



Bundesministerium
des Innern

Third Report of the Federal Republic of Germany

**in accordance with Article 15 para. 1
of the European Charter for Regional or Minority Languages**

2007

L/Europarat/Abkommen des Europarats/Sprachencharta/Implementierung/3. Staatenbericht/Textentwicklung 3.
Staatenbericht/070223Staatenber. 3 Sprcharta Engl Fassung Druckvorlage 2534-MindSprB-gesamt_EN

Contents

		Para
	Preliminary remarks	
Part A	General Situation and General Framework	1 – 23
Part B	Recommendations of the Committee of Ministers	24 – 31
Part C	Protection of the Languages under Part II (Article 7) of the Charter	31a – 66
Part D	Implementation of the obligations undertaken with regard to the various languages	67 – 5204
D.1	General remarks regarding the various Articles of the Charter	67 – 77
D.2.1 Danish	Danish in der Danish speech area in Schleswig-Holstein	1000 – 1044
	Art. 8	1000 – 1018
	Art. 9	1016a – 1021
	Art. 10	1022 – 1025
	Art. 11	1026 – 1031
	Art. 12	1031a – 1039
	Art. 13	1040 – 1042
	Art. 14	1042a – 1044
D.2.2 Sorbian	Sorbian in the Sorbian speech area in Saxony and Brandenburg	2000 - 2064
	Art. 8	2001 – 2023
	Art. 9	2024 – 2030
	Art. 10	2031 – 2041
	Art. 11	2042 – 2048
	Art. 12	2049 – 2056
	Art. 13	2059 – 2064
D.2.3 North Frisian	North Frisian in the North Frisian speech area in Schleswig-Holstein	3000 - 3050
	Art. 8	3000 – 3018
	Art. 9	3019 – 3021
	Art. 10	3022 – 3029
	Art. 11	3030 – 3036
	Art. 12	3037 – 3047
	Art. 13	3048 – 3049
	Art. 14	3050
D.2.4 Sater Frisian	Saterland Frisian in the Sater Frisian speech area in Lower Saxony	3500 - 3565
	Art. 8	3500 – 3509
	Art. 9	3510 – 3512
	Art. 10	3513 – 3533
	Art. 11	3534 – 3547
	Art. 12	3548 – 3560
	Art. 13	3561 – 3562

D.2.5 Romany	Romany in the speech area of the Federal Republic and of the individual <i>Länder</i>	4000 – 4110
	Art. 8	4002 – 4051
	Art. 9	4053 – 4055
	Art. 10	4056 – 4062
	Art. 11	4063 – 4103
	Art. 12	4104 – 4132
	Art. 13	4133 – 4137
	Art. 14	4138 – 4140
D.2.6 Low German	Low German in the individual <i>Länder</i>	5000 – 5204
	Art. 8	5000 – 5062
	Art. 9	5063 – 5065
	Art. 10	5066 – 5111
	Art. 11	5114 – 5155
	Art. 12	5156 – 5198
	Art. 13	5199 – 5203
	Art. 14	5204

Part E Comments by the minorities/language groups

Annex *Recent legislation and agreements which have not been included in previous State Reports and which are relevant for the implementation of the European Charter for Regional or Minority Languages.*

Preliminary remarks:

Just as the previous reports, this report was drawn up by the Federal Ministry of the Interior in cooperation with the responsible *Land* authorities and federal associations of the speakers of the languages protected by the Charter. An important instrument of cooperation was the implementation conference held in Berlin on 23 and 24 October 2006. The federal associations were given another opportunity to express their views on the protection of their languages, which do not have to correspond to the views of federal and state authorities. Part E of this report includes the relevant statements.

Part A General Situation and General Framework**A.1 General Situation**

1. For information about the general situation please refer to the second report of the Federal Republic of Germany in accordance with Article 15 para. 1 of the European Charter for Regional or Minority Languages (Second State Report), paragraphs 1 to 4.

Regarding the language groups' or minorities' request to improve funding it has to be noted that despite the tight budget at federal, state and local level, considerable efforts are being made to maintain the status quo of public funding for languages protected under the Charter.

A.2 The Charter's scope of application in Germany, and reporting requirements

2. The Second State Report, paras. 5 to 16, already explained that Germany has restricted the Charter's scope on the regional language Low German and the languages of its national minorities, i.e. languages of autochthonous groups (the Danish minority, the Frisian ethnic group, the Sorbian people, and the German Sinti and Roma)

A.3 Detailed information on the various languages:

3. See the Second State Report, paras. 17 to 45, for an overview of the Low German regional language and the minority language, i.e. Danish, Sorbian (Upper Sorbian and Lower Sorbian), Frisian (North Frisian and Sater Frisian) and Romany of the German Sinti and Roma.

A.4 Bodies established by the Federation and the *Länder*

A.4.1 Government agencies, other public authorities, and Commissioners

4. For information on the responsibilities of the federal ministries, in particular of the Federal Ministry of the Interior and the Federal Ministry of Justice, and the Federal Government Commissioner for Matters Related to Repatriates and National Minorities see paras. 46 to 50, and for the responsibilities of government agencies in the *Länder* see paras. 51 to 58 in the Second State Report.

In two *Länder* the following has changed:

Hesse: In the Hessian State Chancellery a special group is responsible for coordinating relations with Sinti and Roma. The competent Head of Division acts as chairman of a coordination group which is composed of representatives of the Hessian Ministry of Social and Cultural Affairs. The central competence of the Hessian State Chancellery for basic Sinti and Roma issues ensures that the protection of minorities in this area is also implemented by the *Land* ministries concerned. The two coordination group members are also the contact persons for Sinti and Roma issues in the above-mentioned ministries.

There are regular high-level discussions between Hesse and Sinti and Roma representatives, sometimes even with the participation of the Minister-President.

Schleswig-Holstein: Since 2005, the title has been “Commissioner for Minorities and Culture” (also see para. 52 of the Second State Report). Responsibilities regarding minorities and the Low German regional language remained unchanged.

A.4.2 Councils, institutions, and/or round tables at the federal level

5. Federal associations of language communities are involved in government decision-making through implementation conferences for the Framework Convention for the Protection of National Minorities (Framework Convention) and the Charter. They also participate through advisory committees at the Federal Ministry of the Interior for the Danish and Sorbian minorities and the Foundation for the Sorbian People [*Stiftung für das sorbische Volk*]. The German parliament may summon an ad hoc “discussion group on national minorities” (cf. paras. 59 ff. and 68 to 75 in the Second State Report).

6. Since the Second State Report, further advisory committees have been set up at the Federal Ministry of the Interior for the Frisian and Low German language groups. In Schleswig-Holstein, the Minister-President’s Commissioner for Minorities and Culture is also the contact person for Low German.

7. For the German Sinti and Roma, such commission will not be established. Although the Sinti Alliance Germany in Part E of this report expressed its willingness to cooperate with the other umbrella organization of the ethnic group in such a body, it is not clear how the Central Council of German Sinti and Roma and the Sinti Alliance Germany could achieve fruitful cooperation. However, leading personalities from the spheres of politics, academia and industry in Germany are represented on the Board of Curators of the Documentation and Cultural Centre of German Sinti and Roma.

A.4.3 Bodies established for the various languages (*Land* bodies and organizations)

A.4.3.1 The Danish language

8. Information about Danish minority organizations and speakers of the Danish language can be found in paras. 60 to 67 of the Second State Report. The number of members of the *Sydslesvigsk Forening* [SSF; South Schleswig Association] is decreasing, and on 30 June 2006 totalled 13,550. Moreover, the name of the Danevirkegården museum close to Schleswig mentioned in para. 63 of the Second

State Report was changed, the museum is now called Danevirke Museum.

A.4.3.2 The Sorbian language

9. Information about the Council for Sorbian Affairs [*Rat für sorbische Angelegenheiten*] in Sorbian settlement areas, i.e. Saxony and Brandenburg, and about the Foundation for the Sorbian People, in particular regarding their legal and financial situation, are included in paras. 68 – 75 of the Second State Report.

A.4.3.3 The Frisian language

10. The umbrella organization of the Frisians, the Inter-Frisian Council [*Interfriesischer Rat*] which comprises the umbrella organizations of the three sections, i.e.

- the **Section North** (in Schleswig-Holstein members include four representatives of the North Frisian Association [*Nordfriesischer Verein*], two representatives of the Frisian Association *Friiske Foriining*, one representative of the Eiderstedt Union for Local and Regional Traditions [*Eiderstedter Heimatbund*], one representative of the Helgoland municipality and one representative of the North Frisian Institute [*Nordfriesisches Institut*],
 - the **Section East** (in Lower Saxony including the public-law corporation *Ostfriesische Landschaft*, the *Oldenburgische Landschaft* and the *Seelter Buund* (Sater Frisians)), and
 - the **Section West** (in the Netherlands),
- is described in para. 77 of the Second State Report.

11. Information about

- Frisian associations such as the North Frisian Association, the *Öömrang Feriin* [*Öömrang Association*, i.e. association for the dialect spoken on the island of Amrum/Oomram], the *Friisk Foriining* [Frisian Association], the *ffnr (feriin for nordfriisk radio)* [Association for a North Frisian Radio Station] and the local/regional traditions clubs,

- Frisian institutions, the *Nordfriisk Instituut*, the private foundation in Alkersum and the private Fering foundation [*Fering Stiftung*],
- research and preservation activities concerning the Sater Frisian language, and
- the body dealing with matters concerning the Frisian ethnic group in the Schleswig-Holstein *Landtag*

can be found in paras. 76, 78 to 84 of the Second State Report.

