



Bundesministerium
des Innern

Appendix II: Comments of the Federal Republic of Germany

on the report of the Committee of Experts presented to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the European Charter for Regional or Minority Languages

Federal Ministry of the Interior
October 2005

I. Introduction

The Committee of Experts set up under the European Charter for Regional or Minority Languages (hereinafter referred to as the "Charter") submitted its second evaluation report to the Committee of Ministers of the Council of Europe on Germany's implementation of the Charter in accordance with Article 16 of the Charter.

The Report was forwarded to Germany enclosed with a letter of 14 August 2002 by the Directorate of Co-operation for Local and Regional Democracy.

The Federal Republic of Germany appreciates the activities of the Committee of Experts in the process of monitoring the implementation of the Charter and continues to welcome the Committee's efforts in assessing the achieved level of compliance with Germany's obligations arising from the Charter. Germany notes that the comments of the Committee of Experts show professional examination of the situation of regional and minority languages in Germany and that the Committee has in fact paid attention to important questions and problems; on the other hand, the Committee has reiterated its view on certain issues in response to which the German authorities had already made clear that they could not fully agree.

The present comments were drawn up by the Federal Ministry of the Interior after consultation with the governments of the *Länder* – which, because of the federal structure of the Federal Republic of Germany, are to a large extent responsible for implementing the Charter – and the representatives of the speakers of regional or minority languages as far as they had contributed to these comments.

Given the length of the monitoring report, necessary translation works and consultations with the *Länder* and representatives of the language groups, the Federal Republic of Germany will not be able to comment on the Committee's second evaluation report in full detail by 14 October 2005. As far as the present document does not comment on specific statements of the Committee of Experts, the Federal Republic of Germany will examine the implementation deficits referred to by the Committee, and reserves the right to explain the result of such examination and additional measures taken where appropriate in the next periodical report which will be submitted in 2006. Additional information, as requested by the Committee of Experts, on measures to alleviate the implications of the resettlement of the German-Sorbian population in mining areas (see no. 23 of the second evaluation report) will also be provided in the next periodical report.

Germany will publish the report of the Committee of Experts together with these comments.

Bearing in mind the above said and the positive nature of the report on Germany, the Federal Republic of Germany makes the following comments:

Section 1.01 II. The relation between the Charter on Regional or Minority Languages and the Framework Convention for the Protection of National Minorities

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Germany – like an encouragingly large number of other Member States of the Council of Europe – is among the countries that have ratified the Framework Convention for the Protection of National Minorities (the “Framework Convention”); and it also belongs to the – still regrettably fewer – countries that have ratified the European Charter for Regional or Minority Languages. In Germany, the Framework Convention is applied to the national minorities of the Danes, Frisians, Sorbs and the German Sinti and Roma.

Both Conventions are perceived as legal instruments that are used first and foremost to protect national minorities and their languages.

They have become part of the German legal system, both as regards the personal scope of application as designated in the respective ratification document deposited with the Council of Europe, and in relation to the language- and regional-specific obligations undertaken under Part III of the Charter for Regional or Minority Languages.

As was already explained in the comments on the first evaluation report of the Committee of Experts, both Conventions will be interpreted and applied concordantly, without prejudice to their different legal contents, because both were drawn up by the Council of Europe and pursue comparable aims regarding the languages of national minorities.

This can also be an important aspect as regards evaluation of whether the respective competent legislative or administrative bodies consider themselves to have met the obligations ensuing from these conventions.

Germany will refer the questions arising from the close relation of both conventions to the re-established Committee of Experts DH-MIN responsible for minority issues to deal with these questions in depth; it would be appropriate to have the Committee of Experts of the European Charter for Regional or Minority Languages and the Advisory Committee on the Framework Convention take part in these discussions.

III. Preliminary comments on the “Conclusions and proposals for recommendations” of the Expert Committee in Chapter 3

(In the present document quotations from the second evaluation report of the Committee of Experts appear flush left, with small line spacing and type size (11); larger line spacing and type size were used for Germany’s comments.)

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

Re recommendation no. 1:

“adopt specific legal provisions, where these are still lacking, in order to implement the undertakings which Germany has entered into under the Charter;”

The German authorities have not adopted specific legal provisions in order to implement Germany’s undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this position was the adoption of the Frisian Law by the Parliament of Schleswig-Holstein (see nos. 274-275 above), which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. Given that regional or minority language speakers are not likely to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter, such legal measures are also needed in the other *Länder* concerned.

According to the **Frisian Council**, the Frisian minority shares the view of the Committee of Experts that legal provisions are necessary to improve the possibilities for use of the Frisian language. “In this regard, the adoption of the Frisian Law (*Friisk-gesäts*) by the parliament of Schleswig-Holstein is a significant step ensuring that not only the legal provisions of this law concerning the use of bilingual signs will be respected and put into practice by the *Land* and municipal authorities. In addition, the adoption and public discussion of this Law has led to greater open-mindedness in organizations and institutions that are not directly affected by its provisions. For example, bilingual place names were included in school atlases and official maps, and bilingual station name signs (German and Frisian) will be installed at all railway stations north of Husum, including those operated by the *Deutsche Bahn AG* and by the private railway company NEG. This is a very important step to raise public awareness and acceptance of the Frisian ethnic group as one of the four national minorities living in Germany. It has to be noted, however, that the use of bilingual signs was made possible only thanks to the provision of funds for Frisian cultural activities. The use of bilingual public signs is mostly regarded as the sole

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responsibility of the Frisian population, and not as the general responsibility of the state. With the Frisian Law, Frisians have been granted for the first time the right to acknowledge freely that they belong to the Frisian ethnic group. Now the Frisians have a legal right which so far had been granted only to the Danish minority in Schleswig-Holstein. This significant legal progress can be seen as a direct result of extending the scope of application of the Framework Convention to the Frisians; this right is a fundamental minority right.

Despite positive experience made so far it should be noted that the Frisian ethnic group would appreciate additional legal regulations and concrete measures to ensure equal treatment of the Frisian language in public life.

Considerable confusion was created by an examination of Frisian classes carried out by the *Land* Court of Auditors at public and Danish schools in Schleswig-Holstein, because the Frisian classes were evaluated based mainly on economic criteria and it was discussed to further centralize the teaching in and of the Frisian language. Although the confusion has been clarified the discussion has shown that there is still a lack of understanding for the necessity of including autochthonous minority languages in the school curricula. Because the teaching in and of the Frisian language still has no legal basis, it is often regarded as a kind of “luxury” and not as a given responsibility of the state for the protection and promotion of an acknowledged national minority and an acknowledged minority language. Therefore, the Frisian Council thinks that legal regulations should be adopted in the near future and concrete measures should be taken which not only maintain the status quo of the teaching in and of the Frisian language, but also contain the obligation to further improve the quality and quantity of Frisian classes. To this effect, the Schleswig-Holstein Schools Act should be amended.

In the opinion of the Frisian ethnic group it would be necessary to adopt legal regulations for the benefit of the Frisian population also in other areas. For example, in their recently adopted “*Modäl Nordfriislon*” (North-Frisian Model), the Frisians have suggested to introduce legal provisions giving the Frisian ethnic group the possibility to participate in decisions concerning town and country planning and coastal protection, since town and country planning indirectly affects the economic situation of the region and hence the future prospects of the Frisian minority and their language in the region. It would seem to be appropriate to amend the Town and Country Planning Act.”

1. “The **Danish minority** supports the above-mentioned suggestion because legal provisions express and guarantee necessary obligations. This is exactly why we referred to the Frisian Law which was proposed by the *Land* parliament group of the South Schleswig Association of Voters (*Sydslesvigsk Vælgerforening*, SSW) and was passed unanimously by the Schleswig-Holstein parliament. Legal regulations concerning, for example, the school system – especially the financial compensation for travel expenses for pupils of Danish schools – or the Danish library system and adult training, would be of great importance to the Danish minority.”

2. The above-mentioned suggestion is also supported by the Federal Council for Low German (*Bundesraat för Nedderdüütsch*), the special-interest organization of this language group.

3.

“The *Bundesraat för Nedderdüütsch* particularly shares the view regarding the activities of the eight *Länder* in question: We also believe that in some areas there is urgent need for legal provisions clarifying the existing legal situation to both the speakers of the Low German language and their communication partners in the administrative, societal and cultural sectors. This also holds true for Schleswig-Holstein which was commended in the second evaluation report several times. Although the recently passed Frisian Law contains clear provisions concerning the Frisian minority language, it does not contain such provisions concerning the regional language of Low German. It will be particularly necessary to eliminate this unequal treatment in the future.

The *Bundesraat för Nedderdüütsch* expressly supports the reference to the limited activities of those *Länder* that have only signed up to Part II of the European Charter for Regional or Minority Languages.”

The **great majority of the *Länder***, however, rejects the recommendation to introduce additional specific legal provisions for the reasons given in the second periodical report. Since the general public has a vital interest in reducing bureaucracy, it is very unlikely that we will change our position, even if this recommendation is reiterated.

In response to the request for additional constitutional safeguards to protect the Low German language, as voiced in the second evaluation report of the Committee of Experts (see no. 26 of the report), the *Land* of Saxony-Anhalt wishes to make the following comments:

“It is pointed out once more that the lack of a specific provision concerning the Low German language in the constitution of the *Land* of Saxony-Anhalt does not allow the conclusion to be drawn that Saxony-Anhalt did not pursue a systematic and committed policy of language promotion, as claimed by the Committee of Experts. This is too simple a conclusion; in essence, the committed and systematic policy aimed at promoting the Low German language in Saxony-Anhalt is reflected in the very concrete implementation areas of such a policy. In these areas, the government of Saxony-Anhalt has always been committed to acting systematically. This view is shared by the speakers of Low German in Saxony-Anhalt and is reflected not only in the Working Group on Low German set up in April 2002, but also in numerous other projects, such as the publication of teaching material for the 1-6 grades “*Unsere plattdeutsche Fibel – Wir lernen Plattdeutsch in Sachsen-Anhalt*” (Our Low German reading book – We learn Low German in Saxony-Anhalt) published by Ursula Völlner and Saskia Luther.

With regard to the above-mentioned claimed lack of an insufficient legal basis for minority protection, the Free State of Saxony wishes to make the following comments:

“The generalized complaint that the German authorities “have not adopted specific legal provisions in order to implement Germany’s undertakings under the Charter” must be rejected. Based on the constitution of the Free State of Saxony, there exist a great number of legal provisions which have been referred to in the reports submitted so far. As for the rest, it has to be pointed out once more that the Charter applies as national law. It should also be mentioned that Section 4a of the amended Saxon Schools Act, which entered into force on 1 August 2004, takes express account of the European Charter for Regional or Minority Languages. Moreover, it should be noted that in other contexts involving society as a whole, it is permanently called for a reduction of bureaucracy. It is impossible and would be inappropriate to introduce legal regulations for all problems in everyday social life.”

Finally, the *Land* of **Brandenburg** wishes to make the following comments:

“Under number 215 of the second evaluation report, like in the first evaluation report, it is not made clear what legislative or other measures are expected as implementation of the provisions of the Charter. Neither does the Explanatory Report contain any precise information whether and, if so what, measures would be required by the Charter. Therefore, further comments cannot be made.”

Re recommendation no. 2:

“establish specific planning and monitoring mechanisms and ensure adequate resource allocation in the field of education;”

The efforts made by the German authorities appear insufficient. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education are still lacking. This renders it more difficult to envisage and enforce targeted measures with a view to improving the teaching in or of regional or minority languages. The reduction of the budget allocated to the study of and research into regional or minority languages at university level has resulted in a deterioration of the provision at this level since the adoption of this Recommendation, in particular with respect to the Sater Frisian and Low German languages.

“The **Frisian Council** fully shares the above-mentioned view of the Committee of experts. As regards the Frisian language, the universities of Flensburg and Kiel play a special role on the training of teachers. In the future, the training of teachers will be focused at Flensburg University. The negative impacts of the abolition of the position for a professor of the Frisian language at Flensburg University are still noticeable. This problem needs to be solved in the medium term. The Frisian Council believes that Flensburg University has good chances to develop a special regional and attractive profile. With regard to the ongoing structural changes introducing the bachelor and master levels, the university and the competent ministry should see to it that the Frisian seminar is strengthened, not weakened. The Frisian Council welcomes the willingness of the Ministry for Sciences, Economy and Transport to support Frisian as a university subject at Flensburg University. As regards secondary school education, a working group was set up in 2004 comprising representatives of the supervisory school authorities, the commissioners responsible for cultural and minority issues, the Institute for Quality Development at Schools (IQSH) and a representative of the Frisian ethnic group. This working group provides a basis for long-term planning. Now it is the responsibility of the *Land* to ensure that jointly developed approaches are put into practice.

As regards pre-school education (nursery schools), the *Land* has not developed a targeted language policy and a finance model.”

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“The Danish minority supports the above-mentioned recommendation to ensure appropriate funds for the educational sector, including the Danish school system, library system and adult training. In this area, planning certainty is particularly important.”

With regard to the recommendation to establish specific planning and monitoring mechanisms, the **Federal Government and the Länder** in contrast take the view that difficulties to fulfil obligations under the Charter do not result so much from a lack of planning and monitoring instruments as from the tight budget situation facing public authorities, the demographic development and internal migration into urban areas outside the traditional settlement areas of minority language speakers, i.e. from factors making it increasingly difficult to comply with minority-specific obligations taking account of general quality standards and economic considerations without limited centralization. Nevertheless, the next periodical report of the Federal Republic of Germany will deal more closely with the fulfilment of the obligatory supervision according to Article 8 para. 1 lit. i). With regard to recommendation no. 2 (“to ensure appropriate funds for the educational sector”) it should be noted that especially in times of a tense budgetary situation the views on what is or is not appropriate differ widely.

Re recommendation no. 3:

“take urgent action to strengthen education in North Frisian, Sater Frisian and Lower Sorbian, whose survival is particularly endangered, and in particular ensure continuity in educational provision in these languages throughout the school system;”

There are positive prospects for education in North Frisian, thanks to some moves envisaged to strengthen it and political support for the implementation of a model that the North-Frisian-speakers have themselves developed (see paragraph 238 above). There have not been any significant changes with respect to education in Lower Sorbian (see paragraphs 167-194 above). The situation concerning Sater Frisian education has actually worsened since the adoption of this Recommendation by the Committee of Ministers (see paragraphs 320-337 above).

