Kindergarten pedagogy. These expectations relate to a better language training of the teachers and to the research into the field of multi-language teaching and its evaluation. Moreover, as students spend time abroad, the quality of their language skills will improve. These efforts will have a positive impact on the teaching of the languages of the national minorities (and/or the teaching in the languages of the national minorities), as they address the level where there is demand for action, also by the national minorities, i.e. the language qualifications of the students who will be the future teachers and/or Kindergarten teachers, as well as for improving the teaching of pupil groups with highly heterogeneous language skills.

Under the leadership of the department responsible for the national minorities in the Federal Chancellor's Office, one of the priorities in the year 2009 will, inter alia, be events for bilingual Kindergartens, which will support the teaching of languages to children at an early age.

Austria is well aware of the fact that a positive public opinion also has a decisive influence upon the success of teaching languages, as well as upon the languages of the national minorities maintaining their position. Ongoing efforts are therefore needed in order to communicate appreciation for linguistic diversity and, in particular, for the languages of the national minorities. The political opinion leaders and decision-makers have a model role to play in this context. Austria therefore appreciates the fact that the dialogue with the Council of Europe is continued, and Austria will communicate its findings to the general public in Austria, as well as to its administrative units.

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

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

#### **Recommendation RecChL(2009)1 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Austria**

*(Adopted by the Committee of Ministers on 11 March 2009  
at the 1050th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Having regard to the instrument of ratification submitted by Austria on 28 June 2001;

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

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

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

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

1. adopt a structured policy for the protection and promotion of all Part II languages, especially in Vienna, and create favourable conditions for their use in public life;
2. ensure that the ruling of the Constitutional Court relating to the use of the Slovenian language before administrative authorities in Carinthia is implemented without delay;
3. ensure that the increasing demand for regional or minority language education is met with an adequate offer for both speakers and non-speakers of the languages;
4. ensure that the Burgenland-Croatian, Slovenian and Hungarian languages can be used before the relevant judicial and administrative authorities in practice;
5. increase television broadcasting in Hungarian and secure adequate funding for newspapers in Burgenland-Croatian, Slovenian and Hungarian.