A.4.3.4 The Romany language

12. In paras. 85 to 93 of the Second State Report we already pointed out that two umbrella organizations represent the German Sinti and Roma, namely the Central Council of German Sinti and Roma (Central Council), including several *Land* associations and the Documentation and Cultural Centre institutionally funded by the Federal Government, and the Sinti Alliance Germany (Sinti Alliance).

Obviously both organizations have very different views on the presentation of their ethnic group and its history, e.g. concerning the question of whether to avoid using the term “gypsy” on a future Holocaust memorial because it reflects the National Socialist race doctrine or whether it can be used as a much older term since a large part of the group concerned would otherwise not be given credit.

13. Para. 93 of the Second State Report stated that there are no bodies for protecting and promoting Romany because so far nobody has expressed a desire for such bodies.

It should be noted that, contrary to its views expressed in paras. 54 and 55, the Central Council presents the persons concerned to the public almost exclusively as victims of the Nazi Holocaust and current prejudices instead of an independent ethnic group with an own cultural identity which could enrich society. Although the Sinti Alliance Germany does not consider its ethnic group as a victim of ongoing discrimination, it shields the German Sinti’s language and culture from being studied by outsiders and consequently rejects the development of a written form and grammatical structures for the Romany spoken by German Sinti.

Both associations have very different views and do not seem willing to find compromise, so it is not clear how they could work together in a body for the protection and promotion of Romany.

14. In early 2006 a group mainly composed of German Sinti filed a petition signed by 400 persons with the Federal Ministry of the Interior. The petition requests that the Romany spoken by German Sinti should not be protected by the Charter since it may be passed on only within the ethnic group. Therefore, it may not be taught at public schools either. Instead, young German Sinti should be offered additional German language tuition in order to overcome general education deficits. This group wants to found a new organization for German Sinti although the Federal Ministry of the Interior after consulting the *Länder* pointed out that obligations under the Charter can be fulfilled only in consultation with the group concerned and that German language instruction – for all pupils needing support but also specifically for Roma children through Roma teachers – is already being offered. The group accuses the Central Council of having included Romany spoken by German Sinti in the Charter without consulting the persons concerned and of wilfully neglecting the support of Sinti disadvantaged in education. On the other hand, they do not want to join the Sinti Alliance because it suggested using the term “gypsy” for the Holocaust memorial.

15. Para. 93 of the Second State Report also introduced numerous efforts to overcome education deficits of Sinti and Roma through promotion measures ranging from pre-school to adult training. The deficits result from unsatisfactory school attendance, which in some families can be ascribed to negative experience in the past.

15a. Finally, it has to be noted that the different opinions of the groups concerned regarding the protection of their language(s), i.e. Romany spoken by German Roma and German Sinti, through the Charter caused problematic developments: Initially, the supporters of the protection of this/these language(s) – the only group which had been known so far – urgently asked the Federal Republic of Germany and its *Länder* to ratify the Charter assuming as many obligations as possible with respect to this/these language(s). But after Germany had ratified the Charter, it turned out that a considerable number of Romany speakers refused to create the necessary conditions to achieve the goals set by numerous provisions of the Charter (e.g. creating a written form and instruction about and in the language also for third parties).

Hence, the Committee of Experts observed in para. 745 of its second monitoring report, “that compliance with many of the selected undertakings (from the Charter) is rendered difficult, or even impossible, by the fact that the Romany language of

German Sinti and Roma has no standard written form, as it has hitherto not been codified, in accordance with the wishes of a number of speakers.”

The Federal Government and the *Länder* try to fulfil the obligations under the Charter within these tight constraints.

For example, in 2005 the *Land* of Rhineland-Palatinate concluded a framework agreement with the Association of German Sinti and Roma – *Land* Association of German Sinti and Roma – which is annexed in Part E of this report.

The preamble to this framework convention states that the Council of Europe Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages are the basis for activities of the *Land*. In addition, the preamble notes that given the Roma and Sinti genocide during National Socialism, the *Land* is aware of its historical responsibility, in particular towards members of this minority. In respect of this commitment, some provisions of the agreement are based on experience whereas others are new. It needs to be particularly highlighted that regarding the preservation of Sinti and Roma culture and language, Article 2 states that the *Land* Government will support initiatives of the *Land* association which aim at providing additional programmes for education facilities such as day-care centres and schools/universities. These programmes are developed and carried out by the Rhineland-Palatinate *Land* Association of German Sinti and Roma. There will be meetings between the State Chancellery and the *Land* association to discuss implementation. Moreover, the *Land* Government agreed to support applications for project funding filed by the *Land* association, e.g. in the field of advanced vocational training and the promotion of artistic skills and the special music of Sinti and Roma in Rhineland-Palatinate, within the bounds of available budget.

The framework agreement was concluded for an indefinite period of time. The parties agreed to analyse experience gained after five years and to adapt the agreement to new conditions, if necessary.

The Rhineland-Palatinate *Land* Government considers this framework agreement an important step towards the protection of the minority against discrimination and, in terms of the Charter, the preservation of the culture, language and identity of the group concerned to the desired extent.

A.4.3.5 The Low German language

16. Paras. 94 to 97 of the Second State Report name bodies to coordinate promotion activities in favour of the Low German language. They include Low German Consultative Councils (in Mecklenburg-Western Pomerania chaired by the Minister for Education, Scientific and Cultural Affairs, in Schleswig-Holstein at the *Land* parliament chaired by the *Land* parliament's president), the Schleswig-Holstein Minister-President's Commissioner for Minorities and Culture and the working group for the implementation of the Charter at the *Niedersächsischer Heimatbund* composed of representatives from various ministries and parliamentary groups. The working group met only once during the last two years but is to meet on a more regular basis soon.

In Saxony-Anhalt activities are coordinated by the Working Group on Low German at the Ministry for Education and Culture. The group is composed of representatives of the different language groups from different areas (Harz, Börde, Altmark), of the Ministry for Education and Culture, the *Landesheimatbundes Sachsen-Anhalt*, of the *Arbeitsstelle Niederdeutsch* of the *Germanistisches Institut* of Otto von Guericke University in Magdeburg and of the *Volksstimme* daily newspaper (regional section "Altmark").

17. Paras. 98 to 99 of the report listed research and teaching capacities at the universities in Bielefeld, Flensburg, Greifswald, Göttingen, Hamburg, Kiel, Münster, Magdeburg and Rostock, and courses of study in Bremen, Paderborn, Potsdam, Oldenburg and Osnabrück. In addition, the significance of specific research institutes and local/regional traditions clubs was highlighted.

17a. However, in some cases information about research and teaching capacities is no longer up-to-date.

For example, the Federal Council for Low German [*Bundesrat für Niederdeutsch*] pointed out that there are professorial chairs for Low German only in Hamburg, Kiel and Rostock (in Göttingen the chair was closed in the winter semester 2005/2006) and institutions (departments, research centres, esp. dictionary units) only in Göttingen, Greifswald, Magdeburg and Münster. Although Low German studies are

conducted in Flensburg, teaching mainly focuses on language instruction. In addition, there are courses of study in Bielefeld, Bochum, Bremen, Paderborn, Potsdam, Oldenburg and Osnabrück. However, they are not a structural part of the curriculum but depend on individual professors.

Thus, paras. 5031 to 5036 of this report set out the current situation of Low German at universities.

On 8 and 9 June 2006, the conference “Low German and Frisian in education in different *Länder*” took place, which is a new development. The meeting was organized by the *Niedersächsischer Heimatbund* in cooperation with the *Land* Lower Saxony and the Federal Council for Low German. For the first time, eight *Länder* (Brandenburg, Bremen, Hamburg, Mecklenburg-Wester Pomerania, Lower Saxony, North-Rhine Westphalia, Saxony-Anhalt and Schleswig-Holstein) and the Federal Council for Low German discussed inter-state cooperation. A representative of the Secretariat of the Committee of Experts for the Charter participated in the meeting.

The parties agreed on enhanced cooperation of the responsible persons at *Land* level among each other and with the Federal Council for Low German.

A.5 Participation of the *Bund*, *Länder* and language groups

18. The Federal Ministry of the Interior, which is responsible for implementing the Charter, organizes meetings of the Advisory Committees for individual language groups mentioned under paras. 5 and 6, including the respective associations and federal and state ministries, and annual conferences on the implementation of both the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages. Given the short three-year reporting cycle, reporting obligations, in particular arising from the Charter, consume a considerable share of the available resources.

19. In line with the statements made in para. 102 of the Second State Report, the present report has been submitted for approval to the central organizations of the groups concerned and discussed at an implementation conference. Since the *Länder* and the language groups reviewed the report at the same time, some *Länder* lacked the time to comment on the statements of the language groups so that different views will have to be discussed in the framework of the monitoring procedure, if necessary.

The comments of the groups are annexed in Part E of this report. It will be published after having been submitted to the Council of Europe Secretariat.

A.6. Public information regarding the Charter

20. As a result of the ongoing information work described in para. 103 of the Second State Report, there was extensive media coverage – supported by public bodies – about individual language groups, in particular in connection with the 50th anniversary of the Bonn-Copenhagen Declarations in 2005. It acknowledged the outstanding promotion of the German minority in Denmark and the Danish minority in Germany, and of the respective languages.

21. Deutsche Post issued commemorative stamps for the 50th anniversary of the Bonn-Copenhagen Declarations and of the foundation of the Frisian Council to raise awareness for minorities with an own language different from German.