“The **Frisian Council (North Frisian Section)** shares the view of the Committee of Experts that education in the Frisian language should be strengthened also in the future, even if the framework conditions for teaching in and of the Frisian language have improved in the last years.

If one looks at the teaching of the Frisian language at schools, such classes are offered only at individual initiative of parents or schools. In such cases, Frisian classes are completely funded by the *Land* of Schleswig-Holstein (taking account of actual demand) without affecting the regular budget of the school concerned or its regular curriculum. This practice represents significant progress compared to the past, and the Frisian Council acknowledges the efforts taken by the *Land* government and its openness to dialogue. Nevertheless, the Frisian Council would welcome if the provision of Frisian classes would no longer depend on the individual initiative of parents or schools but would be mandatory at all schools in North Frisland and on Helgoland (taking account of the actual demand) instead. Naturally, such a broad offer would increase demand, but at the same time the teaching of the Frisian language would be significantly strengthened. This would require adequate legal framework conditions and financial means.”

Re recommendation no. 4:

“improve basic and further teacher training for all regional and minority languages;”

There has been limited progress in this field. Incentives for basic and further teacher training for Upper Sorbian have been created in Saxony (see paragraphs 106-109 above). Some efforts have been made or are envisaged in Schleswig-Holstein with respect to North Frisian and in Hamburg with respect to Low German (see paragraphs 261-266 and 482-484 above). However, the shortage of adequately trained teachers at all levels of education remains one of the principal problems affecting nearly all regional or minority languages.

“The **Frisian Council** shares the view of the Committee of Experts that there has been little progress in this field, although some efforts were taken or are planned with regard to the Frisian language. It is indeed true that the combined shortage of qualified teachers and a legal basis for the teaching of the Frisian language still causes significant problems. The training of Frisian teachers will become more attractive as soon as the teaching of the Frisian language at schools is enshrined in the law (reliable offer policy). Therefore, legal regulations are indispensable to maintain the status quo and secure the current prospects for Frisian language teachers. In the short- and medium-term, existing approaches to teaching of the Frisian language should be extended. This would also improve job chances of qualified teachers of the Frisian language.”

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With regard to the issue of university education, the *Land* of **Lower Saxony** has made the following comments which put the Committee's observations into a different light:

"At its meeting on 24 February 2005, the *Land* parliament of Lower Saxony adopted a decision concerning "The regional languages of Low German and Sater Frisian in school education". In this decision the *Land* government is asked to "maintain a professorship in Low German language and literature in Lower Saxony in cooperation with other *Länder* of northern Germany, if appropriate, to ensure that additional classes are offered for the teacher training programme."

This goes back to a decision not to fill the vacancy at Göttingen University after the retirement of Professor Stellmacher at the end of the summer term 2005 and to abolish the Low German Language and Literature Master's Degree as part of a concept to optimize university education.

In accordance with the decision of the *Land* parliament of Lower Saxony, the *Land* government endeavours to develop a relevant offer and establish a professorship at Oldenburg University. After talks with the MWK and in line with the aims of the *Land* parliament's decision, the university of Oldenburg extended the structural policy plan of its German Department to include the establishment of a W2 professorship in Low German (as at July 2005). Although there is no vacancy for a position of a professor at the moment, there will be several such vacancies at the German department in the near future.

In its evaluation report on the German faculty, the Scientific Commission of Lower Saxony (WKN) has recommended focussing more on linguistic studies when adding a professorship in Low German to the faculty in order to retain the possibility of interlinking it with the institutes for Dutch studies, medievalist studies, German linguistics and social linguistics and Slavonic studies. Therefore, the professorship should be announced under the title "Language variation and language contact, with particular reference to the Low German language". Generally, it would be conceivable to extend this professorship to include also the Sater Frisian language. It is assumed that the recommendations of the WKN will be paid due heed in the process of establishing the professorships.

The MWK has told Oldenburg University that it was willing to provide the necessary funds for the position of an academic assistant for a certain period of time if such a professorship is established. Furthermore, Oldenburg University has been asked to examine possibilities of improving the co-operation with the Low German Institute in Bremen."

With regard to the observations of the Committee of Experts set out in no. 41 of the second evaluation report substantiating the above statement, the *Land* of **Saxony Anhalt** wishes to make the following comments:

"The Committee's request that the *Land* should exert greater influence on universities and research institutes is in conflict with the legally guaranteed autonomy of institutions of higher education. The *Land* is not in a position to require universities to concentrate their research projects on the Low German language, as can be seen from the example of the project "*Mittelelbisches Wörterbuch*" [Dictionary for the Middle Elbe Region] which was launched with seed money appropriated by the *Land* of Saxony Anhalt, but which the Martin-Luther University Halle-Wittenberg did not want to make a permanent project as part of the research of its German language department. To ask the *Land* for additional funds not only is in conflict with general budgetary constraints and the need to consolidate the budgets of the *Länder* – in this particular point the Committee of Experts is right – but it contradicts the claims for autonomy made by the universities themselves."

Re recommendation no. 5:

"establish a structural policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;"

A structured policy in accordance with the standard set by the Committee of Ministers in this Recommendation is still lacking. There is a general lack of relevant organisational measures, such as a human resources policy taking account of civil servants' skills in regional or minority languages, facilities and incentives for them to improve these skills, or an adequate framework for and resources allocated to translation and interpretation. The possibility to use regional or minority languages in dealings with judicial and administrative authorities in practice remains marginal, if not non-existent, especially with respect to written communication.

“The **Frisian Council** notes that significant progress has been made after the adoption of the Frisian Law (*Friisk-gesäts*). For the first time, the Frisian language has been acknowledged as an official language in North Friesland and on the isle of Helgoland. Before the Frisian Law was passed, the official German language and foreign languages were the only languages admitted in relations with public authorities. This has changed now, so that today Frisian is actually used in relations with and by public authorities. But the Frisian Law offers many more possibilities than are actually made use of at present, so the Frisian Council shares the view that there is still potential for development in this area. In a decision of 2003 the *Land* parliament of Schleswig-Holstein stipulated that knowledge of regional and minority languages can be taken into positive account when recruiting new public service staff. For the Frisians, this decision has become law with the adoption of the Frisian Law. The Frisian Council believes that this offers the possibility to enhance the multi-lingual capacity of public authorities, which would automatically encourage speakers to use the Frisian language.

The Frisian Council points out that an application has been submitted to the *Kreistag* of North Friesland concerning the use of the possibilities offered by the Frisian Law (*Friisk-gesäts*). It is suggested to make maximum use of these possibilities. This could include the use of bilingual signs in public buildings and public transport facilities, bilingual forms and publications, a “language map” for North Friesland or the regular report on minorities submitted by the *Kreis* North Friesland. This would enable the *Kreis* North Friesland to fulfil the recommendation no. 5 of the Committee of Experts by way of example for compliance with that recommendation at local level. The Frisian Council advocates that the *Kreis* North Friesland fulfils the provisions of the Frisian Law to the maximum extent possible.

The Frisian Council expressly supports the view of the Committee of Experts that a targeted structural policy encouraging the use of minority languages by organizational measures and personnel policies, for example, would be of great importance.”

“The **Danish minority** also has a great interest in a comprehensive and relevant structural policy which improves the acceptance and promotion of regional and minority languages. As a first step, such structural policy should be clearly defined, including feasibility considerations and an implementation schedule.

The Danish minority would, of course, be willing to contribute to such a “project”.

The **Free State of Saxony** raised the following objection against the observations of the Committee of Experts that led to the above-mentioned recommendation concerning the Sorbian language:

“The use of the Sorbian language when dealing with judicial or administrative authorities is governed by the Saxon Sorbs Act (*Sächsisches Sorbengesetz*), which provides for such a possibility. Therefore, claims to the contrary must be objected.

The very existence of some of the deficits referred to in the second evaluation report which, according to the Committee of Experts, could have been avoided by adopting a structural policy as recommended by the committee, is contested.”

With regard to the observations made by the Committee of Experts concerning compliance with Germany’s obligations under Article 10 paragraph 1 a) v of the Charter (possibility to validly submit documents in the Danish language), the *Land* of **Schleswig-Holstein** wishes to make the following comments:

“Under number 60 of the second evaluation report, the Committee of Experts revised its previous assessment and no longer regards this obligation as fulfilled.

The *Land* government of Schleswig-Holstein doubts that the extensive recommendation of the Committee of Experts still is within the scope of application of this provision. Article 10 para. 1 sub-para (a) (v) contains the obligation that speakers of the Danish language be allowed to validly submit documents written in the Danish language, as far as this is reasonably possible. This obligation is fulfilled. In this respect, reference is made once more to no. 287 of the second periodical report of the Federal Republic of Germany.”

Re recommendation no. 6:

“make the speakers of the regional or minority languages more aware that they have the possibility to avail themselves of the right to use their language before administrative and, where relevant, judicial authorities;”

Some awareness-raising activities have been undertaken, particularly in Schleswig-Holstein, which should be pursued. In some *Länder*, the efforts to make speakers of regional or minority languages aware of the possibility of using their language before the authorities have been too limited to have an impact on practical use.

“The **Frisian Council** shares the view of the Committee of Experts. Above all, the *Land* of Schleswig-Holstein has taken awareness-raising measures. But in the end, what matters is that the *Länder*, *Kreise* and municipalities act in a way that serves as an example for others, because, when dealing with public authorities, speakers of the Frisian language use their language only if they know that the other side also speaks this language. Therefore, measures that show that it is possible to use more than one language in public life in minority regions are of particular importance. In this regard, the use of bilingual signs in public places, the use of bilingual forms or the provision of language courses for public service staff are of more than symbolic value to the Frisian ethnic group.”

The **Danish minority** stated that it had always expressed its willingness to support the aim of promoting awareness of the possibilities for using minority languages, and declared that this task had not yet been completed.

Particularly in the view of the **Free State of Saxony** it has to be noted that the Charter does not require that parties involved in a trial are actively encouraged to use the Sorbian language in the courtroom.

“Perhaps a Sorbian dictionary would help encourage speakers of the Sorbian language to make greater use of their language. Unfortunately, there are no funds available for such a project at the moment. The same holds true for the Sorbian language training of judiciary staff.

However, the Saxon State Ministry of Justice will review the brochure „*Sächsischer Rechtswegweiser*“ (Saxon law guide) and add information explaining the rights under Section 9 of the Saxon Sorbs Act.“

Re recommendation no. 7:

“take a more active approach towards promoting the presence of the regional or minority languages in the media. “

Germany’s undertakings in the field of broadcasting media concern the encouragement and/or facilitation of the broadcasting of regional or minority language programmes in the private sector. While some regional or minority languages enjoy a certain presence in public service broadcasting, their presence is marginal in private broadcasting, and the authorities of the *Länder* concerned generally express the view that the State has a very limited scope for intervention. Nevertheless, there have been positive initiatives by the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

Cf. the comments below (re 3.2 R and S)

3.2. Re „Findings of the Committee of Experts in the second monitoring round“

A. The Committee of Experts compliments Germany on its continuing constructive dialogue with the Committee of Experts and its transparent approach to the implementation of the Charter. It notes, in particular, that the first evaluation report of the Committee of Experts and the second periodical report of Germany were discussed with representatives of regional or minority languages at an implementation conference and that the written comments of the language groups were appended to the second periodical report. The Committee of Experts commends the German authorities for the comprehensive information contained in the second periodical report and their response to requests for further information made by the Committee of Experts.

B. By adding further undertakings to its existing ones, Germany has demonstrated its long-term commitment to the protection and promotion of regional or minority languages. The Committee of Experts notes with satisfaction Germany’s dynamic approach to the instrument of ratification.

C. However, despite some positive developments, the situation of regional or minority languages has not changed significantly since the first monitoring round and the previous recommendations of the Committee of Ministers still remain valid. The Committee of Experts understands that the negative budgetary outlook has hampered progress to a certain extent. Nevertheless, it considers that Germany should take more determined steps to tackle the problems identified by the Charter’s monitoring mechanism.

According to the *Land* of **Saxony Anhalt**, the Committee of Experts is partly right in saying (cf. no. 36 of the report) that there “have not been noticeable changes in the situation regarding teaching and study of Low German in those *Länder* where Low German is only protected under Part II” as far as the “teaching” is concerned (there are no possibilities for study in Saxony Anhalt). The *Land* continues to

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say that this is a general phenomenon of school education, because even the most thorough structural changes would not result in immediate quality improvements, for teaching is much too complex an issue. "However, Saxony Anhalt has not only collected scientifically sound statistical data on teaching, but also launched structural measures creating the framework conditions for improving school education.

For example, the new Framework Curricula, especially of primary schools, provide for the possibility to integrate the Low German language in regular classroom instruction. As a rule, Low German speakers are involved in the revision of Framework Curricula, so that their comments and recommendations can be paid due heed.

The observation that "Low German is not systematically included in basic and further teacher training" does not apply to Saxony Anhalt. Much attention has already been given to the advanced training of teachers and the Working Group on Low German has made a vital contribution to this effect. New advanced training courses were offered in addition to "traditional" ones, such as a seminar presenting the new Low German reading book ("*Unsere niederdeutsche Fibel*") which has been fully financed from the public purse. This was an example for teacher training geared to actual needs which soon resulted in significant short-term quality improvements (which are very hard to verify). Claims of a lack of systematic basic training for teachers are also not justified. However, it has to be underlined once more that the *Land* has to respect the legally enshrined autonomy of higher education institutes with regard to study and research.

For two years, general official school statistics for the selection of Low German (mostly in activity groups or optional-subject courses) have been made in two supervisory school authority districts which are representative for the whole *Land*. Hence, there can be no talk of a lack of statistical information in Saxony Anhalt.

In all other respects, the Federal Republic of **Germany** wishes to express its thanks for the understanding of the Committee of Experts for the existing budgetary constraints and their effects on the protection of regional and minority languages; with regard to the Committee's call for more resolute action, Germany refers to its comments on recommendations no. 2 under 3.1 above. Germany asks the Committee to consider that maintaining the status quo under difficult circumstances could be seen as a positive sign.

D. The protection and promotion of regional or minority languages is mainly under the responsibility of the *Länder*. There is no federal language policy and the Federation mainly fulfils a co-ordinating role in this area. While some mechanisms of inter-*Land* co-operation are being put into place, the Committee of Experts considers that there is further scope for development in this area, in particular with regard to the Low German language, with the possible assistance of the federal level.

In the view of the **Federal Government**, the recommended inter-*Land* co-operation in protecting minority and regional languages may be considered especially where the settlement areas of speakers of such languages extend beyond the territory of one *Land*. In such cases, for example the Sorbian settlement areas in Brandenburg and Saxony, inter-*Land* co-operation already exists. The Federal Government can act as a mediator and encourage such co-operation in the Advisory Committee of the language group concerned. This is mainly the responsibility of the Federal Government Commissioner for Matters Related to Repatriates and National Minorities, who is always happy to consider proposals of the associations of the language groups.

The *Land* of **Saxony Anhalt** refers to no. 21 of the second evaluation report, in which the Committee of Experts asked for information on the status of inter-*Land* co-operation for the protection of the regional language of Low German, noting that co-operation plans set out in no. 122 of the second periodical report of Germany have been implemented and additional bilateral agreements concluded between individual *Länder*.

E. The attitude of the *Länder* towards regional or minority languages is on the whole very positive, although measures taken in favour of regional or minority languages vary significantly between the *Länder* concerned. Overall, the promotion of regional or minority languages is negatively affected, to varying degrees depending on the *Land*, by the lack of long-term, structured policies of language promotion and the absence of a pro-active approach to this promotion.

Please refer to the comments on recommendation no. 2 under 3.1 above.

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F. The German authorities have not adopted specific legal provisions in order to implement Germany's undertakings under the Charter, on the assumption that the Charter is directly applicable in Germany to the extent that its provisions are self-executing. The notable exception to this situation was the adoption of the Frisian Law (see paragraphs 274-275 above) by the Parliament of Schleswig-Holstein, which considered that this law was necessary to avoid legal uncertainties and to fill legislative gaps existing despite the ratification of the Charter. The Committee of Experts welcomes this development and considers that similar measures are also needed in other *Länder* concerned. It considers, in particular, that it is not realistic to expect civil servants dealing with citizens on a day-to-day basis to apply the Charter directly of their own initiative or regional or minority language speakers to legally challenge the widely established monolingual practices in Germany by directly invoking the Charter.

The Danish minority supports the comments in no. 3.2 of the second evaluation report and states the following: "We acknowledge the efforts of the German authorities to promote the Danish language in everyday life. Nevertheless, the Danish minority is of the opinion that general solutions are needed in some basic areas. Such areas include in particular the school education and the media. Therefore, the Danish minority welcomes the request of the Committee of Experts for legal provisions and a structural policy. The Danish minority will make the recommendation its own interest and raise the issue in discussions with the competent authorities.

In all other respects, reference is made to the **comments on recommendation no. 1 above** (re para. 3.1 of the monitoring report).

G. The absence of clear structured policies for regional or minority languages creates confusion among the speakers, as to the bodies and authorities responsible for the promotion of regional or minority languages at both the *Land* and federal levels on the one hand, and as to the availability and continuation of funding on the other. This situation combined with a shift from institutional funding towards project funding makes it particularly difficult for the speakers to develop and to implement long-term plans. This problem is particularly acute for the North Frisian, Sater Frisian and Low German languages, which have less developed institutional funding mechanisms.

The reiterated claim that confusion about the distribution of responsibilities would hamper the exercise of the rights of speakers of minority languages is not correct. The language groups concerned are extremely well organized and their associations know very well how to put forward the interests of their members.

With reference to no. 25 of the second evaluation report, **Saxony Anhalt** wishes to make the following comments:

"The allegation that speakers of regional or minority languages would not know which authorities at *Land* or federal level are responsible for the protection of regional or minority languages must be rejected as far as Saxony Anhalt is concerned.

Not only does the *Bundesrat Niederdeutsch* (federal council for Low German) take sufficient efforts to prevent such a situation, but the establishment of the working group on Low German in the Ministry for Cultural Affairs of Saxony Anhalt also rebuts the presumption.

The Working Group on Low German appointed by the Minister for Cultural Affairs in April 2002 is comprised of representatives of the Ministry for Cultural Affairs (Directorates-General for cultural and school matters), representatives of the speakers from the regions concerned (Altmark, Börde, Harz), a representative of the media and one scientist each of the Otto-von-Guericke University Magdeburg and the *Landesheimatbund Sachsen-Anhalt e.V.* (Saxony-Anhalt *Land* Union for Local and Regional Traditionals) and meets twice per year (spring and autumn). In addition to many other functions, its aim is to keep speakers of Low German informed about current developments at *Land* and federal level. The two representatives of Saxony Anhalt in the federal council on Low German, Dr Luther and Dr Lorenz, are also members of the working group on Low German in Saxony Anhalt and thus have the possibility to report about the work of the federal council on Low German and to spread information about matters at *Land* and federal level. In addition, the representatives of the Ministry of Cultural Affairs pursue this information policy anyhow.

A central task of the working group is to discuss all possibilities of financial assistance, which is also a central issue on the agenda of the group's autumn meeting, so that the Low German speakers in Saxony Anhalt will be very well informed about this issue.

Difficulties arising from the shift from "institutional funding" to "project funding" stipulated by budget law, as observed in the second evaluation report, have been acknowledged. But it is very unlikely that this development will change, all the more since it is not regarded as a failure to comply with obligations under the Charter.

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H. The Committee of Experts welcomes the fact that the Federation has accepted, on a voluntary basis, to maintain the level of its financial contribution to the Foundation for the Sorbian People. However, a lasting solution involving a long-term commitment by the Federation would be desirable. There are also some concerns about the internal organisation of the Foundation which need to be addressed in co-operation with the Sorbian-speakers.

The **Free State of Saxony** shares the view of the Committee of Experts that a lasting solution based on a long-term commitment of the Federal Government would be desirable. Therefore, the Free State of Saxony has tried to negotiate a funding agreement with the Federal Government for some time to ensure greater planning certainty. Of the three contracting parties, the Free State of Saxony is the only one that has made a constant financial contribution to the Foundation for the Sorbian People [*Stiftung für das sorbische Volk*] over many years.

Concerns regarding the internal organisation of the foundation should be explained in greater detail. The one in the second evaluation report is too blanket a statement as to allow detailed comments.

The **Federal Government Commissioner for Culture and the Media** wishes to make the following comments regarding the promotion of the Sorbian Institute:

“The first sentence in the above-cited statement of the Committee of Experts should be corrected as follows: “The Committee of Experts expects the Federal Government to maintain the level of its financial contribution to the Foundation for the Sorbian People.” It should be noted that as yet the Federal Government has not made any such declaration regarding the level of its financial contribution. After the second sentence “However, a lasting solution ...would be desirable”, the following sentence should be added: “Negotiations to this effect between the Federal Government and the *Länder* concerned are envisaged in the foreseeable future.”

I. The decision to extend Part III protection to the Romany language in Hesse was a very ambitious step. While welcoming this strong long-term commitment, the Committee of Experts is of the view that compliance with the selected undertakings requires a far more pro-active approach and sustained efforts from the German authorities, including a structured policy vis-à-vis the Romany language and the allocation of adequate financial resources. The Committee of Experts observes that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romany language of German Sinti and Roma has no standard written form, in accordance with the wishes of a number of speakers. In addition, some Romany-speakers do not wish their language to have a presence in public life outside the Sinti and Roma community. Given these circumstances, the Committee of Experts has some concerns as to how far implementation of many undertakings under Part III for Romany in the Land of Hesse is feasible in practice.

With regard to this statement of the Committee of Experts concerning difficulties in fulfilling the undertakings under the European Charter for Regional or Minority Languages, we first want to raise the **question** whether, in order to fulfil the undertaking, it is not sufficient that the *Land* as the responsible authority has taken all necessary steps even if it is not successful because the beneficiaries of the provisions under this undertaking do not agree with it. In case the undertaking is still not considered fulfilled, it has to be clarified which conclusions have to be drawn in view of the fact that it is impossible to fulfil the undertaking since measures taken against the will of the persons concerned are hardly imaginable.

The **Central Council of German Sinti and Roma** [*Zentralrat deutscher Sinti und Roma*], the umbrella organization for a part of the members of this language group, commented the more detailed remarks concerning the above statements in nos. 745 – 767 of the report as follows:

Concerning the statement on the scope of protection in no. 745 of the report it declares:

“Regarding the protection of the minority language of Romany as spoken by the German Sinti and Roma we would like to point out once more the special requirements arising from the basic principles of the European Charter for Regional or Minority Languages:

a) The Charter is intended “to protect and promote regional or minority languages as an endangered component of the European cultural heritage.” Taking this into account, a catalogue of various measures – in addition to a ban on discrimination – was set up. With due regard to the varying situations applying to the languages concerned, the measures have been formulated such as to allow the contracting states a greater scope in implementing the undertakings. The Charter’s objective is to preserve and develop these languages as an aspect of Europe’s cultural identity.

In this respect the special situation and status of the Romany language after the genocide of Sinti and Roma in Nazi-occupied Europe has to be taken into account. The consequences of the Holocaust still have an impact today. The German Sinti and Roma who had lived in the former *Reich* were to a particularly high degree the objects and victims of the Nazi “race researches” and so-called race hygienists of the *Reich* Security Main Office [*Reichssicherheitshauptamt, RSHA*]. In preparation for a comprehensive collection of data on the minority, these SS race researchers tried to gain confidence of the families by learning the minority’s language so they could trace their lineage back to the 16th century. These genealogies eventually formed the basis for the racial statements [*Rassekundliche Stellungnahmen*] of the RSHA on all members of minorities in the *Reich*. On the basis of the “race reports” [*Rassegutachten*] the Sinti and Roma – young and old and even 1/8 gypsies as they were called in Nazi jargon – were deported to Auschwitz and other concentration camps with the aim of total eradication of the minority. Except for few who were rescued by the allies, all were killed.

The members of the minority are still affected by the consequences of these dramatic events – also in view of preserving their own language, Romany, within the families. In this respect the situation of German Sinti and Roma is different from the situation of other minority languages of Roma minorities in eastern and southern Europe. The historical background – which cannot be blamed on the minority – must in no case constrain an equal protection of their minority language and its acknowledgement. Considering the historical facts, it is not acceptable that Romany should be regarded as inferior to other languages of national minorities in Germany. German Sinti and Roma have to be bindingly granted – just as the speakers of other minority languages – equal opportunities to maintain and promote their minority language according to Part III of the Charter.

b) In view of this historical background, the Federal Government and the *Land* governments accepted a joint declaration of the Central Council of German Sinti and Roma and the *Land* Associations of German Sinti and Roma. It states that “within the framework of the Charter any investigation on the minority and misapplication of present protective regulations is illegitimate.” All parties would vigorously oppose such attempts. With regard to this statement the *Land* authorities affirm that they will respect the wishes and requirements put forward by the *Land* associations within the scope of their policies and that no provision under the Charter may be applied against the interests and explicit wishes of the minority. Any provisions under the Charter – also in the field of education and culture – may be applied only on the initiative of the German Sinti and Roma minority or their representative institutions and may not be enforced by public authorities. The *Land* government coordinates the implementation of the Charter in all fields with the *Land* Association and promotes, if explicitly asked for, education measures carried out by teachers of the minority for minority members in order to preserve the minority language.

c) When ratifying the Charter, the Federal Government pointed out that the assumed undertakings become applicable upon the Charter entering into force. It emphasized once more that the implementation of specific measures can only be stipulated within the bounds of what is reasonable in the individual case concerned – as the explanatory report makes clear at several points. “Should, in connection with undertakings under Part III of the Charter, specific measures be submitted which require the development of an appropriate infrastructure, it cannot be inferred from the Charter that this infrastructure must be available upon the Charter coming into force. In this respect, especially concerning promotional measures to be implemented on request of parents, e.g. in education, an appropriate period of time necessary to prepare the implementation is not to be considered a breach of the undertakings under the Charter,” the Federal Government stated in 1997. The evaluation has to consider the fact that the Sinti and Roma genocide perpetrated by National Socialism was acknowledged by the authorities in charge only in the early 1980s, i.e. forty years later, and that the Sinti and Roma nowadays still suffer exclusion and discrimination resulting in many Sinti and Roma still denying their identity.

d) The *Land* government of Hesse has met the requirements in a commendable way by recognizing the quorum of altogether 35 provisions under Part III of the Charter. In its press release of 14 July 1998 the *Land* government explicitly stated that this decision determined the “equal protection of the minority language Romany”. This made Hesse “the first *Land* granting the highest protection for Romany according to the European Charter for Regional or Minority Languages”. As the reason for the Hessian initiative the government spokesperson stated the “massive drawback in maintenance and development the language of German Sinti and Roma experienced due to the Holocaust”. The aim is to “prevent any notion of discrimination compared to other regional or minority languages”. This was also unanimously agreed upon by the German parliament in May 1998.

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e) However, the offering made to the minority by the *Land* of Hesse in acknowledgement of the quorum is opposed by the negative attitude displayed by the other federal states. For Romany they accept measures of protection under Part III of the Charter only “below the quorum”, which is not only a blatant violation of the principles of the Charter. This attitude also impedes the political acceptance for the protection of the minority language Romany, promotes resentments within the minority and contradicts the responsibility for the minority on the basis of the protective measures adopted in Hesse.