22. Despite a large number of copies, supplies of the information brochure “National Minorities in Germany” mentioned in para. 104 of the Second State Report and issued by the Federal Government Commissioner for Matters Relating to Repatriates and National Minorities as part of his public information activities were exhausted. The brochure, which also deals with minority languages, was revised in consultation with the language groups and published in November 2006.

23. The Federal Ministry of the Interior is currently examining whether an additional brochure specifically addressing the languages protected under the Charter should be issued.

Part B Recommendations of the Committee of Ministers

B.1 Main recommendations of the Committee of Ministers

24. The Committee of Ministers of the Council of Europe has made the following recommendations with regard to Germany. These recommendations prompted the Federal Government to discuss the feasible implementation measures and requirements with the *Bund*, the *Länder* and language groups. The specific measures are set out in Parts C and D in connection with the reports on the implementation of the relevant provisions. A summary is given below:

The Committee of Ministers,

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

Having regard to the instrument of ratification submitted by Germany on 16 September 1998;

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

Bearing in mind that this evaluation is based on information submitted by Germany in its Second State Report, supplementary information given by the German authorities, information submitted by bodies and associations legally established in Germany and the information obtained by the Committee of Experts during its “on-the-spot” visit,

Having taken note of the comments made by the German authorities on the contents of the Committee of Experts’ report;

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

1. adopt specific legal provisions, where these are still lacking, in order to ensure the practical implementation of the undertakings which Germany has entered into under the Charter;

24a. Explanations are given in paras. 106 – 109 of the Second State Report: In short, it is not necessary to adopt additional legal provisions to implement the Charter since it is directly applicable. Therefore, we need to continue our efforts to reduce the vast number of legal provisions through deregulation and strict compliance with the subsidiarity principle. Hence, we reiterate the opinion expressed in para. 110 of the Second State Report that the implementation process does not need to focus primarily on legal issues but rather on practical issues such as financial feasibility given the tight public budget situation to implement or draw on the obligations.

The implementation will continue to be a high priority for the Federal Republic of Germany, although it will be difficult to increase funds given the strained budgets at federal, state and local level.

2. take action to improve provision and allocate adequate resources for regional or minority language teaching and in particular:

- **ensure that the current schools rationalisation programme in Saxony does not jeopardise the provision of education in Upper Sorbian;**
- **remedy the existing shortage of Lower-Sorbian-speaking teachers;**
- **develop and implement the educational model for North Frisian proposed by the North Frisian speakers;**
- **adopt measures to improve teaching in and of Sater Frisian as a matter of urgency and ensure continuity in educational provision in this language;**
- **increase the number of hours devoted to, and provide clear guidelines for, Low German teaching in the Länder concerned;**
- **adopt a structured policy with respect to Romany in the field of education, in co-operation with the speakers;**

24b. The Federal Republic of Germany is aware of how important the educational system is for preserving and fostering the regional and minority languages. The

Länder – which under the federal structure of Germany are responsible for educational policies – make intensive efforts to provide an adequate framework to the benefit of the regional and minority languages. To this end, the different situations in the various language areas – as regards the numbers of speakers and varying language use – must be reconciled, on the one hand, with the availability of financial resources and, on the other hand, with the scope for administrative action. In this regard, also see the comments in paras. 515 and 516 of the Second State Report.

25. As explained in para. 112 of the Second State Report, language policy must in particular, on the basis of the lessons and classes offered, bring the requirements and demand – as notified by the language groups themselves – into relation to the adequate administrative measures. Also in this respect, Germany is well aware of how instrumental an adequate school infrastructure is in preserving and vitalizing languages. It is just as important, however, to achieve a balance in general cultural work so as to increase the awareness of their own language among the given language group, especially the younger generation as the target group of school education – seeing that it is this very awareness that will create demand for such school education. Our experience so far shows that, in instances, demand lags behind the actual educational offers. In planning school curricula, the relevant authorities must take account of the synergy effects between cultural promotion and school education measures, on the one hand, and of the resulting tensions on the other hand. The Charter, too, recognized these conflicting requirements and conditions and, in the provisions relevant in this context, called for appropriate educational provision in those cases where the number of pupils is considered sufficiently large. The German authorities will continue their efforts to strike a balance between the measures taken in the two fields and to respond to emerging developments. Contrary to the view expressed by the Federal Council for Low German and despite the fact that many languages were oppressed and marginalized in the past, it is not possible to provide more teaching programmes than actually needed.

3. ***reverse the decline in study and research opportunities for Low German, Sater Frisian and Lower Sorbian and improve facilities for teacher training;***

26. As has already been stated in para. 113 of the Second State Report, the issue of teacher training also must be assessed in the light of the conflicting requirements and conditions described in para. 112 (now para. 25). The *Länder* continue their efforts aimed at further developing the available capacities adequately within this framework.

26 a. Since October 2005 an expert committee in Lower Saxony has developed proficiency requirements and standards for the subject 'German' in the framework of a revised examination regulation I for teachers at the end of their university studies. In the field of literature a first concept requires German teachers to be able to analyse literary works under aesthetical, historical and socio-cultural aspects. Standards in the field of linguistics require that all teachers in Lower Saxony understand language history, including the regional language Low German and the minority language Sater Frisian, and current developments, and that they are aware of functions and impacts of language varieties.

4. *ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part II;*

27. Monitoring aims at informing management and superior authorities about progress in accomplishing tasks. This is ensured through regular legal and technical supervision of the authorities responsible for implementing the Charter. It is not due a lack of information if expectations regarding language promotion are not met. Information deficits could be reduced through additional controlling procedures, which would however generate costs to the detriment of promotion measures. Insufficient language promotion is mostly caused by limited budgets, the fact that the regional language Low German and minority languages are often spoken only in certain economically underdeveloped regions, that low birth rates together with negative migration rates in Germany have a particularly strong impact on areas where minority languages are spoken, and that in consequence the demand for education programmes for the protected languages is decreasing. The above statements are another example for the conflicts described in para. 25.

Moreover, administrative transparency towards the legislative regarding the implementation of the Charter is ensured by the State Reports which have to be drawn up shortly one after another.

Information about “what is done at schools (to promote Low German)” and the development of the number of Low German speakers, which the Federal Council for Low German considers necessary for monitoring education, are hence also included in this report (comments regarding Article 8, para. 5000ff).

5. *take resolute action to establish a structured policy for making it practically possible to use regional or minority languages in dealings with the administration and, where relevant, in the courts;*

28. As stated in the Second State Report under para. 114, in Germany’s view, the possibility to use regional or minority languages before administrative and judicial authorities is an important element in preserving and promoting these languages. These possibilities were created within constraints of available funds. Given the current budget situation, a recommendation to create additional demand through structural measures would meet considerable resistance.

6. *create incentives to increase the provision for regional or minority languages in private broadcasting.*

29. Given that freedom of broadcasting and freedom of the press are guaranteed under the German Basic Law, Germany accepted – exclusively for the “to encourage” part – the obligation under Article 11 of the Charter referring to the media sector.

The possibilities of federal and state authorities to provide economic incentives to increase the provision of the Low German regional language and minority languages are limited. The reason is that, among other things, decisions on contents are made with regard to the potential audience rate and thus advertising revenue. Public subsidies for little demanded programmes could hardly make up for this revenue. See the comments in Part D of the Second State Report, paras. 226 to 239, referring to Article 11.

B.2 Adjustment of the accepted undertakings

30. Germany still raises objections against the Committee of Experts' comments with regard to the acceptance of redundant undertakings in the first monitoring report. In para. 453 of the report the Committee rightly points out that the obligation accepted by the Free State of Saxony under Article 10, para. 3, sub-para. c (submission of requests in regional or minority languages) is already included in the obligation accepted under Article 10, para. 3, sub-para. b (requesting and receiving a reply in these languages) and thus is redundant. Also, in paras. 213 and 214 of the first monitoring report, the Committee states that Schleswig-Holstein, while fulfilling the – not accepted – obligation under Article 14, para. b (cross-border cooperation) in its administrative practice, did not fulfil the accepted obligation under Article 14, para. a (transfrontier exchanges: bilateral and multilateral agreements). In both cases, Germany considers it necessary to withdraw acceptance of, or to exchange, the respective obligations; it cannot, however, respond to this perceived requirement since the Charter does not provide for such adjustment of undertakings. Germany therefore considers it necessary to have a policy discussion on the issue of adaptation of treaty provisions, also in view of any problems arising in future, and requests the Committee of Experts to clarify the matter accordingly.

B.3 Relevant legislation

31. The legal instruments and provisions essential to the Charter's implementation in Germany are annexed to the Second State Report. The present report includes additional instruments.

Part C Protection of the Languages under Part II (Article 7) of the Charter

31a. As far as the scope of protection of the languages Danish, Frisian, Sorbian and Lower German (in the relevant language areas) as well as Romany (in the entire Federal territory) under the Charter is concerned, reference is initially made to the comments in paras 118 to 120 of the Second State Report.

In summary, it can be said that, in addition to the obligations under Part II of the Charter, individual provisions of Part III of the Charter were adopted by Germany in respect of the regional or minority languages Danish, Upper Sorbian and Lower Sorbian, North Frisian and Saterland Frisian, and Low German (in the following *Länder*: Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, and Schleswig-Holstein).

By adopting a sufficient number of obligations in accordance with Article 2 (2) of the Charter, Germany has extended the scope of protection under Part III to Romany in Hesse.

As in the second report, the pertinent details are discussed in the comments to Part III of the Charter. Therefore, the description of implementation measures taken under Part II is confined to the essential features and aspects.

Article 7 Objectives and Principles

Paragraph 1

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

Art. 7 para. 1 a)

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

32. Compliance by the German system of law with this provision is documented, as before, by the notification of the two Declarations on the Charter's scope of application and by extensive measures taken for its implementation.