In reaction to the Committee’s statements under nos. 746 – 750 substantiating its conclusions on the extension of the protection for Romany to Part III of the Charter concerning education, the Central Council of German Sinti and Roma notes:

“The Association of German Sinti and Roma / Hesse *Land* Association has submitted to the *Land* government of Hesse a draft public-law contract between the *Land* government and the *Land* Association as well as a concept for its work to implement the protection of minorities. This encompasses the maintenance of the minority language Romany and the legally binding obligation to protect and promote Romany. The 1997 draft contract of the *Land* Association of German Sinti and Roma also includes the provision that members of the minority may not be deterred from using their preferred language. As a “legal guarantee” the provisions of the *Land* Association’s draft contract are preceded by the following: “The *Land* government commits itself to protecting the national minority of German Sinti and Roma in Hesse and to promote conditions which allow the members of the minority to maintain and promote their culture and identity.” This includes all necessary measures to promote complete and effective equality between members of the national minority and members of the majority in all areas of political, economic, social and cultural life and to improve conditions for maintaining and developing the minority’s identity. Promotional measures also encompass education, media and administration as well as the maintenance of the minority language Romany.

To be able to conduct the required demand analysis and to make provisions for the actual implementation measures, the *Land* Association submits a detailed concept to the *Land* authorities. On local level, the *Land* Association at the same time seeks to conclude cooperation agreements with the authorities of cities and administrative districts [*Landkreise*] (in other federal states there are, as stated in Germany’s second periodical report, groups of Sinti pupils receiving homework assistance by minority members who also teach them the minority language).

So far, the *Land* government has not been willing to negotiate the conclusion of a public-law contract. At a panel discussion on 20 June 2005 dealing with “Acceptance and Participation or Continuity of Exclusion – Implementation of the Framework Convention for the Protection of National Minorities in Hesse” the leaders or representatives of the parliamentary parties in the Hessian *Landtag* declared that they would get briefed on the draft contract submitted by the *Land* Association of German Sinti and Roma by the *Land* government and then would further address the subject within the parliamentary groups.”

In addition, the Central Council of German Sinti and Roma – in reaction to the Committee’s statements on the protection of Romany in the field of education in no. 747 of its report – submitted a report by the Education division of its information centre. This report states to which extent the protection of Romany is desired in this field and how far it is already implemented:

“Their language – the German Romany – is an integral part of the identity of the Sinti and Roma. In the light of the experiences with the National Socialist dictatorship, this subject has to be addressed in every respect with utmost sensitivity. The so-called race researchers of the Third Reich misused the language to set up genealogies and “race reports” forming the basis for persecution, deportation and ultimately for the genocide. Besides the genocide, the severe breach of trust on the part of national authorities and the destruction of cultural values by the National Socialists continue to have an effect on today’s generations of Sinti and Roma.

Taking into account the historical facts as well as the special situation, the Education division, since its foundation in 2001, deals with the possibilities of promoting and maintaining the language. One of the major tasks of the division is to sensitize the minority for the significance of its own language. The division works to realize projects and provides support for this purpose.

In the school year 2003/04 the Bavarian *Land* Association in Nuremberg launched a pilot project giving Sinti children the opportunity of extracurricular classes and to use Romany at the same time. In the first year, a Sinti volunteer took charge of the project twice a week for two hours at a time. Since the beginning of the school year 2004/05 the project is funded by Bavaria within the scope of in-school

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midday care. However, a part-time position has not been approved. Due to the weak funding, this project as well as the launching of future projects is at risk. Nevertheless plans are made to establish homework assistance and catch-up tuition in the town of Fürth. In this respect, cooperation with the *Land* Association was set up (including sitting in on catch-up tuition).

In Bad Hersfeld/ Hesse, a promotional project – which takes place beyond regular classroom education – is currently being carried out. For this purpose, a minority member was granted a full-time position which is, however, limited to one year. This instruction – which is given in addition to regular classes only to children of the minority – is also provided in Romany. The responsible body for the project supervised by the Hesse *Land* Association is the Hersfeld-Rotenburg district.

The projects were preceded by discussions at the documentation centre, at board meetings in Kassel, at the Protestant Academy in Mühlheim and at the Tutzing Academy. In spring 2002 a conference of the Associations' boards took place at the Franken Academy [*Frankenakademie*] in Schey where the participants exchanged ideas and experiences. In May 2004 the participants met at the documentation centre in Heidelberg. In general it was noted that it is necessary to conduct demand analyses for the future conception of promotional projects but that public agencies have not yet granted the required funds.

In Rhineland-Palatinate, a framework agreement was signed between the *Land* government and the *Land* Association in July 2005. Its aim is to protect and promote the minority, considering in particular the negative consequences of the National Socialist genocide which are still not overcome, and to ensure equality and maintenance of the Sinti and Roma culture in Rhineland-Palatinate. The principles of the European Charter for Regional or Minority Languages will continue to play a significant role in this field. In the past years, minority members have repeatedly brought forward to the *Land* Association their interest in extracurricular instruction including their own language taught by members of the minority. At several occasions the possibilities for implementation were discussed with a staff member of the division. In this context the *Land* Association underscored that it will seek assistance by the Education division in case a relevant group of pupils can be assembled.

On the Internet and in various publications, the Education division sifts the emerging and intuitive application of the written German Romany. In addition, the division gathers information on the use of Romany in other European countries.”

In reaction to the Committee's statements under nos. 764 -767 substantiating its conclusions on the extension of the protection of Romany to Part III of the Charter concerning media, the Central Council of German Sinti and Roma notes:

“The initiative taken by the Hessian *Land* government on behalf of the public broadcaster *Hessischer Rundfunk* (HR) would also be applicable to private media in Hesse in order to fulfil the undertaking under the Charter. The supervisory body for private media in Hesse could inform private radio and TV broadcasters about Germany's obligations under the Charter and at the same time suggest them to enter into a dialog with the Hesse *Land* Association of German Sinti and Roma.

Since 1993 the *Land* Association of German Sinti and Roma has been striving towards a seat for a representative of the Hesse Sinti and Roma at the Broadcasting Board of the *Hessischer Rundfunk* (as a public body) as well as at the Control Body for private media. The draft contract between the Hessian *Land* government and the *Land* Association of German Sinti and Roma contains the following provision: “The *Land* government sees to introducing a representative of the minority to the HR Broadcasting Board and the respective public Control Bodies for private media and for corporations under public law in which the socially relevant groups have to be represented.

Furthermore, the *Land* government agrees to promote by reasonable means projects of the *Land* Association with the aim of creating and using own media and facilitating access to existing media.” However, this agreement has not yet been adopted (see passages concerning nos. 746 – 750 above). Although both, the *Land* Broadcasting Act as well as the Act on Private Media in Hesse, have been amended several times and the composition of the Control Bodies has changed, so far there has been no willingness to accept a representative of the Sinti and Roma. The exclusion of German Sinti and Roma from “socially relevant groups” in Germany is still a severe violation of the freedom from discrimination.”

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The **Sinti Alliance Germany** [*Sinti-Allianz Deutschland*], one of the umbrella organizations for German Sinti, formulates its more restrictive opinion on the issue, addressed by the Committee's statement as referred to above, of the scope of protection for Romany spoken by the Sinti as follows:

"The Committee pointed out that both German umbrella organizations – the Romany language group and the Hesse *Land* Association of German Sinti and Roma – have emphasized their rejection of a written form or standardization of Romany spoken by the Sinti (*Sintetickes*).

- This correct and important statement affects the implementation of numerous undertakings under Part III of the Charter for the *Land* Hesse – as the Committee also noted – as this attitude shared by the German Sinti and their umbrella organizations complicates or even prevents an effective practical implementation. The Sinti Alliance Germany sees its opinion affirmed that the public protection of Rommenes should be restricted to general standards acceptable to the Sinti and that the implementation of the assumed undertakings would in many cases contravene the interests and declared intentions of the Rommenes speaking Sinti. Waiving the undertakings in the fields of education, media, justice and administration would have facilitated focusing on general protection and promotion of private language learning and of cultural measures, in particular.

- The well-meant decision taken by the Hessian *Land* government to protect Rommenes in accordance with Part III of the Charter combined with the Committee of Experts' claim for full implementation, even of the controversial undertakings, bears the risk of initiating a totally undesired process which might lead to a violation of fundamental traditions of German Sinti. It has to be stressed that the Sinti not only generally reject a written form or standardization of their language but also its knowledge and use by non-Sinti, its introduction into state-run schools and its use in newspapers, for example. If German Roma should not share this opinion and seek practical implementation of the controversial undertakings, it would be necessary to ensure that the basis for a written form and standardization as well as its use in schooling and advanced training will be Romany as used by Roma in other countries and not the significantly different Rommenes spoken by the Sinti (*Sintetickes*). In this respect, the Free and Hanseatic City of Hamburg whose initiatives mainly focus on Roma – and consequently take into account their language – serves as an example. Referring to the Romany of German Sinti and Roma – whereas there are two separate languages with two different linguistic traditions – makes it more complicated for national authorities and the Committee to grasp the issue.

The Sinti Alliance Germany comments individual numbers of the report and subsequent claims or recommendations of the Committee of Experts as follows:

In no. 40 the Committee refers to the reticence of some families regarding the education initiatives for the use of Romany taken by the city of Hamburg. These are Sinti families who reject governmental action in this field due to their ancestral traditions whereas Roma families do not know this tradition.

In no. 747 the Committee refers to information given in Germany's second periodical report that the Education division of the Documentation and Cultural Centre of German Sinti and Roma does not develop any material for additional homework assistance and language classes and that it does not take any measures to support the introduction of Rommenes classes (*Sintetickes*) in Hesse but assumes other tasks. In this field there is an increasing consensus between the Sinti Alliance Germany and the Central Council of German Sinti and Roma who both agree that the traditions concerning Rommenes (*Sintetickes*) spoken by German Sinti have to be respected. Thus, relevant educational materials etc. have to be provided only for Romany speakers of the Roma living in the same region and wishing for schooling in their own language.

Regarding the statements of nos. 746 and 749 the Sinti Alliance Germany doubts – after some inquiries on the spot – the information in Germany's periodical report given by the *Land* Association of German Sinti and Roma and cited by the Committee that in several cities of Hesse, amongst others Darmstadt, Rommenes speakers asked for instruction in Rommenes in state-run schools as well as advanced training. Even if there were some individual requests – which we are not aware of – generally the opposite is true. Owing to the discussion of such potential measures the Sinti Alliance Germany received several requests expressing concerns about this kind of action. In this context the Committee should reassess its claims and recommendations to German authorities. They neglect the will of the group concerned – normally Rommenes speakers of the German Sinti.

Apart from the fundamental reservation concerning the use of Rommenes in schooling the Sinti Alliance Germany points out that – regarding the statements in no. 753 of the report – children of German Sinti

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and Roma should be taught only by regular teachers rather than Romany speakers without any educational training in order to prevent any educational gap. While welcoming the dedication of the Committee to employ trained teachers the Sinti Alliance Germany underlines its view that such measures should be restricted to extracurricular schooling for Roma children in their idiom of Romany. Sinti children are brought up with their traditional language in the families and family clans and do not need any assistance. If there are, contrary to our information, individual families wishing for assistance in this field, this could be provided – perhaps with State promotion – by local Sinti organizations without governmental action being required, e.g. by organizing holiday activities for Sinti children and teenagers.

The competent **Land of Hesse** comments the Committee's conclusion (see above) stating that extending the protection under Part III to the Romany language was an ambitious step, but that the assumed undertakings were not fulfilled convincingly enough as follows:

“The Council of Europe Committee of Experts acknowledges that the *Land Hesse* took an ambitious step by protecting the language of the SINTI and ROMA – Romany. There are about 7,500 Sinti and Roma living in Hesse. They are a protected group within the meaning of the Council of Europe Framework Convention for the Protection of National Minorities. Moreover, Romany is a protected language in Hesse within the meaning of the Council of Europe European Charter for Regional or Minority Languages.

In this context Hesse is so far the only *Land* of the Federal Republic of Germany that signed the quorum of 35 protective and promotional provisions of Part III of the Charter.

The Charter differentiates between simple protection of a minority language and special protection granted only to languages for which a country has adopted at least 35 of these protective undertakings. Since so far this kind of protection has been granted to Romany only in Hesse, the *Land* enjoys a good reputation on national and international level. This also holds true for the minority concerned as well as its respective organizations.

Thus, Romani Rose, Chairman of the Central Council of German Sinti and Roma (see Sinti und Roma in Deutschland, in: Zeitschrift bedrohte Völker_Program 225, 3/2004), states for example:

“One of the achievements of the civil rights movement was the acknowledgement of German Sinti and Roma as a national minority in May 1995 as well as of Danes, Frisians and Sorbs living in Germany. This resulted in precise claims for special protection and promotion as determined in international agreements such as the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages (...). For example, only the *Land Hesse* has adopted the 35 protective provisions of Part III of the Charter for German Romany, which is necessary for ratification.

Even the latest contractual agreement between the *Land* government of Rhineland-Palatinate and the local *Land* Association of German Sinti and Roma of 12 July 2005 – which has to be regarded as a positive development – does not reach that quality.

Against this background the *Land Hesse* reaffirms its intention to fulfil this voluntarily assumed undertaking as far as possible. This should be done irrespective of the fact that concerning Romany it is very difficult to put all plans into practice seamlessly. This particularly pertains to the non-existent standardization of Romany as a written language. In its evaluation report even the Committee of Experts admits this fact.

And this is also explicitly pointed out by representatives of the Sinti Alliance Germany. In their response to the evaluation report of 29 August 2005 they state, amongst others:

“ – The Committee has pointed out that both German umbrella organizations – the Rommenes language group and the Hesse *Land* Association of German Sinti and Roma – have emphasized their rejection of a written form or standardization of Rommenes spoken by the Sinti (Sintetickes). This correct and important statement affects the implementation of numerous undertakings under Part III of the Charter for the *Land Hesse* – as the Committee also noted – as this attitude shared by the German Sinti and their umbrella organizations complicates or even prevents an effective practical implementation.”

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The difficulties in fulfilling the quorum of 35 undertakings are also based on the position of the Central Council of German Sinti and Roma – often insisted on in the past – that certain undertakings should not be assumed by the state without the explicit assent of the linguistic minority so that the state-independent and self-governed sphere of the Sinti and Roma remains preserved.

In their self-definition, most Sinti and Roma regard their language – Romany – as a language of trust which may be passed on only within the ethnic group. This is another reason why many promotional measures of the *Land* cannot be taken into consideration or only to a certain extent.

The *Land* Hesse understands that the acknowledgement of Romany under Part III of the Charter takes priority over considerations on how to fulfil undertakings in a specific given case. Concerning the implementation of the Charter the *Land* Hesse reaffirms its willingness to enter into dialog with representatives of the Sinti and Roma.