Art. 7 para. 1 b)

- b) *the respect for the geographical area of each regional or minority language in order to ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question;*

33. As requested by the Committee of Experts in para. 21 of its second monitoring report, the following additional information is provided with regard to the intensified cooperation between the *Länder* on promoting Lower German through discussions of the competent *Land* officials set out in para. 122 of the Second State Report following para 52 of the second Monitoring Report.

The officials of Northern German *Land* governments who are responsible for issues of Low German or for teaching Low German in the educational sector met in Oldenburg on 8/9 June 2006 at the meeting “Low German and Frisian in education - a comparison between the *Länder*” for a mutual exchange of information. Their contributions focused on educational issues. The dialogue on promoting Low German is to be continued. The *Land* officials agreed to intensify their cooperation even further both among themselves and with the *Bundesrat for Nedderdüütsch* (Federal Council for Low German).

34. As referred to in para.123 of the Second State Report, there are no governmental or other measures in place in Germany, which would result in changes in demographic developments in the settlement areas of the language groups or which are directed against their rights or would have an influence on their members’ participation in decisions affecting them.

However, the Free State of Saxony is currently preparing to restructure its rural counties (*Landkreise*) and non-district municipalities (*Kreisfreie Städte*). It is not clear as yet how the new rural countries for the Sorbian settlement area will be structured. The Council for Sorbian Affairs at the Saxon *Land* parliament as well as the Saxon State Government are however aware that demographic development can change and therefore seek to take appropriate account of Sorbian interests.

35. With regard to the limited effects of general mobility and the previous territorial reorganization in Brandenburg and Saxony on the Sorbs’ share in their settlement areas, reference is made to the comments in paras. 123 and 124 of the Second State Report.

36. Following the dissolution of the village of Horno in Lower Lusatia in Brandenburg and the concluded resettlement of the German-Sorbian population which had to yield its place to brown coal mining referred to in paras. 125 to 130 in the Second State Report, the Committee of Experts requested information on practical measures to counteract negative effects on the Low Serbian language of this community in its second Monitoring Report and asked the authorities to take appropriate account of

Germany's obligations under the Charter when taking future decisions affecting regional or minority languages. For this reason reference is also made to the fact that the above-mentioned State Report had also stated that Brandenburg has changed the lignite mining policy pursued by the GDR, that lignite quarrying in Sorbian settlements is linked to qualified prerequisites and that the inhabitants of the village of Horno had been offered to resettle in the traditional settlement area of the Sorbian people (an offer accepted by the majority of inhabitants) with the result that compliance with the obligations from the Charter for Languages is not impeded with respect to these people.

Art. 7 para. 1 c)

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

37. Reference is made to paras. 131 to 142 of the Second State Report relating to constitutional and other provisions of the Federation and the *Länder* highlighting the great importance Germany attaches to the protection of minorities. After the Second State Report the Act on Promoting Frisian in the Public Sphere (Frisian Act) and the Act on Setting up a public-law corporation "Open Channel Schleswig-Holstein" (OC Act) were adopted. When the Committee of Experts criticizes in paras. 20, 26 and 27 that these provisions do not exist in all federal *Länder*, and states that authority structures also vary widely in the individual *Länder*, and when the Federal Council for Lower German criticises that an act exclusively addressed to the Frisians would disproportionately widen the distance towards the Lower Saxon language, it must be replied that many of the affected *Länder* are determined to prevent excessive standards and bureaucracy, where possible. In addition, it should be said that political commitment is not bound to be reflected in a large number of provisions and a lot of bureaucracy but also in numerous governmental assistance measures which directly relate to or are beneficial to regional or minority languages. Relevant details are set out in Part D of the Report regarding Part III of the Charter as already done in the second Monitoring Report.

38. With respect to the information request in para. 27 of the second monitoring report, it should be noted that the Federal Government Commissioner for National Minorities makes his contribution to coordinating the efforts on implementing the Charter – at federal level and in particular at regular meetings of the Advisory Committees which exist for the individual minorities and language groups (except for the German Sinti and Roma and their Romany) chaired by him for coordination purposes with and among the *Länder*.

39. The following comment is given on the communication by the Committee of Experts in para. 25 of its second monitoring report stating that it is unclear which authorities are responsible for protecting and promoting their respective language and the implementation of the Charter at *Land* and federal level, and that the criteria for funding with federal means are not clear and that often there is no guarantee for the continuation of financing:

The Implementation Conferences in which representatives of all language groups participate and the meetings of the above Advisory Councils for the individual minorities and language groups can also be used, where appropriate, to remove unclear responsibilities and unclear criteria for assistance measures. By contrast – especially in view of the current deficits in the public budgets in Germany – there are no political possibilities visible to restrict the principle of annuality in the field of promoting minorities and minority languages. Rather, relevant budget estimates must be defended by the responsible authorities every year. The fact that the representation of Germans in Denmark, the *Bund Deutscher Nordschleswiger*, had to accept minor reductions for the year 2006 and for the following years under the financial plan, shows that this is not always possible.

40. The intention, however, is to maintain the multi-annual financial safeguards for the Foundation for the Sorbian People. Although the previous funding agreement between the Free State of Saxony, *Land* Brandenburg and the Federation will expire in 2007, work towards an agreement on joint funding of the Foundation for the Sorbian People has been initiated, irrespective of the suggestion in para. 28 of the second Monitoring Report by the Committee of Experts. In this process, it will be reviewed with an open mind if the share provided by the Federation can be increased annually by one percent to compensate for inflation as requested by the Free State of Saxony without prejudice to savings potentials identified by the Federal Office of Administration at the Sorbian Institute and irrespective of reductions provided for on a gradual basis and which amount to € 8.2 million – comparable to the original federal contribution.

Art. 7 para. 1 d)

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

41. With regard to the provisions guaranteeing the right to use one's own language in everyday life (Article 2 (1) of the Basic Law) or in the field of media (Article 5 (1) of the Basic Law) or deliberately restrict them for the field of administration (Section 23 of the Federal Administrative Act) and identical provisions of the *Länder* and the judicial authorities irrespective of the knowledge of - interpretable - Charter

obligations, reference is made to paras. 143 to 145 of the Second State Report. The Frisian Act of Land Schleswig Holstein should also be referred to in this context.

42. With respect to the statement in para. 32 of the second Monitoring Report that regional and minority languages hardly play a role in the media owing to the lack of positive measures promoting their presence, reference is made to the restricted character of suitable measures described in para. 29. For the use of remaining options details, see the comments below in Part D of the Report regarding the obligations specifically entered into.

Art. 7 para. 1 e)

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

43. With respect to the right to maintain and develop contacts through Article 2 (1) of the Basic Law (general freedom of action, freedom to leave the country) and Article 11 (1) of the Basic Law (freedom of movement within the federal territory, freedom to enter the country) and to the exercise of this right by the language groups with the help of manifold organisations promoted, as reported lately to the same extent with individual projects (such as the Federal Union of European Nationalities (FUEN), the Youth of European Nationalities (YEN) and the European Bureau of Lesser Used Languages (EBLUL)), reference is made to the comments in paras. 147 through 160 of the Second State Report.

44. Following the recommendation by the expert committee under para. 34 of its second Monitoring Report to change the situation through negotiations, that the Institute for the Low German Language (INS) take on the administrative and organizational costs for the Federal Council for Lower German beyond the knock-on phase, is currently causing difficulties. Although the INS as the responsible body considers itself not in the position to provide for the funding of the language policy work of the Lower German language group on a permanent basis, higher funding for the promotion of regional and minority languages cannot currently be implemented at political level (see para. 1).

In addition, it must be pointed out with regard to INS financing that no funds are provided by federal institutions but what individual federal states and local authorities provide funds. An administrative agreement was concluded with the four Northern German Länder Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Land Lower Saxony and Land Schleswig-Holstein to safeguard this

institution and its current work financially, which entered into force on 1 January 1979. Currently, these four *Länder* and North-Rhine-Westphalia through its regional local authority (*Landschaftsverband Westfalen-Lippe*) cover some 88% of the INS budget (2005: € 324,000). If the INS itself supports the *Bundesraat for Nedderdütsch* in terms of staff, organizational or funding, this is done – at least indirectly – by public means provided by the above-mentioned Northern German *Länder*.

Art. 7 para. 1 f)

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

45. Following the information on the statement in para. 162 of the Second State Report that the individual's freedom to learn a language of his/her own choice unimpeded by external influences - in particular state influence - is generally protected by Article 2 (1) of the Basic Law and with respect to the situation (referred to in para. 162 f the report) on educational options for individual languages protected by the Charter - a situation that has hardly changed - reference is made to the explanations in part D of the report regarding the obligations specifically adopted. Reference is also made there to the recommendations by the Committee of Experts in paras. 36 and 40 of its second Monitoring Report.

Art. 7 para. 1 g)

g) the provision of facilities enabling non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire;

46. As regards the scope of options – for persons who do not speak a regional or minority language but who live in an area where it is used – to learn such a language, reference is made to paras. 164 and 165 of the Second State Report. Under it the creation of relevant options – given the contrary will of the speakers of this language regarding Romany of the German Sinti and Roma – is not possible in accordance with Article 7 (4) of the Charter.

Article 7 para. 1 h)

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

47. The obligation – the fulfilment of which lies with the *Länder* – to maintain studies and research institutes on regional and minority languages – is described in Part D of the report on the obligations specifically adopted, taking into account the reservations expressed by the Committee of Experts in para. 41 of the second Monitoring Report that the relevant obligations have not been fully complied with.

Article 7, para. 1 i)

i) *the promotion of appropriate types of transnational exchanges, in the fields covered by this Charter, for regional or minority languages used in identical or similar form in two or more States.*

48. In this regard reference is made to the comments on para. 1 (e) in paras. 43 – 44 and the comments referred to therein in the Second State Report.

Article 7, para. 2

Paragraph 2

The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.

49. As this provision has not caused any problems, reference is made to paras. 169 through 174 of the Second State Report on its implementation.

Article 7, para. 3

Paragraph 3

The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.

1. General framework

50. As already outlined in paras 176. et seqq. of the Second State Report, tolerance, intercultural dialogue and mutual respect and further acceptance are especially promoted by the following fields of activities which need not especially affect the speakers of the Lower Saxon regional language or of minority languages as – as far as is visible - solely the speakers of the Romany minority language still have acceptance problems and because programmes focusing on a single group sometimes are not helpful.

- **Public relations by the commissioners for foreigners issues of the Federal Government and the *Länder* and support measures** for the self-organization of associations for migrants and refugees by some *Länder* commissioners for issues relating to foreigners (although these measures are not aimed at members of national minorities, i.e. at German nationals, they promote the acceptance towards persons with an ethnic background other than that of the majority population)
- Fulfilling the **educational mandate** to promote tolerance and the intercultural dialogue by the **Federal Centre and Land Centres of Civic Education as well as the schools**
- National, regional and local **cultural events of the *Länder*** organized as part of their autonomy in cultural matters
- the promotion of international understanding, reduction of xenophobia and the protection as well as promotion of **programming principles and of Inter-State Treaties of the public law television and broadcasting authorities of the *Länder*.**
- protection against xenophobic or racist offences **by penal laws**
- **Federal Government and *Länder* public relations,**
- **scientific research into the causes and motives of racism**
- dealing with racism and xenophobia in the **dialogues with NGOs** and involvement of **relevant groups in society through the Federal Government and *Länder* governments.**

51. Given xenophobia of a small percentage of the German population, amongst others by younger members of fringe groups, these fields of action continue to be important.

The Central Council of German Sinti and Roma also believes that right-wing extremist violence as well as threats against Sinti and Roma should not be exclusively reduced to “xenophobia by a small segment of the German population i.e. by younger members of fringe groups”. As the *Bund Deutscher Kriminalbeamter* (BdK, Association of German Detectives) emerged with a severely discriminating publication of October 2005 and the NPD with its racist propaganda against Sinti and

Roma in January 2006, which were sharply criticized by the Federal Minister of the Interior, the Bavarian State Minister of the Interior and by the Prime Ministers of Rhineland-Palatinate and Brandenburg, the term “younger members of fringe groups” misses the point.

Accordingly, especially in the new federal states, i.e. in Brandenburg in 1997 (see para. 197 of the Second State Report) concepts for the fight against xenophobia were developed and implemented.

52. The Federal Criminal Police Office (BKA) recorded 26,401 politically motivated criminal offences in **2005** (the year before: 21,178; of these, 15,914 (the previous year: 12,553) - including 1,034 violent offences (the previous year: 832), i.e. a percentage of 60.3% (the previous year: 59.3%) - come under the heading of "politically motivated crime - right-wing". A total of 2,493 (previous year: 2,553) politically motivated right-wing offences (including 373 violent offences: previous year: 391) had a xenophobic background. Thus, as compared to the previous year, the total number of right-wing politically motivated offences dropped by 2.4%; for right-wing acts of violence with a xenophobic background, the number dropped by 4.6%.

15,361 (the previous year: 12,051) right-wing politically motivated offences were classified as extremist; these included 958 (6.2%) violent offences (previous year: 776, i.e. 6.4%). Thus, criminal offences of right-wing extremist motivation dropped by 27.5 %, and similarly motivated acts of violence with an extremist background dropped by 23.5%. Of all crimes with a right-wing extremist background, 85.7% (the previous year: 86.3 %) were either crimes involving illegal propaganda activities (10,881; previous year: 8,337) or incitement to hatred and violence against certain segments of the population (2,277; previous year: 2,065).

A total of 2,337 (previous year: 2,386) right-wing politically motivated offences (including 355 violent offences) had an extremist and a xenophobic background.

53. In the Federal Republic of Germany, right-wing extremism is fought, as already pointed out in para. 199 of the Second State Report, on the basis of a comprehensive overall strategy. Apart from repressive measures, the focus is on preventive approaches, as documented in detail by the Report on the Federal Government's Current and Planned Measures and Activities to Combat Right-Wing Extremism, Xenophobia, Anti-Semitism and Violence presented to the German *Bundestag* on 14 May 2002.

In case of great interest, topical detailed information on individual fields of action referred to above can be submitted to the Committee of Experts upon request.

2. Current specific aspects

At this stage, however, the following current individual aspects affecting the Romany of German Sinti and Roma should be outlined:

54. To promote the understanding for individual language groups, as required by Article 7 (3) of the Charter, is **hardly possible** in the case of **Romany of the German Sinti and Roma**, at least as far as experience gained by the Federation is concerned, to the effect that the public obtains positive experience about the culture and language of these groups in terms of cultural diversity of society, leaving aside the few exceptions such as the brief, where possible, agreed section of the brochure "National Minorities in Germany" by the Federal Government Commissioner for Matters Relating to Repatriates and National Minorities already referred to.

However, the Central Council emphasizes the following statement: "The responsibility after the NS genocide cannot be omitted to be mentioned." At the same time, the Central Council invariably described the German Sinti and Roma "as a population group with its own cultural identity enriching our society" (e.g. with a special second level of the exhibition concept on the genocide; with the contract between the *Land* government Rhineland-Palatinate and the *Land* Association of German Sinti and Roma; by events and publications on music, art, poems, songs of the Sinti and Roma, Sinti and Roma string orchestras etc.

At least experience by the Federation shows that the reasons to protect and promote other national minorities and language groups under the Council of Europe Framework Convention for the Protection of National Minorities and Charter of Languages referred to therein, lag far behind as far as German Sinti and Roma are concerned.

Moreover, the Sinti Alliance Germany and large groups of German Sinti consider their language and culture as an internal factor to be solely used within their family which should be protected against third parties.

Although this situation is in line with the traditional tabooing system of the affected persons (as outlined in the communication by the Sinti Alliance Germany) and under historical experience of their third generation is also comprehensible for third parties it does not contribute to strengthening the position of a minority language and in the long run, above all, is regrettable, because a self-confident, openly positive presentation of the language and culture of the affected persons must be seen as the most efficient preventative means against feared discrimination, but it is not at all evident that e.g. punishable bans on prejudices would ever have fought this practice efficiently.

55. Unfortunately, the same applies to the cooperation with the Central Council of German Sinti and Roma. Through institutional **promotion**, Baden-Württemberg and the Federation inter alia finance the **documentation centre of German Sinti and Roma** as well as the Central Council of German Sinti and Roma in order to make possible a presentation of the history and cultural identity of these groups within the meaning of the above provision. As far as can be seen, however, the information centre's work is primarily focused on the investigation and presentation of the Holocaust, and the Central Council's work also on the description of current situations, which – admittedly – can actually be considered as continuous discrimination. Also at federal level there is the impression that the Central Council almost exclusively claims the right of funding of the above-mentioned institutions from these two fields of activity. If the self-portrayal of the Central Council as set out in para. 13 could be interpreted as a willingness to make a greater contribution to the positive description of the culture and language of the German Sinti and Roma, this would be highly welcome. In its comments in Part E of this report the Documentation Centre holds the view that such a description has already been given. At the same time the Federation considers it desirable for achieving the regulatory purpose of Article 7 (3) of the Charter (for the benefit of the German Sinti and Roma as well) to promote a positive understanding among the language groups if the positive description of an individual cultural and – taking the Charter of Languages into account – especially the linguistic profile of the German Sinti and Roma were given similar weight as the description of the historical role and the role as victims currently accepted.

However, the Sinti Alliance Germany does not share this assessment by the Federal Republic of Germany and thus confirms, from the Federation's point of view, the concerns raised against the application of the Language Charter to the Romany of German Sinti. The Sinti Alliance claims that no representative of the German Sinti, neither the Sinti Alliance nor the Central Council of German Sinti and Roma, could ignore the laws of the community without losing its credibility vis-à-vis the German Sinti. For this reason the associations report that they could only be active if they respected the traditional taboos (which is said to be in contradiction with a positive presentation of an individual cultural and linguistic profile).

In its comments in Part E of this report the Sinti Alliance Germany also criticizes that the Documentation and Culture Centre of German Sinti and Roma funded completely by public means does not offer any chance of participation to members of the Sinti Alliance and members of its *Land* associations. In this context the Federal Government acknowledges that cooperation would require minimum substantial consent, but for the use of the information material the centre should be accessible to everybody.

56. In accordance with the above assessment, initiatives have been started again and materials procured for schools and educational institutes by the *Land* associations of the Central Council of German Sinti and Roma in various federal states. These materials deal with discussing and analysing racism and with the existing patterns of clichés and prejudices regarding the Sinti and Roma. They also serve to analyse and assess the history of the Sinti and Roma genocide perpetrated by National Socialism. The Baden-Wurttemberg *Land* Association of German Sinti and Roma, both on its own initiative and in cooperation with schools and other institutions, carried out projects for analysing and assessing “anti-tsiganism” (anti-Gypsy hostility).

The following should be said with regard to the requirements reiterated of the Central Council.