However, the *Land* Hesse as signatory of the agreement regards the actual signing of the agreement as a landmark decision and future-oriented step which primarily aims at putting SINTI and ROMA on an equal footing with other speakers of regional or minority languages. The *Land* Hesse sticks to this claim. This is also reflected by the character of the *Land's* relationships to the local *Land* Association of Sinti and Roma.

Another proof is that there is a coordinating agency responsible for these relationships at the State Chancellery of the *Land* Hesse. The competent Head of Division also acts as chairman of this coordination agency which is composed of representatives of the Hessian Ministry of Social and Cultural Affairs. Due to this central role of the Hessian State Chancellery the protection of minorities is being brought to the attention of the concerned *Land* government's departments. In addition, it facilitates discussions at the highest level between the *Land* and Sinti and Roma representatives, e.g. also between the Minister-President and the Head of the State Chancellery.

Thus, the Hessian State Chancellery fulfils a coordinating and guiding function for the departments. However, the departments are the first bodies responsible for the implementation of the Charter. This includes the allocation of substantial funds – compared to other *Länder* – to the *Land* Association of Sinti and Roma. For the institutional sector, funds are allocated by the Hessian Ministry of Social Affairs and for the field of project promotion by the Hessian Ministry of Education and Cultural Affairs. This issue will be dealt with more closely later on.

A closer analysis of the situation in Hesse reveals that there is a significant gap between the requirements of the Charter and actual needs. Most undertakings – even though with certain restrictions – are not considered to be fulfilled. Some undertakings, especially in the social field, are considered to be fulfilled. Several criteria are to be evaluated in the next report.

Apart from that, the funding of the minority by the *Land* – which should also be assessed in the light of the currently tight economic and financial situation – has still to be strongly highlighted. This applies to public budgets in particular.

Nevertheless, the *Land* Hesse funds the Hesse *Land* Association of Sinti and Roma with € 156,000 p.a. to support the Association's office as well as various projects (see draft budget 2006: sec. 08, chap. 0806 product no. 12).

At the request of the *Land* Association these funds are managed largely by the Association itself. Furthermore, the *Land* funds the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] in Marburg. Funds cover salary and project work (one employee of pay grade A 13 and resources). Its major aim is to establish the subject of (advanced) training for teachers. The Bureau was founded in 1998 by the Hessian Ministry of Education and Cultural Affairs as a measure to implement the assumed undertakings. The topic has been introduced to the curricula. At Hessian schools, Sinti and Roma history as well as their current situation are addressed. The aforementioned Bureau as well as numerous projects and measures also contribute to this aim by promoting an education of empathy on the basis of Human Rights.

The *Land* Association of Sinti and Roma has neither taken nor announced any measures in the field of language promotion.

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The *Land* government and *Land* Association agree upon the available funds being allocated to projects aiming at the integration (particularly at schools) of minority members as well as to publications and exhibitions focusing on the Sinti and Roma genocide during National Socialism (see website of the Hesse *Land* Association of Sinti and Roma).

Regarding some minor integration problems, e.g. in education, this focus seems sensible.

In addition, the implementation of the Charter is – as stated above – complicated by the fact that Romany spoken by German Sinti and Roma does not have a standardized written form and that the minority regards it as a kind of ‘insider language’ which is not to be taught by national institutions.

It has to be concluded that so far teaching in Romany is not promoted comprehensively at Hessian schools and that progress within the meaning of the Charter seems very unlikely as such action is neither practicable nor wished for by the minority concerned.

The final conclusions and recommendations of the Committee of Experts explicitly point out this situation (e.g. no written form, insider language).

Against this background the implementation of the Charter’s aims should be adapted to the actual needs of Sinti and Roma.

In this context it seems to be more sensible to continue striving for constructive cooperation with the *Land* Association as Hesse already does – also inspired by the Charter. The available funds should continue to be allocated to integrative measures enabling Sinti and Roma to attend Hessian schools, integrating them into economic life and sensitizing pupils for the situation, language and cultural heritage of Sinti and Roma.

It has to be noted that about 12 million native speakers of Romany live in Europe. In Germany, there are about 50,000 German Sinti and Roma, in Hesse about 7,500.

The Committee of Expert’s evaluation has to be seen under this aspect, too.
Since the Sinti and Roma do not live in a well-defined territory, e.g. like the Sorbs in the Free State of Saxony, many of the Charter’s – basically right – intentions are hard, if at all, to implement in Hesse, also for quantitative reasons.

Often, the financial and organizational effort would be disproportionate to the expected results. In the end, this could be counterproductive to the basic intentions of the *Land* government.

Finally, we would like to address some of the undertakings evaluated by the Committee of Experts in order to clarify the previous statements.

The issue of implementation becomes predominant in Article 8 (Education) paragraph 1 of the Charter. The Committee of Experts notes that none of the educational measures takes into account Romany, neither as the language of instruction nor as contents of instruction, even though there is a demand for it in some cities. Demand analyses are to be conducted as soon as funds will be available.

The Committee of Experts calls upon the authorities to establish Romany in the Hessian education system in cooperation with the Sinti and Roma.

The *Land* has established dealing with individual differences and socio-cultural diversity as a main focus in its new education plan for children of 0 to 10 years. This plan also applies to Sinti and Roma. At Hessian day care centres, children of different cultural backgrounds experience an appropriate attention and consideration within educational processes. The Hessian education plan attributes a high importance to the native language of children who learn German as their second language. In this regard, the native language not only has to be respected but is also the basis for learning the German language.

As mentioned above, Hesse funds the Hesse *Land* Association of Sinti and Roma with € 156,000 p.a. which they can largely use at their own discretion. Moreover, the Land funds the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] in Marburg (one A 13 employee, resources) which is mainly active in the field of (advanced) training for teachers.

The positively evolving agreements with the *Land* Association of Sinti and Roma clearly show that the available funds are to be used for projects aiming at informing the majority population, particularly in the fields of (advanced) training of teachers and individual promotion. Topics are the integration of Sinti and Roma children into the Hessian education system, but also measures to inform their fellow pupils about the history and culture of Sinti and Roma in the context of regular classes in order to create an open-minded atmosphere. So far the discussion did not allude to the topic of establishing educational and language offers and we understand that the representatives of the linguistic minority do not desire any action in this field at the moment. In order to reliably establish such an offer – adequately adapted to the individual level of education – in all parts of the *Land* it would be necessary, in addition to fundraising, to consider the special need for measures of integration for the learning groups. At any rate, it has to be kept clearly in mind that Romany – unlike other minority languages – is a language passed on orally and that such measures can be introduced only with the absolute assent of the minority. This idiom cannot be mastered by establishing it as a language or content of instruction just as any other subject taught at Hessian schools. It is far more important to take integration measures as mentioned above by a) supporting measures to promote Sinti and Roma and b) drawing attention to the particularities of the ethnic group and sensitizing children for its culture and language within the scope of regular classes.

In view of limited resources, implementation of these measures could affect the current efforts if projects to promote Romany – for which there is no apparent demand – were introduced as well. In order to implement the undertakings under the Charter as requested by the Committee of Experts, it would be possible to extend the scope of current integrative measures and to review their further development. Thus, the Educational Bureau in Marburg, for example, will continue its work as described above. The Sinti and Roma can decide themselves – if there is a demand – whether they want to extend these exemplary offers to other places as well.

The Hesse *Land* Association of German Sinti and Roma also informed the Council of Europe about some cities where there seems to be a demand for adult training. Again, a demand analysis is to be conducted as soon as funds are available. Supposedly, there is a concrete demand in Darmstadt but it has not been taken into consideration by the competent authorities. The Sinti Alliance doubts this demand. The Committee of Experts asks the authorities to provide appropriate funds in order to meet this demand for adult/advanced training opportunities. Basically, the aforementioned applies to this case as well. Only if the Sinti and Roma wish for it, an efficient educational offer can be established. Such an educational offer, if established, would not have anything in common with school-based promotion. The most sensible area where to establish such an offer would be adult education centres.

Regarding history and culture the Committee of Experts states that the undertakings are fulfilled. Sinti and Roma history and culture are sufficiently taken into account through the efforts of the *Pädagogisches Büro Nationale Minderheiten: Sinti und Roma* [Educational Bureau for National Minorities: Sinti and Roma] which was established by the Hessian Ministry of Education and Cultural Affairs, but also through the curricula and advanced training measures for teachers. The Committee of Experts commends these efforts.

They will be carried on in the future.

In the field of (advanced) teacher training Hesse fulfils the undertakings. The acknowledgement by the Hessian Ministry of Education und Culture of the Hesse *Land* Association of German Sinti and Roma as an accredited agency for advanced training of teachers has not been mentioned, yet. It was acknowledged on 14 June 2005. This shows that the minority takes its responsibility in this field seriously. Although the Ministry of Education and Culture conceded the possibility to employ Romany speakers even without a state examination as teachers of language courses, this theoretic possibility is not made use of in practice.

However, teaching practice indicates that professional action is indispensable in order to grant effective teaching. If teachers are not sufficiently qualified, disappointments in teaching and learning will be inevitable. This is also noted in the statement of the (aforementioned) Sinti Alliance. In cooperation with the minority qualification actions could be taken in this field.

In view of the revision and evaluation of measures concerning the promotion of language acquisition the Committee states that Hesse did not fulfil the assumed undertakings. It has to be noted, however, that in the course of quality assurance and enhancement such evaluation will become more common. The

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Institute for Quality Development [*Institut für Qualitätsentwicklung*] attached to the Hessian Ministry of Education and Culture could also assume such a task, if necessary.

Through this institute, the required infrastructure for the evaluation of instruction processes is available and applicable, provided that there is demand and need for it.

The evaluation report basically states that the undertaking to include Romany in the curricula is not or only insufficiently fulfilled at Hessian schools.

Admittedly, such an offer cannot be provided region-wide due to the lack of an organizational infrastructure, resources and personnel. Only in individual regions regularly inhabited by a larger group of members of this linguistic community such an offer could be established – provided that there are appropriate financial resources and staff, i.e. also appropriate teachers.

Anyhow, the major aim must be to support all children and teenagers who attend Hessian schools in achieving qualified graduation and to integrate them into everyday school life. A vital prerequisite to this aim is a firm spoken and written command of the German language the acquisition and promotion of which is also one of the central concerns of the Hessian educational policy. This must also be taken into account when claiming state-provided teaching – which of course would be desirable – of a minority language such as Romany.

The undertakings under Article 9 are basically considered to be fulfilled. However, again we are confronted with the issue of a written form of Romany regarding documents etc. This is another example for the actual possibility of implementation of the Charter regarding official documents in everyday life.

The implementation issue is also reflected in Article 10. It provides for the possibility to use Romany in the framework of local authorities. The Committee of Experts considers this undertaking to be only formally fulfilled. However, in practice this issue is of little importance. Since the linguistic minority does not live in a well-defined territory it cannot be represented as a group at local authorities, as for example the German speaking South Tyroleans at their respective authorities. In case the problem arises somewhere in Hesse, solutions would be found in cooperation with the local Sinti and Roma representatives. We are not aware of such a wish. The *Land* can take actions in this field only on the basis of a concrete demand as otherwise the efforts would be disproportionate to the benefits. Another point of criticism is that it is not possible to submit applications to authorities in Romany. Since this issue has already been discussed in detail we will abstain from further comments in this report. However, we would like to point out once more that there is no territory in the sense of a well-defined settlement area, which renders practical implementation difficult.

The *Land* comments the statements made by the Committee of Experts regarding Article 11 concerning broadcasting as follows:

“The Committee states that – except for very occasional broadcasts of songs – Romany is not being used on radio or television. Furthermore, it noted that it had not been informed about measures taken by the authorities to encourage private broadcasting stations to broadcast programmes in Romany.

4.

5. Both statements do not sufficiently allow for the rule of governmental non-intervention in broadcasting as determined by the German constitutional law and also reflected in Article 11.1 of the Charter (“respecting the principle of the independence and autonomy of the media”). Under the constitutional rule of governmental non-intervention in broadcasting the state is not allowed to take influence on the choice, contents and form of the programmes of public-service or private broadcasters. Therefore, the public authorities cannot supervise programmes and evaluate individual broadcasts.

The undertakings under Article 11.1 of the Charter are based on the respective provisions of the Act on Private Broadcasting of the *Land* of Hesse and the Act on the *Hessischer Rundfunk*.

Section 13.1 of the Act on Private Broadcasting of the *Land* of Hesse states that: “Broadcasting programmes are subject to the constitutional order. The programmes shall respect human dignity as well as the moral, religious and ideological creeds of other people. They should encourage solidarity within reunited Germany as well as international understanding and contribute to social integration of foreign citizens, to realizing equal rights for women and men, to the protection of ethnic, cultural and linguistic minorities as well as to the respect for and protection of the environment.”

Section 3.3 of the Act on the *Hessischer Rundfunk* states: “The presentations must not violate the Constitution or the laws or hurt moral and religious sentiments. Any broadcasts containing prejudice or abasement for reasons of nationality, race, colour or ideology directed towards an individual person or a group are inadmissible.”

Concerning the measures listed by the Committee of Experts to encourage private broadcasting of programmes in Romany we would like to remind of the Open Channels established by the *Hessische Landesanstalt für privaten Rundfunk* [Hessian *Land* Institution for Private Broadcasting] in several regions of the *Land*. Through Open Channels social groups, organizations, institutions and individuals have the opportunity to publish their own contributions. Thus, Open Channels also offer the opportunity to broadcast programmes in Romany.

However, there were no requests for broadcasts in Romany on the radio or on Open Channels.

It is expected that the next periodical report of the Federal Government will provide some information regarding Article 12. In general, the existing applicable provisions for the promotion of free theatres and literary projects in Hesse also allow for the promotion of projects in Romany. Thus, cultural projects as described in this Article and carried out by Sinti and Roma in their own language can generally be funded by the Hessian Ministry of Scientific Affairs and Arts.

Moreover, the aforementioned Educational Bureau in Marburg is responsible for the coordination and accompaniment of regional and local projects (e.g. literature, renting of materials and films, organization of cultural events).