57. As referred to in para. 198 of the Second State Report, the Central Council of German Sinti and Roma, during talks held in January 2001, **presented** the Federal Minister of the Interior a documentation on the desecration of, and outrages against, KZ (concentration camp) memorial sites in Germany. One of the subjects of these talks was the Central Council's repeated **demand for a special “Protection Zone Act” for these memorial sites** which, like similar legislation in Poland, the Central Council sees as a possible instrument to fight such outrages effectively and as a serious crime.

The documentation presented at that time on 110 cases of provocative vandalism perpetrated, in the period 1991 - 2001, by right-wing extremists against institutions of the Jewish community and sites commemorating the victims of the National-Socialist reign of terror failed to underpin the Council's call for a “regulation on protective zones” because this documentation listed offences committed outside “assemblies” as defined in the Assemblies Act (these offences were: (criminal) damage to property; insult/defamation; disturbing the peace of the deceased (desecration of graves); incitement of the people to hatred and violence (incitement to national dissension)). By contrast, the Central Council claimed that its demand also aimed at supplementing the Criminal Code for relevant attacks by individuals as set out in the above documentation of 110 cases.

The **Act amending the Act on Assemblies and Processions and of the Penal Code of 24 March 2005** now takes into account the above demand.

58. In contrast with another demand by the Central Council of German Sinti and Roma there is no need for a special offence of “violence motivated by racism of individuals or groups” in the incumbent Federal Government's point of view. The existing provisions of the Criminal Code fully suffice for effective penal prosecution of racially motivated offences.

(Relevant details can be submitted to the Committee of Experts for the Charter of Languages in line with the Second Report on the Council of Europe's Framework Convention for the Protection of National Minorities, paras. 332 et seqq., if further specific information is needed).

59. In connection with the reiterated **reproach** by the Central Council of German Sinti and Roma **of special registration of Sinti and Roma in databases of authorities and police databases** in particular, it should be noted that such registrations have not been made for years. This also applies to Bavaria. In addition, the Bavarian Interior Ministry ordered in its letter of 3 March 2005 that denominations such as Sinti and Roma or substitute denominations (e.g. mobile ethnic minority) for members of this ethnic group are no longer to be used in internal searches, searches involving the public, warnings and press releases. At the same time, the ministry reminded of existing regulations banning the storage of denominations such as "Sinti" and/or "Roma" or substitute denominations.

60. Referring to the above reproach, the Federal Commissioner for Data Protection and Freedom of Information (BfDI) stated that he had informed the President of the Central Council of German Sinti and Roma already in late 2004 that he had reviewed the president's reproaches at the Federal Criminal Police Office (BKA) on the spot and that he had also asked the data protection commissioners of the *Länder* North-Rhine/Westphalia, Hesse, Bavaria and Baden-Württemberg for review. Most of the subsequent statements were enclosed in the letter to the chairman of the Central Council of 6 May 2005. The above-mentioned enquiries revealed that older data on the ethnicity of offenders, which obviously were not necessary for criminal prosecution or danger prevention, were stored in one *Land* (not Bavaria). These data were to be deleted. Such data were not stored by federal authorities and three of the above-mentioned *Länder*.

61. As far as the current situation is concerned, distinctions must be made with regard to the following facts and figures in order to avoid misunderstandings and false assessments.

1. It is generally inadmissible to create files with personal data indicating a person's ethnicity, i.e. files containing ethnic profiles.
2. In criminal prosecution however, e.g. in descriptions of wanted fugitives, it is imperative to describe such characteristics which distinguish the described person from the majority population. This may also include features of outward appearance (e.g. dark skin) or the way of life (e.g. no fixed address), which also - but not exclusively - apply to some Roma. If the offenders in a given case actually were Roma, it is inappropriate to regard the description as a substitute designation of their membership in a Roma group.

3. Only if there is a reasonable factual connection between the reported incident and membership of suspects or perpetrators of a specific ethnic or other minority – i.e. because under safe criminalistic experience a specific type of offence is mainly committed by specific groups of offenders, the relevant group may be referred to for informing the relevant offices involved in criminal prosecution and danger prevention, if this information is necessary to avert imminent danger and if targeted investigations are indispensable. In this case, too, it must be ensured that this type of communication does not stir up prejudices against the minority referred to.

The Federal Government maintains its view outlined in nos. 1 through 3 (in particular no. 3), being aware of the comments by the Central Council of German Sinti and Roma in Part E of this report, for the above reasons. The Federal Government does not share the view expressed by the Central Council in Part E.

62. In connection with the longstanding **demands** by the Central Council **for bans on discrimination in general administrative law and in legal provisions governing public officials as well as in *Land* Media Acts and in press law**, e.g. to avoid details on ethnic membership of suspects in publications on criminal investigation proceedings, the *Land* authorities have arranged for the omission of relevant information provided the clarity of the given situation is not restricted thereby.

From the Federal Government's point of view the desired provision is not meaningful in press law, because the Federal Government only has the right to define framework legislation, and this provision is even questionable, because the freedom of the press is included in the limits of general legislation, in provisions for the protection of the youth and the right of personal honour, but must otherwise be preserved, and because control is adequate and sufficient through the self-regulation body, the German Press Council.

Insofar as the Central Council has also claimed that the Federal Government could comply with its demand for a relevant legal provision given the continuous - in its view - violations by authorities of the ban on the designation of accused persons in the field of the Administrative Procedure Act, it should be noted that unlawful ethnic designation was noted in very few individual cases and that therefore additional legal provisions are not considered as justified, and that a legal provision on relevant bans would hardly lead to greater clarity given the remaining difficulties in an abstract delimitation of lawful cases of data on ethnic membership. In addition, the Administrative Procedure Acts of the Federal Government and the *Länder* essentially governing the preparation and issuance of an administrative act or the conclusion of a public-law contract, would be fully inadequate as a place to govern the above issue.

With regard to the comments by the German Council of Sinti and Roma referred to in Part E, the Free State of Bavaria wishes to make the following comments: The review of reports published by Bavarian media has so far shown that the conclusion drawn to police sources for minority designations is purely speculative in most cases, the majority of reports indicate evident disclosure in public court trials.

63. As the Advisory Committee set up under the Council of Europe's Framework Convention for the Protection of National Minorities has intensively dealt with this issue, the Expert Committee for the Language Charter can be given more detailed explanations for this assessment, should it be interested, e.g. in line with paras. 92 through 107 of the Second State Report on the Framework Convention.

Article 7, para. 4

Paragraph 4

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

64. With regard to the obligation to take into account the needs and wishes of affected persons, reference is initially made to paras. 200 and 201, with regard to various wishes of various groups of German Sinti in connection with the scope of the Charter for the Romany of the Germany Sinti reference is made to paras. 202 through 204 of the Second State Report and with regard to the obligation to establish advisory bodies reference is made to paras. 205 and 206 of the Second State Report as well as to paras. 5, 6, 18 and 19 of this report.

65. Apart from the Advisory Committees for the affairs of the Frisians and for the speakers of the regional language Lower German set up in addition as referred to in para. 6 of this report, it must also be said that a group of largely German Sinti (according to their own information) has submitted a petition with some 400 signatures to the Federal Ministry of the Interior, according to which the Romany of the German Sinti is not only not protected by Chapter III (as demanded by the Sinti Alliance Germany) but not by the Language Charter either. Rather, in the framework of promotion measures under the Charter, in the Central Council of German Sinti and Roma's view, which had not involved the affected persons before its demand to protect them, it should be used for educational assistance measures in the German language for the benefit of young Sinti with deficits at school. The reason given for the demand of full exclusion of this Romany from the scope of the Charter is again the fear that this language would soon receive a written form, would be grammatically systematized and accessible to third parties, i.e. would no longer remain a cultural

individual property. It was not possible to convince the affected persons from abandoning this demand by the information that it was not allowed to fulfil the obligations under the Charter against the explicit will of the affected persons and that, as a result, the feared development could only emerge if groups of German Sinti demanded relevant measures.

Article 7, para. 5

Paragraph 5

The Parties undertake to apply, mutatis mutandis, the principles listed in paragraphs 1 to 4 above to non-territorial languages. However, as far as these languages are concerned, the nature and scope of the measures to be taken to give effect to this Charter shall be determined in a flexible manner, bearing in mind the needs and wishes, and respecting the traditions and characteristics, of the groups which use the languages concerned.

66. Given the lack of topicality of the above provision, it suffices to refer to para. 207 of the Second State Report.

Part D Measures to Promote the Use of Regional or Minority Languages in Public Life in accordance with the Obligations under Part III of the Charter, entered into under Article 2, paragraph 2

D.1 General policy remarks regarding the various Articles of the Charter

67. Regarding the general conditions which apply to the protected languages in the *Länder* and thus must precede the statements about the implementation of specific undertakings for individual languages (starting with Part D.2 of the report), we want to avoid repetition and refer to paras. 208 to 251 of the Second State Report. Specifically:

**re: Article 8
Education**

68. For information about the promotion of knowledge of the culture, history, languages and religion of protected language groups subject to the *Länders'* autonomy in cultural and educational matters through different schools and centres for civic education – to reduce prejudices and intolerance – and about the language groups' persistent desire for funding outside their major settlement areas, which has not been significantly increased, see paras. 209 to 212 of the Second State Report.

**re: Article 9
Judicial Authorities**

69. See paras. 213 to 215 to learn more about the use of other languages before courts, bearing in mind that the official language in court is German.

**re: Article 10
Administrative Authorities and Public Services**

70. For information about – the few and according to most language groups insufficient – exceptions from the principle that the official language is German and about the recognition of family names in a regional or minority language by the Act to implement Article 11 para. 1 of the Framework Convention (Act on Name Changes by Minorities; *MindNamÄndG*) see paras. 216 to 225 of the Second State Report.

71. Among other things, Section 1 of the Act to Promote Frisian in the Public Sphere (FriesischG, Frisian Act), which restricts the principle of German as official language, stipulates:

“Citizens may address administrative authorities in the Nordfriesland *Kreis* and on the Island of Helgoland in Frisian, and submit petitions, records, documents and other papers in the Frisian language. If staff at the relevant authority does not have sufficient Frisian language skills, Section 82a paras. 2 to 4 of the *Land* Administration Act applies (among other things, it provides that documents are not recognized as presented until the German translation has been filed). If a citizen uses the Frisian language in dealings with authorities in the Northfriesland *Kreis* and on the Island of Helgoland, the authorities may in turn use Frisian for communicating with this citizen unless the administrative activities infringe third party rights or impede the legal capacity of other public bodies.”

re: Article 11

Media

72. Paras. 226 to 239 of the Second State Report give information about the general (right to) freedom of expression including the freedom of the press and freedom of reporting by means of broadcasts and films pursuant to Art. 5 of the German Basic Law and about the (dual) broadcasting system (public and private broadcasting) including supervising bodies composed of an equal number of representatives from different social groups and participation of national minorities and language groups. Rhineland-Palatinate changed its *Land* Media Act to give a seat to a representative of the Rhineland-Palatinate *Land* Association of German Sinti and Roma in the *Land* Broadcasting Board. This helps the German Sinti and Roma make their interests known in the field of public broadcasting, and possible discrimination can be avoided. (Comments on the lack of possibilities to strengthen the position of minority languages towards private broadcasters in line with the obligations under Article 11 and on the problems arising from the transition from terrestrial to digital television in Denmark will be given in Part D of this report in connection with the individual languages.)

re: Article 12**Cultural Activities and Facilities**

73. Regarding the promotion of measures required to maintain and further develop the culture and to preserve the protected languages and the identity of persons belonging to the language groups and taken by the *Länder* and municipalities within the German federal system see paras. 240 and 241 of the Second State Report. For information about the right to free development of personality pursuant to Article 2 para. 1 of the Basic Law, including the right of the language group members to use their language, to maintain their autonomous culture, and to preserve their ethnic identity, see para. 242 of the Second State Report. Finally, information about the significance of institutions which are run by municipalities and associations of the language groups and serve to promote cultural exchange is given in paras. 243 and 244 of the Second State Report.

re: Article 13**Economic and Social Life**

74. For information about the use of one's own language – in public and in private life – pursuant to Article 2 para. 1 of the Basic Law and about provisions in Brandenburg and Saxony granting the freedom to use the Sorbian language, and about the general acceptance of minority language use in public refer to paras. 245 to 247 of the Second State Report.

75. There is currently also no additional information about

- the undertaking, under Article 13 para. 1 sub-para. (c), to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities discussed in para. 248 of the Second State Report,
- the undertaking, under Article 13 para. 1 sub-para. (d), to facilitate and/or encourage the use of regional or minority languages by means other than those specified in sub-paragraphs (a) to (c) discussed in para. 249 of the Second State Report, and
- Article 13 para. 2 sub-para. (c) of the Second State Report (ensuring use of the regional or minority language in social care facilities such as hospitals, retirement homes and hostels) discussed in para. 250 of the Second State Report.

76. Given the expectations expressed by the Committee of Experts in para. 232 of its second Monitoring Report in connection with Article 13 para. 1 sub-para. (c) and the adoption of anti-discrimination legislation, we would like to note that the Act

implementing the European directives (2000/43/EC, 2000/78/EC, 2002/73/EC and 2004/113/EC) on equal treatment so as to put the principle of equal treatment into practice entered into force on 14 August 2006 (Federal Gazette I p. 1897) but that it does not forbid the restriction of minority and regional language use.

re: Article 14

Transfrontier Exchanges

77. We reiterate that the right to maintain and develop contacts as part of transfrontier exchanges is one of the fundamental freedoms guaranteed by the Basic Law and is protected under its Articles 2 para. 1 (general freedom of action; freedom to leave the country) and 11 para. 1 (freedom of movement within the federal territory; freedom to enter the country).

Please also refer to the detailed comments in paras. 147 to 161 of the Second State Report as has been suggested in para. 43 above.

78. – 999. These paragraphs are left blank because information on undertakings accepted with regard to individual languages are discussed in separate paragraphs (1000 to 5000 et seqq.).

D.2 Implementation of the obligations undertaken with regard to the various languages

D.2.1 Danish in the Danish language area in Land Schleswig-Holstein

Article 8

Education

1000. In its second report, the Committee of Experts considers nine out of ten obligations under Article 8 fulfilled. Only the obligation under para. 1 sub-para. (i) has not been fulfilled. Therefore, the following comments mainly focus on current developments. In this regard, see also the comments in the Second State Report.

1001. Para. 252 of the Second State Report noted that the Danish minority has the right, in all of Schleswig-Holstein, to instruction in the Danish language (Declaration by the Government of the Federal Republic of Germany of 29 March 1955 [Bonn Declaration]). Article 8 of the Constitution of the *Land* of Schleswig-Holstein leaves it to the parents/guardians to decide whether their children should attend a school of a national minority. The pupils coming from the Danish minority are thus given the opportunity to learn and use the Danish language. The details are regulated by the Schools Act. An amendment of this act entered into force on 24 January 2007. Some of the amendments also affect the schools of the Danish minority.

Article 8, para. 1

Paragraph 1

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

Art. 8 para. 1, sub-para. (a) - Pre-School Education -

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

Schleswig-Holstein has accepted the obligation under sub-paragraph (b) (iv).

1002. As part of pre-school education, Danish language programmes are offered in day-care centres in the Schleswig region of Schleswig-Holstein.

1003. There are the following figures concerning the institutions set up by the Danish Schools Association for South Schleswig [*Dansk Skoleforening for Sydslesvig*] which is responsible for pre-schools of the Danish minority: At the beginning of the academic year 2006/2007 the association ran 55 day-care centres which were attended by 1882 as at 1 September (in 2004/2005 they ran 57 day-care centres attended by 1932 children).

With a few exceptions, all of these children then went on to a Danish school. These institutions have their own admission regulations.

1004. The Danish Schools Association is supported with funds of the *Land* of Schleswig-Holstein. Subsidies for the teachers employed in day-care centres are granted under Section 25 para. 2 of the Children's Day-Care Centres Act [*Kindertagestättengesetz*].

1005. There are also some German nursery schools offering the Danish language. Local public child and youth welfare agencies are responsible for day-care centres (planning and other general tasks). This includes the right to decide whether and which regional and minority languages should be offered. Since 2004 the *Kreise* and *kreisfreie Städte* [non-district municipalities] have received *Land* funds to independently care for and promote children in day-care centres. Hence, day-care centres offering Danish language programmes must negotiate funding with the responsible *Kreis*.

The programmes are offered by various bodies. Some 540 children receive Danish language instruction.

Since 1998 Danish has been offered, as part of a Language Encounter Concept, in seven nursery schools by the *Arbeitsgemeinschaft Deutsches Schleswig* [ADS, Working Group "German Schleswig Region"], one of the four German Border Associations.

The language programmes are appropriate for the children's age and depend on the available Danish speakers. The instruction ranges from half an hour per week to full-time language promotion (daily classes for various groups, immersion method, play, additionally using volunteering native speakers).

Art. 8, para. 1, sub-para. (b) - Primary Education -

- i) *to make available primary education in the relevant regional or minority languages; or*
- ii) *to make available a substantial part of primary education in the relevant regional or minority languages; or*
- (iii) *to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- (iv) *to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;”*

Schleswig-Holstein has accepted the obligation under sub-paragraph (b) (iv).

1006. . / .

1007. Article 2 of the 2002 Budget Support Act [*Haushaltsbegleitgesetz*] of Schleswig-Holstein amended the provisions on funding substitute (private) schools provided by independent agencies. This Act provides that, for schools of the Danish minority, without verification of the requirements a subsidy will be paid (per pupil) which corresponds to 100 per cent of the costs incurred, on a *Land* average, for a pupil at a comparable publicly maintained school in 2001, plus an increase in personnel costs corresponding to the percentage by which the salaries of teachers employed in the civil service are annually increased.

A working group set up in 2002 and composed of the *Land* Government, the Commissioner for Minorities and the Danish Schools Association [*Dansk Skoleforening*] discussed future promotion measures. In its Final Communiqué of 24 November 2004, this interdepartmental working group under the lead responsibility of the *Land* Ministry for Education, Science, Research and Cultural Affairs adopted the following:

1. In the framework of budgetary negotiations for 2006 and taking into account the *Land's* budgetary situation and the situation of the Danish Schools Association, it should be examined how a subsidy can be paid to schools of the Danish minority which corresponds to 100 per cent of the costs incurred without verification of the requirements (Section 63 para. 5 of the Schools Act). As of the 2006 fiscal year, the subsidy should be based on the previous year's official school statistics and should no longer be granted exclusively for curricular instruction.

The *Land* Government decided that the implementation of the proposal will be postponed to 2008.

2. The working group also discussed the adoption of specific legislation for the promotion of Danish minority schools. From a legal point of view, Danish schools are substitute (private) schools run by independent agencies. However, for the Danish minority their schools are of similar importance as public schools for the majority population. To highlight the difference between these schools and other substitute schools run by independent bodies, the working group suggested provisions for Danish schools and the other schools run by independent agencies are included in the Schools Act in separate sections or paragraphs.