Since in this field, the Sinti and Roma representatives insist on not publishing written documents in Romany (see no. 771) it is unlikely that there are any literary works in this language.

With the funding provided by public authorities the *Land* Association of German Sinti and Roma can organize cultural projects which are mostly planned independently. To list all these projects would, however, go beyond the scope of this document. In this context we would like to draw your attention to the information provided on the website www.sinti-roma-hessen.de describing several cultural activities which are also supported by the *Land*.

The Committee stated that it had not received any information regarding the steps taken by Hesse in pursuing their cultural policy concerning Sinti and Roma abroad. In this respect the *Land* notes that it is the federal authorities who bear the responsibility for foreign cultural relationships.

Concerning Article 13 paragraph 1.d, the Committee of Experts (under nos. 783 et seqq. of the report) does not consider that the undertaking – to facilitate and/or encourage the use of regional or minority languages through additional measures in the meaning of the aforementioned provision – is fulfilled by the promotional measures taken for the speakers of the minority language Romany. In this context, the *Land* is willing to review further measures provided that the group concerned wishes for it. “

J. The situation regarding education in Danish at all levels remains satisfactory.

Notwithstanding this conclusion, the **Danish minority** would like to refer to its own comments in the last periodical report.

It also points out that it supports the recommendation of the Bundestag Inquiry Commission on “Culture in Germany” to enshrine the protection and promotion of culture in the Basic Law, but that protection and promotion must also include the autochthonous national minorities. This would give language protection for minorities a constitutional basis and represent an important development within the context of obligations arising from the Charter.

K. Provision for teaching in or of Upper Sorbian is relatively well developed. However, the rationalisation programme in rural schools in territories where Upper Sorbian is traditionally used may be having an adverse effect on the maintenance of the language. The Committee of Experts is especially concerned about the minimum number of 20 pupils required to open and maintain a class in secondary education, which it considers too high. This high threshold has already resulted in the closing-down of the Sorbian secondary

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school in Crostwitz. A lower minimum number would be appropriate for Lower Sorbian⁵, especially considering the precarious situation of this language and the general demographic trend in Saxony.

The **Free State of Saxony** comments on these fears by the Committee as follows:

“In the Sorbian technical secondary schools – and at the Sorbian Grammar School – the task of these schools to foster and develop the Sorbian language and culture is taking a secondary role, at least in some areas where it is behind the general educational purpose of these types of school. Minimum pupil numbers are necessary to be able to organise the statutory courses; these numbers are adhered to in principle, including in the Sorbian secondary technical school sector.

After the closure of the Sorbian secondary technical school in Crostwitz in 2003 there are still five Sorbian secondary technical schools in the Free State of Saxony; three in the Kamenz *Landkreis* (district) and two in the Bautzen *Landkreis*.

By a Decision of 27 May 2005 the Saxon State Ministry for Education revoked the participation of the Free State in the maintenance of grades 5 and 7 of the Sorbian secondary technical school in Panschwitz-Kuckau with effect from the 2005/2006 school year and in the maintenance of the whole school after the 2006/2007 school year. The background to this was forecasts of pupil numbers which predict only enough pupils for two classes each year at the Sorbian secondary technical schools in the Kamenz *Landkreis*. The need for location concentration cannot yet be excluded in the Bautzen *Landkreis* either.

In the past, the Saxon State Ministry for Education made an exception in order to deviate from the statutory minimum distance and pupil numbers – and, in many Sorbian schools, still does so. However, the mere fact that lessons are offered in the Sorbian language at a particular school does not necessarily mean that an exception has been made without examining the individual case.

All decisions about the Sorbian school system are taken against the background of the rights of the Sorbian People enshrined in Article 6 paragraph 1 of the Constitution of the Free State of Saxony and Article 2 and Article 4a paragraph 4 sub-paragraph 4 of the Schools Act (SchulG). Fostering and developing traditional culture, language and customs can be ensured at a reasonable distance and in good quality at the remaining Sorbian secondary technical schools in the Sorbian settlement area, even if there is a further reduction of secondary technical school locations.

The network of Sorbian schools will definitely continue to be so tightly structured that the reasonable accessibility of the Sorbian secondary technical schools remains in place – and only they are under discussion. The Free State of Saxony also ensures this with generous rules for exceptions – none of the Sorbian schools continuously meets the requirements of Article 4a paragraphs 1 and 3 of the Schools Act. Nevertheless, the existence of the Sorbian language and culture is not threatened if fellow pupils continue to attend the Sorbian secondary technical school in their local town, as in the 2005/2006 school year. A moderate adaptation of the school network that does justice to the constitutional requirement according to Article 6 of the Constitution of the Free State of Saxony, is not only possible, it is also necessary for the existing resources to be deployed in the best possible way.”

L. There have been no noticeable changes regarding Lower Sorbian education. The shortage of teachers at all levels of education, in particular, is a problem that has to be dealt with urgently in order to secure the future of Lower Sorbian, which the Committee of Experts already identified as a particularly endangered language in its first evaluation report.

The Lower Sorbian speakers are of the view that the definition of the traditional Lower Sorbian settlement area by the legal framework and administrative practice in the *Land* of Brandenburg, which has repercussions in the field of education among others, does not coincide with the territory where Lower Sorbian has traditionally been used. There seems to be a need for the German authorities to examine this question and take the necessary steps, in co-operation with the speakers.

The **Land Brandenburg** would like to correct the latter conclusion of a supposed invalid definition of the Lower Sorbian settlement area; this was also notified in no. 164 of the Monitoring Report:

“Admittedly, the Committee of Experts accurately notes that the statutory protection of various protection and promotion measures in favour of the Sorbian language is linked to a municipality’s membership of the traditional Sorbian settlement area. However, the assumption of the Consultative Committee that the legal definition or legal application in administrative practice reduces the Sorbian settlement area in some way does not do justice to the state of affairs and makes us concerned that the

⁵ The Saxon authorities noted that this must be a mistake. *The right sentence would be: „A lower minimum number would be appropriate for Upper Sorbian ...“*

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Committee is misjudging the structure of the statutory regulation. We therefore once again refer to the presentation re Article 10 paragraph 2 lit. g) in the second periodical report, according to which a municipality is assigned to the traditional settlement area of the Sorbian people by virtue of the law and does not leave any room for arbitrary decisions.

The *Sorben-Wenden-Gesetz* [Act on Sorbs and Wends] describes the Sorbian settlement area in such a way that it is represented according to the findings of the *Land* Government and the *Land* parliament; the Council for Sorbian Affairs at the Brandenburg *Land* Parliament and the Sorbian associations were included in the legislative process and did not raise any objections to the legislative definition of the settlement area. However, it is true that the existence of Sorbian traditions has subsequently been claimed with respect to two municipalities outside the area defined in the law. The *Land* Government is investigating whether this assumption is correct and, thus, if a supplement to the law is necessary.

The Ministry of Science, Research and Culture does not keep any list along the lines of the report conclusions. Only a list of those municipalities that count themselves in the traditional settlement area was officially published to inform the participants of the legal relations. However, this official publication has no constitutive significance with regard to membership of the traditional settlement area and is, otherwise, not definitive.”

The competent **Land Brandenburg** has sent the following responses to the above critical assessment of education in Lower Sorbian by the Committee of Experts, which is elaborated in more detail in nos. 169 to 180 (marginal numbers that are referred to are those in the Monitoring Report):

“With regard to the criticism under no. 169 of the Report that language promotion is hampered by the decentralised arrangement of responsibility, an explanation of the subsidies for Sorbian pre-school education is announced for the next periodical report and the following is notified in advance:

Pre-school education is the responsibility of local authorities in the *Land* Brandenburg. In addition to general funding, the *Landkreise* (rural administrative districts) and *kreisfreie Städte* (unitary authorities) receive earmarked subsidies under the *KitaG* (Children’s Day-Care Centre Act) from the *Land* to promote children’s day-care centres. For this reason, among other things, the *Land* Brandenburg has not assumed any obligation in Article 8 paragraph 1 lit. a) under i., ii. or iii., but rather under iv. because we feel that this provision best does justice to the decentralised administrative structure and widespread distribution of powers in Brandenburg and also assesses the promotion of Sorbian pre-school education within the context of a state and administrative structure of this kind. The extent to which centralisation in the distribution of funding could be sensible in this context is a complex question where many considerations have to be taken into account; the *Land* Government believes that the legal distribution of powers is appropriate. However, this side considers that central distribution of funding would not be absolutely necessary in the area of application of this Charter provision and the Brandenburg route probably does not contradict complete compliance with this standard.

The *Land* Government concurs with the conclusion under no. 174 of the Monitoring Report that Article 8 paragraph 1 lit. b) iv applies to the whole area in which the Sorbian language is currently spoken and it welcomes the circumstance that the Consultative Committee apparently no longer adheres to its demand in the first Evaluation Report for Sorbian language lessons also to be offered outside the Sorbian language area. However, the *Land* is also meeting its obligation to make provisions for the Sorbian language area in the intended way considering the comments to no. 164.”

Re no. 177-180: “According to Article 8 paragraph 1 lit. c) iv. the *Land* is required to apply one of the measures cited under i.-iii. to those pupils whose families so wish and if there are considered to be adequate numbers of them. Within the area in which the Sorbian language is used, the *Land* provides a secondary education for the pupils who want it (i.) and has made provision for the accommodation of the minority language in the curriculum in the way described in the second periodical report (iii.). This corresponds to the substance of the obligation.

The sections of the Report on Lower Sorbian education that concern the *Land* Brandenburg do not reveal any deficits in compliance – except for the disputed matter of the extent of the Sorbian settlement area, see above. In particular, this means that the change in providing body of the Lower Sorbian Grammar School in Cottbus should not be considered an infringement of the Charter provision because the Charter does not demand that the *Länder* be the providers of the schools concerned. Furthermore, the change in providing body is not associated with a deterioration in the Sorbian language offer.”

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The fear that the Committee of Experts expressed concerning a shortage of teachers for Lower Sorbian at all levels of school, upon which it bases its critical assessment of Lower Sorbian education, should be seen in conjunction with its criticism of university-level studies of Lower Sorbian, expressed in nos. 181 to 194.

The *Land* Brandenburg responds to this criticism as follows:

“Re nos. 184-185. Only a very few students take the opportunity to study the Sorbian language and culture in depth in Leipzig. The cultural components of the course are taught by various lecturers to all students together (Upper and Lower Sorbian), and a full-time lecturer’s post is available to teach those students who wish to specialise in Lower Sorbian for the language component. A larger number of lecturers to teach the students specialising in Lower Sorbian language and linguistics would not be sensible given the low numbers involved. The *Land* Government will make further reaching comments on this in the third periodical report.

Moving the in-depth course to Cottbus, as demanded by the Sorbian associations, cannot be considered; the synergetic effects achieved by the concentration of Sorbian studies in Leipzig would be completely negated.

Re nos. 182-188 (190). In the third periodical report the *Land* Government will provide the desired information about basic and further training for teachers.

Re no. 191. The *Land* Government shares the view of the Consultative Committee that the shortage of Sorbian teachers is of key importance to the survival of the Sorbian language given the importance of teaching languages in schools. It will continue to aim to halt the shortage of teachers and will report on this in the next periodical report.”

M. North Frisian education remains on the whole below the level envisaged by the undertakings chosen by Germany with respect to this language. Nevertheless, there have been certain improvements since the last monitoring round and there are ongoing plans and initiatives that offer positive prospects for this language. The Committee of Experts particularly welcomes the development of a coherent and realistic educational model by the speakers, and the political support pledged by the authorities of Schleswig-Holstein for its implementation, and trusts that this support will be followed by concrete action.

“**The Frisian Council** concurs with the comments made with respect to the general situation and to the specific situation of the minority language Frisian and notes that the work of the Committee of Experts has greatly helped to improve the opportunities for promoting the Frisian language. Nevertheless, the Frisian Council believes that the promotion of a national minority also falls under the responsibility of the Federation, in spite of the cultural sovereignty of the *Länder*. In this connection, the Frisian Council explicitly welcomes the support by the Federation on the basis of project funding. But, at the same time, the Frisian Council points out that there are still considerable deficits in the provision of funding to the *Nordfriisk Instuut* (the only academic institution of the Frisian ethnic group) and the structural organisation of the Frisian Council, the umbrella group of Frisian associations and institutions. Here, financial support comes only from the *Land* Schleswig-Holstein. In addition to the comments and suggestions made in items 3.2 and 3.3, the Frisian Council would like to make a further recommendation and the following comments:

- In addition to the recommendations of the Committee of Experts, the Frisian Council proposes examining the extent to which the “Frisian Law” (*Friisk-gesäts*) complies with new, additional provisions of the Charter. These provisions should then also be listed for the Charter.
- The Frisian Council explicitly welcomes that in 2005 an advisory body for matters relating to the Frisian ethnic group has been set up within the Federal Government as well as a working party of all four national minorities (Danes, Frisian, Sorbs and Sinti & Roma) at the Bundestag.
- By the same token, the Frisian Council welcomes the establishment of a secretariat of the Minorities’ Council at the Federal Ministry of the Interior even though the measure is initially limited until the end of December 2005.
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These are important steps to improve communications between the Frisians and the political and administrative decision makers at Federal level.”

However, the **Federal Government’s Commissioner for Culture and Media (BKM)** has the following comment on the above Frisian Council’s suggestion that the Federation should extend its funding for Frisians’ institutions:

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“The BKM funds cultural projects of the Frisian ethnic group to the tune of around € 250,000 per year. As the umbrella organisation of the Frisian associations and institutions the Frisian Council proposes these projects that are then finally agreed between the Frisian Council, the *Land* Schleswig-Holstein and the BKM. In recent years, projects of the Nordfriisk Instuut have also been supported within the scope of this funding. Furthermore, the BKM has made further funding available in special cases. The BKM has always rejected permanent institutional funding for Frisian institutions. During his last visit to Schleswig-Holstein the Federal Chancellor reiterated that the Federation would adhere to its past funding until 2008.”

In contrast to the comments by the Frisian Council on the notifications under nos. 238 et seqq. of the Report, which define the above comment by the Committee (North Frisian education remains on the whole below the level envisaged by the undertakings chosen by Germany), the **Land Schleswig-Holstein** makes the following comment:

“The Committee of Experts continues to view the undertaking according to Article 8 (1) a) iv. for North Frisian to be only partially met. It urgently requests the German authorities to enable Frisian pre-school education systematically with institutional and financial support for pupils whose families want it (cf. no. 245).

With reference to no. 244 and the comments during the “on-the-spot” visit, it must be added that the change to the Children’s Day-Care Centres Act mentioned then has not been adopted, with the result that the *Land* does not directly fund Frisian or the other minority and regional languages (Low German and Danish). Much rather, the Children’s Day-Care Centres Act will be amended in 2005/2006 so that the local providers of public youth welfare, the *Kreise* and the *kreisfreie Städte* receive *Land* funding to manage themselves. As the competent authority, they can use the *Land* funding to promote the minority and regional languages in their area.

The Committee of Experts also still considers the undertakings under Article 8 (1) b) iv and Article 8 (1) c) iv to be only partially met for North Frisian (cf. no. 250 and 256). It draws the German authority’s attention to the fact that Frisian should at least be available optionally as a class subject alongside the usual subjects or as an optional core subject within secondary education.

The *Land* Schleswig-Holstein has undertaken to offer Frisian and thus make it an option only where the parents want it. However, it is always an additional offer. In the interests of aiming towards acceptance as an optional compulsory subject in years 7 – 10, a project has been running since August 2005 at the basic and intermediate secondary school in Westerland that started with pupils in year 5.

According to Article 6 paragraph 3 of the Senior Level Code [*Oberstufenverordnung* (OVO)] Frisian can be offered as an optional core subject with the approval of the school supervisory authority and if certain conditions are met.

In conjunction with the duty arising from Article 8 (1) h) for North Frisian, the Committee of Experts regrets the low number of trained teaching staff who can teach Frisian, recognises the problems associated with the existence of several North Frisian dialects and welcomes that it is still possible to study North Frisian. In spite of the appreciable efforts by the *Land*, the Committee still considers that the undertakings have only been partially met. The Committee encourages the authorities to offer relevant training opportunities and supports initiatives to increase the number of teachers who can teach Frisian. It can also be said that, in addition to the *Land* specialist advisor, who advises schools and teachers, at the start of this school year the Institute for Quality Development at Schools, Schleswig-Holstein (IQSH) has appointed a part-time member of staff who is responsible for advising schools, developing teaching materials, conducting language courses, competitions, etc.”

N. The level of provision for teaching in and of Sater Frisian, another language which the Committee of Experts identified as being particularly endangered in its first evaluation report, is not satisfactory. The Committee of Experts regrets that provision for this language has actually deteriorated since the adoption of its first evaluation report, including some fields covered by Germany’s Part III undertakings. At the same time, the lack of continuity of the teaching, as evidenced by the fact that Germany has not chosen any Part III undertakings with respect to primary and secondary education, continues to be a source of concern. Teaching and study of Sater Frisian needs to be strengthened as a matter of priority, in accordance with Germany’s obligations under Article 7, paragraph 1.f and Article 8 of the Charter, in order to ensure the transmission of this language to future generations.

The **Land Lower Saxony** has the following to say about the Committee’s comments:

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“Participation in Sater Frisian lessons is on a voluntary basis in Lower Saxony. The offer is available on the part of the schools, appropriate teaching staff are in place. The required teaching material is drawn up by approved teachers with the support of the Education Ministry. However, take-up of the offer is subject to the way in which pupils and/or their parents/guardians make use of options and is thus subject to fluctuation.

We feel that the accusation of a lack of continuity in the teaching is not applicable. Lower Saxony meets the undertakings it has entered into in the schools sector. Part III undertakings, which do not exist for Lower Saxony, but which the Committee of Experts complained were absent, should not therefore be used as a justification for criticism.

Lower Saxony continues to try to implement the Charter.

- In February 2005 the Lower Saxon *Land* Parliament decided on even more intensive promotion and support for regional and minority languages. The decree applicable to schools, “The Region in Education”, ceased to be in force in January 2005 and is currently being revised against the background of the *Land* Parliament decision. The aims include giving Low German and Sater Frisian greater respect and consideration in everyday life at school.
- Within the context of drawing up new curricular for the subject of German in the primary sector and level I of secondary education, references to regional or minority languages will be mandatory.
- The application of the Saterland general and intermediate secondary school for setting up the optional compulsory subject of “Sater Frisian” is supported and currently given positive consideration to.

With regard to teacher training for Sater Frisian, cf. the comment by the *Land* Lower Saxony to 3.1 Recommendation no. 4 above.

O. Overall, Low German continues to be treated as a variant of German. While there have been considerable improvements in some *Länder* as regards the place of Low German in the Framework Curricula, in the overwhelming majority of cases Low German is taught as an element in other subjects (mainly German), rather than as a subject in its own right. In the absence of clear guidelines regarding the minimum number of teaching hours devoted to Low German, provision for the teaching of this language remains highly variable, depending on the willingness of the schools, teachers and pupils, and generally too limited to be considered an integral part of the curriculum. The lack of continuity in the teaching of Low German in Lower Saxony is a source of special concern. The Committee of Experts is worried about the reduction of the available facilities for the study of and research into Low German due to budget cuts since the adoption of its first evaluation report. This tendency needs to be reversed as a matter of urgency, given that the availability of an adequately trained specialised teaching staff is crucial for all the efforts in this field.

The Federal Council for Low German supports this comment as follows:

“In its work to date, the Federal Council for Low German has supported a clear setting of focuses in the field of education”. We are pleased to note that the Expert Report also takes this position. But we regret to note that individual *Länder* are deliberately not meeting their Charter obligations in the sector of “education”. It therefore appears all the more urgent to draw up a set of instruments or catalogue of measures with which the representatives of the language group can counter such infringements.

For the Federal Council for Low German, the Report by the Committee of Experts is an important means of continuing the dialogue with the groups involved in the process of implementing the Languages Charter and of working towards removing deficits and disadvantages in language protection in the medium term.”

By contrast, the **Free and Hanseatic City of Hamburg** states:

“In Hamburg, too, the specialist department “German” in the Authority for Education and Sport is responsible for Low German because it is a German language. In the framework curricula for the subject of German – as noted here in the Report – there is no stipulation on the time to spent teaching Low German. But this is also the case for the other mandatory content of the subject because they are largely taught in an integrative fashion. But the content requirements for Low German are so extensive that a considerable amount of time is spent on implementing them.”

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Moreover, the Free and Hanseatic City of Hamburg responds to the individual comments in the Report concerning the conditions in Hamburg upon which the above critical assessment of the promotion of the Low German language by the Committee of Experts is based and refers to the following:

“The Directive for Education and Instruction in Pre-School Classes mentioned in the Report at nos. 467 – 469 (re Article 8 paragraph 1 lit. a iv – Pre-School Education) entered into force in Hamburg on 1 August 2005. The Directive requires “that especially where the Low German language is spoken by sizeable groups of children there shall be an accommodation with this language and its importance for the Northern German language area shall be addressed in a way that is appropriate to children. Access to Low German shall also be promoted in an age-appropriate manner even if the kindergarten teachers are not active speakers, e.g. using rhymes, poems, counting verses and songs.”

This means that the undertakings that Hamburg entered into with respect to promoting Low German in pre-school education have been met.

Contrary to the assessment expressed by the Committee of Experts under nos. 470-473 (on meeting the obligation of Article 8 paragraph 1 lit. b iii) that Hamburg’s obligations with respect to the primary stage and the promotion of Low German in the primary stage are “partially” met, Hamburg takes the view that the expectations have been met. The framework curriculum for German for 2003 stipulates that the Low German language is “incorporated in conversational situations and that its usage be considered”. Low German literature is the subject of the lessons in the “Reading” segment with at least one poem or a short story or a song in every school year. The teaching staff are supported by a further training course in Low German by the *Land* Institute for Teacher Training and School Development (*Landesinstitut für Lehrerbildung und Schulentwicklung*).

The Free and Hanseatic City of Hamburg counters the following to the assessment of the Committee of Experts under nos. 474-477 of the Report that the duty according to Article 8 paragraph 1 lit c iii to ensure that Low German is an integral part of the curriculum in secondary education has been met only partially:

“The framework curricula for German, since 1 August 2003 and 1 August 2004 mandatory foundations for teaching and instruction in the secondary stages, declare the Low German language and literature to be mandatory components of German teaching. With explicit reference to the European Charter for Regional or Minority Languages, the framework curricula for German have ruled for secondary stage I in all forms of schools that the Low German language and literature be thematically integrated in German teaching. The framework curriculum for German for the senior level of grammar schools makes provision for the mandatory handling of the Low German language, its history and literature in order to draw attention to its importance for the Northern German language area in an integrative way in teaching – i.e. in conjunction with the central themes of the subject – and to promote the Low German tradition. In German lessons, access to this language and its diverse literature of the present and past should be opened up using selected examples, even if neither the pupils nor the teachers are active speakers of Low German.

The teaching staff are supported by a further training course in Low German by the *Land* Institute for Teacher Training and School Development (*Landesinstitut für Lehrerbildung und Schulentwicklung*). From the point of view of the Authority for Education and Sport, Hamburg has thus also fully met the undertakings resulting from Article 8 paragraph 1 c) iii.

The Free and Hanseatic City of Hamburg rejects the Committee’s comment under nos. 481 – 484 that the undertaking according to Article 8 paragraph 1 lit. h to ensure further training for teachers has been met only partially:

“Contrary to what is stated under no. 481, Hamburg offers special events for Low German in further training for teachers. These include the “*Schoolmeesterkrink*”, as well as further training courses for specific school stages that are associated with the “*Schrievwark*” hand-out. Low German is not a separate school subject and will not become one, either. Much rather, it is a part of German teaching. That is why no teaching staff are trained for the subject of Low German. The relevant qualification is part of teacher training in German.

The following is stated to supplement the comments under no. 482 of the Report: The training curricula of the 2nd phase of teacher training (practical teaching experience phase) is being revised. Information about the European Charter of Regional or Minority Languages and, as a skill to be acquired, the ability

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to teach pupils basic knowledge of the Low German language and literature are being included as mandatory content in the new training curricula for the subject of German. Furthermore, student teachers can also take part in the further training events of the *Land* Institute for Teacher Training and School Development.

The *Land* Institute regularly (once a month) offers a further training event in Low German and has drawn up an extensive hand-out for teaching staff. The courses are aimed both at teachers who want to learn more about Low German and at those who speak Low German themselves and are more interested in didactic-methodological tips. Participants receive a certificate of attendance. From the 2006/2007 school year on, within the context of the agreements on objectives and performance with the Authority for Education and Sport, the *Land* Institute will offer a further training event for Low German in which proof of performance will be provided, which will lead to certification if the requirements are met.

The Free and Hanseatic City of Hamburg corrects the Committee's comments under no. 483 as follows: There is no separate school subject of Low German alongside German; neither is one planned. This is not necessary within the context of the undertakings into which Hamburg entered by signing the European Charter for Regional or Minority Languages.

Contrary to the Committee's comments under no. 484, from the point of view of the Authority for Education and Sport, Hamburg has thus met the undertakings resulting from Article 8 paragraph 1 lit c iii."

For the promotion of the regional language Low German, cf. the comment of the ***Land Lower Saxony*** above on the comments on Sater Frisian under 3.2 N of the Report and on teacher training for Low German also above the comment of the *Land* Lower Saxony re 3. 1 Recommendation no 4.

With respect to the above-mentioned criticism by the Committee under O that there is insufficient promotion for the regional language Low German in the educational system, the ***Land Schleswig-Holstein*** refers to the following:

"In conjunction with the duties of Article 8 (1) b) iii and with Article 8 (1) c) iii for Low German, the Committee of Experts draws the German authorities' attention to the fact that Low German is taught across the board in primary and secondary education and that attention should be paid to clear guidelines and measures in teaching.

However, according to the undertakings entered into, Low German in Schleswig-Holstein explicitly does not have the status of a subject ordinarily included in the timetable. For this reason there are no curricula and thus no guidelines and measures for teaching. There are no plans for language teaching comparable with teaching a foreign language. To this extent, the *Land* will not be able to follow the Committee of Experts' request to teach Low German across the board, even in the future."

P. The absence of supervisory bodies within the meaning of Article 8, paragraph 1.i continues to be a problem. Adequate mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education, with corresponding reports which are made public, are still lacking. This makes it difficult to assess the development and shortcomings of regional or minority language education, and thus to develop and implement long-term strategies for improving it.

The **Free and Hanseatic City of Hamburg** has the following response to these comments and the defining comments of the Report under nos. 485 – 487 concerning the undertaking under Article 8 paragraph 1 lit. i to use supervisory bodies to secure the educational offer in the regional language Low German, etc.:

"The Authority for Education and Sport has now commissioned a staff member from the school supervisory section to coordinate the measures to promote the Low German language and literature in education and in school activities in cooperation with all school supervisory sections and the department responsible for this subject. Regular reporting is planned. The *Land* Institute for Teacher Training and School Development will also regularly report to the Authority for Education and Sport on its measures to promote Low German in teacher training and further training. Many activities to promote Low German are already published on the Internet on the Hamburg education server.

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Contrary to the Committee's comments under no. 487 of the Report, from the point of view of the Authority for Education and Sport, Hamburg has thus also met this part of the undertakings."

Q. The use of regional or minority languages before administrative authorities (and before judicial authorities in the case of Upper and Lower Sorbian) remains marginal. In the opinion of the Committee of Experts, in addition to the problem concerning the legal framework mentioned above, this is due to the fact that structured policies and relevant organisational measures to ensure the implementation of Germany's undertakings are often missing. Good practice that prevails elsewhere includes, for example, taking account of civil servants' skills in regional or minority languages, providing facilities and incentives for them to improve these skills, creating an adequate framework for, and allocating resources to, translation and interpretation. Not enough is done to make the speakers aware of the possibility to use their language before the authorities.

The evaluation of these comments by the competent **Länder** is critical on the whole, but varies in detail.

The **Land Brandenburg** provides the following information in this respect with reference to the comments under nos. 195 to 204 of the Monitoring Report, substantiating the critical comments of the Committee of Experts on the use of minority languages before administrative and judicial authorities:

"The *Land* Government agrees with the comment of Committee of Experts under no. 197 that the provisions of the Charter also need to be implemented in practice. However, this cannot mean that the *Land* must encourage parties in criminal proceedings to use the Sorbian language in court proceedings on the basis of Article 9 paragraph 1 lit. a) ii. and iii. (article numbers refer to the Charter). Where the Charter demands state measures to encourage and promote the use of the Sorbian language, this is explicitly stated in the relevant provisions. The lack of such a regulation within the context of Article 9 justifies the assumption that such measures cannot be demanded within the context of criminal proceedings.

Article 9 paragraph 1 obliges the parties to allow the free use of the Sorbian language in criminal proceedings; this right is guaranteed. The encouragement for the use of the Sorbian language exceeds what is required to implement this provision and its lack should not stand in the way of deeming this provision to have been met.

Re no. 203,204,208: We agree with the representation that, in line with the comment of the Explanatory Report, accepting an undertaking according to Article 10 also obliges the provision of the funding needed to implement these measures and to take the necessary measures. But this does not mean that the *Land* has to ensure that the Sorbian language really is used orally and in writing in contact with the authorities, but that it can be use if citizens want to do so.

The Report does not reveal that an attempt to make contact in the Sorbian language has failed. Against this background, there is no justification to assume that the practical opportunities to use the Sorbian language are not adequately guaranteed. There appears to be no evidence for the assumption that the low demand for the use of the Sorbian language in administrative contact is due to discouragement of citizens because of inadequate provision of Sorbian-speaking staff and linguistic aids in the authorities. The demand for informing interested groups of the opportunity to use the Sorbian language can be found neither in the Charter nor the Explanatory Report."

"Contrary to the defining comments under nos. 488-504, from the point of view of the **Free and Hanseatic City of Hamburg** it does not appear necessary to take special administrative measures to ensure the protection for the Low German language in Hamburg described in Article 10 paragraph 1 a) v. and c), paragraph 2 a), b) as well as paragraph 4 c). No cases are known in which documents written in the Low German language or oral requests in Low German have been rejected by the authorities. Neither are there any indications of inadequate implementation of the Charter provisions within the authorities. The lively use of Low German, even at the level of the constitutional body, is also proved by various major and minor requests in the Low German language that the Senate also replied to in Low German.

The Financial Authority in Hamburg responsible for district matters notes that there are no instructions or formal regulations for the departments of the Hamburg district offices concerning the use of Low German, but that it is left to the initiative of the staff to indicate their expertise in the Low German language in individual cases by using appropriate stickers/notices on their door name plates."

The **Free State of Saxony** responds to the deficits in measures to promote the use of minority languages in authorities commented on by the Committee by informing of the following measure:

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“Under the auspices of the Council for Sorbian Affairs and under the patronage of the President of the Saxon *Land* Parliament, the competition “Language-Friendly Local Authority” was conducted from 2004 to 2005 as a special measure. The local authority activities to increase the presence of bilingualism were to the fore here. A town or municipality is language-friendly if, with the help of the Sorbian language, it makes bilingualism visible as intellectual-cultural wealth, draws attention to it and encourages it.”

R. With regard to broadcasting, Germany has chosen only Part III undertakings pertaining to private broadcasters (Article 11, paragraph 1, sub-paragraphs b.ii and c.ii), despite the fact that a commendable effort is being made for some regional or minority languages in public service broadcasting. For these languages, the Committee of Experts encourages the German authorities also to ratify Article 11, paragraph 1.a.iii.

“**The Frisian Council** welcomes the willingness of the NDR (public broadcaster) to report on activities of the Frisian ethnic group. Equally, the Frisian Council views the Internet presentation of Frisian on the homepage of NDR1 Welle Nord as a positive example of the inclusion of the Frisian national language by the competent public broadcaster (www.ndr.de/wellenord/).

Nevertheless, the Frisian Council believes that the media presence of the Frisian language is inadequate. In the electronic media, North Frisian is probably the minority language with the smallest presence in Europe. Here, in particular, there is an obligation of the fee-financed public-sector media to protect and promote national minorities and to take account of their languages in their programmes. Three minutes of radio per week (0.03 % of the broadcast volume) on the public broadcaster NDR and no Frisian language programmes at all on NDR television show that much remains to be done here in order to reach national and international standards. As a short-term measure, the Frisian Council therefore proposes that more bilingual editors should be hired so that they can be used both for German-language and Frisian-language programmes. The Frisian Council would welcome it if at least short regular Frisian-language programmes could be seen in fixed slots on NDR television. The Frisian Council does not believe that this counters the principle of non-intervention in broadcasting to which a public broadcaster is obliged.

The Frisian Council informs that since 1 April 2005 a Frisian-language Internet radio station (www.nfradio.de) has been on air; it broadcasts daily from Monday to Friday for three hours from 7 to 10 pm. This broadcaster is also transmitted by *Offener Kanal Westküste*, which – unfortunately – can barely be received in the Frisian language area. The Frisian Council welcomes this initiative by the Frisians and points out that two things are necessary for the permanent establishment of this broadcaster, both as an Internet radio station and as a terrestrial radio station: Firstly, the financial basis of this broadcaster must be sustainably and permanently improved, because so far NF-Radio is only a project and is thus formally limited to a set period. And secondly, it would be desirable if *Offener Kanal Westküste*, and thus the Frisian-language programmes, could be received terrestrially in the whole Frisian language area. The finance could come from the fees raised by the public broadcasters, for example.”

The Danish minority announces its intention to continue to seek talks with the private and public media organisations in order to reinforce the Danish language in the media. “It is also about developing whole contributions in the Danish language. The Danish minority will also address this problem in connection with the introduction of the DVB-T standard.

It also points out the following problem associated with the reception of Danish broadcasters upon the introduction of digital television (DVB-T):

It can be seen that after the nationwide introduction of digital television there may be reception problems for the previous Danish stations (in the cable network) in this part of the *Land*. For the Danish minority it is important to be able to receive Danish television and radio stations in digital quality. The Danish minority will therefore turn to the Danish Ministry of Culture so that this problem can be addressed in the forthcoming international frequency negotiations in the spring of 2006. We understand that both the Danish and the German side are aware of this problem. It must be ensured that minorities north and south of the border can continue to receive television and radio stations from the respective neighbouring country.”

However, without prejudice to this, the **Free and Hanseatic City of Hamburg** has the following to say about the above comments and the comments under no. 523 of the Report:

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“Although the programme of study in Journalism/Media/Communications Science set up at Hamburg University does not contain any specific training content on regional languages, students have the opportunity to take courses with a Low German subject matter that are offered at the same faculty of the University.”

According to a notification from the **Land Lower Saxony**, the Committee’s comment above that regional and minority languages barely feature in the programmes of the private commercial broadcasters is true, but the *Land* draws attention to the following in this connection: “Since the target area of these broadcasters usually extends well beyond the language area of a regional or minority language, contributions in these languages are not usually worth their while, not even in the regional windows. Promotion always requires financial commitment by the broadcaster that cannot be forced. Film and media promotion in Lower Saxony is usually within the context of nordmedia, the media company of the *Länder* Lower Saxony and Bremen. Private broadcasters are not involved in the company, which makes promotion much more difficult. In the past, *Land* funding from outside nordmedia was available for film and media promotion, which was sometimes also invested in cooperations with private commercial broadcasters. But this funding has been scrapped due to the difficult budgetary situation. The supervisory authority for private broadcasters of Lower Saxony (*Niedersächsische Landesmedienanstalt*) is happy to take up initiatives by private broadcasters to strengthen the presence of regional and minority languages in the programming, but this would also require an initiative by the broadcaster in the form of an application for funding. There are many initiatives of this kind in the sector of non-commercial private broadcasters (citizens’ media), where the *Land* makes full use of its scope.”

Lower Saxony also points out that the ratification of Article 11 I a.iii of the Charter recommended by the Committee of Experts is out of the question because it irrevocably contradicts the constitutionally guaranteed non-intervention in broadcasting. “This also comprises the right of the broadcasters to make programmes under their own responsibility without government influence. We cannot imagine how appropriate measures could be taken to ensure that public broadcasters offer programmes in the regional or minority languages without specifically interfering in programming.”

In the **view of the Federation**, the willingness to ratify other articles from the Charter could also meet with the worry that some of the undertakings arising from the Charter have been relatively broadly interpreted, with the consequence that the addressee of the undertaking is then exposed to the accusation of not or only partially meeting the undertaking in question. This could also be one reason for the relatively low number of State Parties to the Charter.

S. Regional or minority languages remain largely absent from the private media, due to the lack of positive measures to promote their visibility there. The authorities claim that they have a very limited scope for intervention in this area on account of the constitutional guarantee of the freedom of the media. The Committee of Experts reiterates its view that this freedom is not compromised by facilitating or promoting the use of regional or minority languages in the media, and that it is necessary for their relative disadvantage in terms of economic and political weight to be redressed by positive measures in the media. There have nonetheless been positive initiatives involving the *Land* media authorities of Schleswig-Holstein (see paragraphs 75 and 293 above) and Lower Saxony (see paragraph 362 above), which could serve as a model. There is also scope for developing the use of Open Channels in this respect.

The **Land Brandenburg** has the following to say concerning the above-mentioned comments of defining statements under nos. 219 and 223 that the undertakings pursuant to Article 11 paragraph 1 lit. b ii and c ii have not been met, according to which the broadcasting of Lower Sorbian radio and television stations should be encouraged or facilitated: “In the next periodical report the *Land* Government will outline the *Land*’s remaining means of influence under the current legal framework and the actual situation with respect to the use of the Sorbian language in private radio and television media and provide the requested information to the Consultative Committee.”

In this connection, the **Land Schleswig-Holstein** has the following to say for the promotion of the Danish language:

“The factual and (constitutional) legal position as well as the resulting opportunities and limits of official action have already been outlined in detail several times. This means we will dispense with supplementary comments to nos. 67 and 71.”

The **Land Saxony-Anhalt** has provided the following information on the defining comments for Low German for the above-mentioned comments on the use of minority languages in the media under nos. 30 and 31 of the Report:

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“There is no need for a new assessment with regard to the constitutionally guaranteed freedom of the media in the Federal Republic of Germany.

Irrespective of this, the *Land* Saxony-Anhalt (Ministry of Culture) has directly contacted media representatives of the relevant media “*Volksstimme*” and MDR, mainly in the north of the *Land*, i.e. in the speech area of Low German; this is also an initiative that was discussed and evaluated in detail in the “Low German” working group in the Ministry of Culture.

The opportunities and limits of placing Low German in the media were discussed in detail in these highly constructive talks with media representatives. It became clear that, against the background of profits, the media (also, but not only) are happy to include contributions in Low German if they are well-received by the public – in the “Low German” working group this was discussed in great detail on the speakers’ side. Various strategies were developed that allow rapid and uncomplicated information about Low German events vis-à-vis these media. But the media representatives also made it clear that attractiveness to the public and the quality of the contributions – which are unfortunately not always guaranteed – are immovable criteria for publication or broadcasting.

T. The conditions for the use of regional or minority languages in the field of culture remain favourable in Germany. However, the federal authorities still make very limited provision for regional or minority languages and the cultures they reflect in pursuing their cultural policy abroad.

In connection with this comment, **the question arises** as to the extent to which and under which provision of the Charter the Committee believes duties should be accepted to make regional or minority languages and the cultures they reflect part of government policy abroad.

If, in this connection, the Committee (under no. 786 of its Report) feels that it is unable to ascertain the application of Article 14 lit. a) of the Charter for the Romany language in Hesse by means of bilateral or multilateral agreements to promote transfrontier contacts between the speakers of the various forms of Romany, reference is made to the fact that the cited provision demands such agreements only to the extent that it is necessary for transfrontier contacts between speakers of at least related language groups. If such contacts already exist, as the Committee itself noted for the speakers of Romany, there is no need for government regulation in every case. However, if the umbrella organisations of the German nationality speakers of minority languages or the regional language Low German establish such a need, corresponding proposals within the context of the undertakings entered into under the Charter will be examined.

Reference is also made to the Bonn-Copenhagen Declarations for the transfrontier contacts between the speakers of Danish.

U. More determined measures are needed to encourage the use of regional or minority languages in economic and social life. There is considerable scope for increasing the use of regional or minority languages in economic activities. Positive initiatives, such as the project “*Plattdütsk bi d’ Arbeit*” (see paragraph 673 above), could serve as a model for future action in this field. Regarding social care facilities, structured policies and corresponding measures, such as a bilingual human resources policy, are needed for the fulfilment of Germany’s undertakings with respect to the use of regional or minority languages.

Specifically with regard to the field of old people’s and nursing homes, the **Free and Hanseatic City of Hamburg** resolutely confirms the comments under nos. 543-546 and the position expounded under no. 544:

“The Authority for Social and Family Affairs, which is competent here, refers to the fact that to date neither representatives of the elderly nor providers of facilities have expressed a particular need for regulation to secure care offers in the Low German language. Since the undertaking of the State Parties under Article 13 paragraph 2 c) explicitly refers to what is reasonably possible, the evaluation and demand by the Committee of Experts (under nos. 545, 546) is rejected.”

The **Free State of Saxony** comments as follows on the Committee’s finding that measures are needed to promote the use of the languages in economic and cultural life:

“It can certainly be advantageous if Sorbian experts were to use their linguistic-cultural expertise to a greater extent in the economic exchange with Poland, the Czech Republic and other Slavic countries. If necessary, the bodies and chambers to promote the economy in Saxony should address this potential

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and help to develop it. But the impetus should come from the Sorbian economic alliance. In the field of tourism, the linguistic and cultural skills could also be used to a greater extent in order to attract more visitors from Poland and the Czech Republic. However, extending the compulsion to bilingualism would only impose a further burden on companies and would not be in the general interest. This means that the recommendation of the Committee of Experts can be partially positively evaluated in this respect.”

Re 3.3. Re the proposals for recommendations on the basis of the results of the second monitoring round

The Committee of Ministers is invited to draw its conclusions in the light of these comments.