The new Schools Act of 15 February 2007 includes a relevant provision.

3. In addition, Danish minority schools are entitled to funds for full day-care. The same holds true for the promotion of “reliable primary schools”.

4. Moreover, the working group suggested redistributing available budgetary means to subsidize investment costs for school buildings so that the Danish minority may benefit from the same advantages as German schools run by independent agencies. Funds will be gradually redistributed as of spring 2008.

1008. At a number of public schools in the Schleswig region, Danish is offered as a foreign language. The target groups are the 3rd and 4th grades. The courses must be voluntary, and the declared wishes of the parents must be respected. However, the number of pupils attending these courses has decreased in primary schools. The reason is that English language classes were introduced in primary schools. This development will presumably continue if English will become an obligatory part of the curriculum as of third grade. In the 2002/2003 academic year, 374 pupils participated in Danish classes, in the 2004/2005 academic year only 157.

1009. The Committee of Experts in its second Monitoring Report, paras. 50 to 52, considered the above-mentioned undertaking fulfilled by stating that Danish private schools are given the same opportunities as public schools, that full day-care is provided and that the status of construction investments is clear, and that the special treatment of the Danish private schools in comparison with other private schools will be governed by a special law.

Please refer to para. 1007 for information about primary and secondary schools.

Art. 8, para. 1, sub-para. (c) - Secondary Education -

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

Schleswig-Holstein has accepted the obligations under sub-paragraphs (a) (iii) and (iv).

1010. In the 2005/2006 academic year a total of 4,312 pupils attended Danish classes offered by numerous public secondary schools, especially in the Schleswig region.

1011. For information about the school system of the Danish minority, the instruction language and the recognition of final exams see paras. 258 to 263 of the Second State Report and para. 1007 of the present report. In the city of Schleswig, the Danish School Association is currently setting up a comprehensive school including upper secondary grades. Construction works are borne by a private Danish fund.

Art. 8, para 1, sub-para. (d) (iii) - Technical and Vocational Education -

- (iii) to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*

1012. Please refer to para. 264 of the Second State Report. There are no new developments.

Art. 8, para. 1, sub-para. (e) (ii) - University and Other Higher Education -

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

1013. As stated in para. 265 of the Second State Report, Danish is offered as a course of studies in Nordic philology at Kiel University [CAU - *Christian-Albrechts-Universität*], and as a course of studies for the teaching profession, at Flensburg University [UF - *Universität Flensburg*]. In addition, Danish may be studied at the CAU in the course of study for teachers at the *Realschule* [secondary technical

school] and the *Gymnasium* [grammar school] and at the UF as part of a Bachelor in Teaching degree. For information about scholarly articles/essays on the Danish minority prepared by the Danish Central Library for South Schleswig [*Dansk Centralbibliotek for Sydslesvig*] in Flensburg see para. 266 of the Second State Report.

Art. 8, para. 1, sub-para. (f) - Adult Education -

- ii) *to offer such languages as subjects of adult and continuing education; or*
- iii) *if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;*

Schleswig-Holstein has accepted the obligations under sub-paragraph (f) (ii) and (iii).

1014. As stated in para. 267 of the Second State Report, Danish language courses are offered by the adult education centres of Schleswig-Holstein and by *Jarplund Højskole*, the Danish residential adult education college in South Schleswig.

In 2005 the Schleswig-Holstein adult education centres offered 438 Danish courses which were attended by 4,604 participants. Thus, Danish is one of the most popular languages at adult education centres in Schleswig-Holstein. For comparison: English: 24,575 participants, Spanish: 9,993 participants, French: 5,371 participants.

Art. 8, para. 1, sub-para. (g) - Teaching of the History and Culture Education -

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

1015. Regarding curricula and this undertaking in general refer to the information given in paras. 268 to 270 of the Second State Report.

Art. 8, para. 1, sub-para. (h) - Basic and Further Training of Teachers -

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

1016. Information about advanced training (by a specialized adviser for Danish and through follow-up and advanced training offered by the Institute for Quality Development at Schools [*IQSH, Institut für Qualitätsentwicklung an Schulen*]) can be found in para. 271, about special training opportunities for the Danish language in

paras. 265, 266 and 272, and about special training promotion in para. 273 of the Second State Report and in para. 1013 of the present report.

During their course of study, future teachers may choose the subject 'Danish' and complete it with the First State Examination. The training is continued during preparatory service, and Schleswig-Holstein commissioned two tutors to take the responsibility for the Danish studies. The preparatory service is completed by the Second State Examination.

Art. 8, para. 1, sub-para (i) - Supervisory Bodies -

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

1017. Referring to the statements made in paras. 274 and 275 of the Second State Report, i.e. that the Education Offices of the districts and non-district municipalities are responsible for supervising measures taken for primary, secondary modern and secondary technical schools and that the Ministry for Education, Science, Research and Cultural Affairs is responsible for grammar schools, comprehensive schools, vocational schools and the schools of the Danish minority, and with respect to para. 276 of the above-mentioned report, i.e. regarding the statements about pre-school and school activities described in the minority report of the *Land* Government, the Committee of Experts repeated in paras. 54 to 57 of its second Monitoring Report that there were supervision and reporting deficits: It observed that there was nobody specifically entrusted with the task of monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages, that the existing supervisory bodies did not publish any State Reports and that the frequency and the contents of the above-mentioned minority report were not sufficient (although there is no specific information on this in the above-mentioned provision).

The above-mentioned undertaking should be considered fulfilled as long as the responsible authorities prove, through the State Reports and by answering questions during monitoring visits, that they and the public are sufficiently informed. In Schleswig-Holstein, the parliament and the public are informed by the *Land* Government through the minority report and the *Land* report on the implementation of the Charter. Both reports are presented in the middle of a legislative term.

Article 8, para. 2*Paragraph 2*

With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

1018. Regarding the implementation of this undertaking, please refer to para. 277 (Danish at schools in the Holstein region) and 278 (authorization of university courses due to the autonomy of institutions of higher education) of the Second State Report.

Article 9

Judicial Authorities

1018 a. In para. 47 of the second Monitoring Report, the Committee of Experts refers to its first Monitoring report stating that the three undertakings of this article did not pose any problems. There are no new developments. In this regard, see the comments in the Second State Report.

Article 9

Paragraph 1

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

Art. 9, para 1, sub-para. (b) (iii) - Civil Proceedings -

in civil proceedings:

iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

1019. Para. 279 of the Second State Report states that the above-mentioned obligation is met with the proviso that documents and evidence drafted in a minority language must be presented in a form obviating misunderstandings or errors with regard to their translation.

Art. 9, para 1, sub-para. (c) (iii) - Proceedings before Courts concerning Administrative Matters -

in proceedings before courts concerning administrative matters:

iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

1020. With regard to this undertaking accepted by Schleswig-Holstein, see paras. 279 and 281 of the Second State Report.

Art. 9, para. 2, sub-para. (a) - Validity of Legal Documents -

The Parties undertake:

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

1021. With regard to this undertaking accepted by Schleswig-Holstein, see paras. 279 and 281 of the Second State Report.

Article 10

Administrative Authorities and Public Services

Paragraph 1

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

Art. 10, para. 1, sub-para. (a) (v) - Submission of Documents -

- v) *to ensure that users of regional or minority languages may validly submit a document in these languages;*

1022. The Committee of Experts notes in paras. 59 and 60 of the second Monitoring Report that the present legislation only allows the submission of documents in a “foreign language” as an exception, and that the responsible authorities may require a translation at the expense of the applicant. It therefore considers that the above-mentioned obligation is not fulfilled.

1023. The Schleswig-Holstein *Land* Government reiterates that this undertaking governs the recognition of documents drafted in the Danish minority language. The Committee of Experts’ recommendation and the relevant examination, which resulted in the decision “not fulfilled”, clearly go beyond the scope of this obligation. Hence, we would like to refer to the statements made in para. 287 ff.

On 9 February 2006 a “Day of the Danish Language” took place under the auspices of the *Land* parliament’s president. On this day, the citizens of Flensburg, Husum, Leck and Schleswig could learn more about the Danish language in the framework of a variety of activities. The Danish Day was the highlight of a language campaign organized by the Regional Council for the Schleswig/Sønderjylland region in 2006.

Article 10, para. 4

Paragraph 4

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

Art. 10, para. 4, sub-para. (c) - Appointment of Public Service Employees having a Knowledge of a Regional or Minority Language -

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

1024. The Committee of Experts accepted the statements made in para. 293 ff. of the Second State Report in paras. 61 to 64 of its second Monitoring Report, and considers the undertaking fulfilled.

In 2006 the Flensburg and Husum police launched cooperation with the adult education centre in Husum. With funds from the EU programme INTERREG IIIA, a web-based instruction programme was developed so that officers may learn the Danish language individually at their computers at work or combine instruction with self-study.

Since minority languages are a national task (offices across the country), the Committee of Experts suggested the above provision of the Charter be applied also to federal agencies. However, this possibility can be taken into account only on a case-to-case basis without granting the persons concerned the right to make a legal claim. This would otherwise significantly impair the functioning of the agencies. For this reason, many federal agencies only employ persons who are willing to be transferred.

Article 10, para. 5

Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

1025. Please refer to paras. 216 (220) to 225 in Part D of this report (cf. para. 70 above).

Article 11

Media

Paragraph 1

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

Art. 11, para. 1, sub-para. (b) (ii) - Broadcasting of Radio Programmes -

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

1026. In para. 65 ff. of its second Monitoring Report, the Committee of Expert states that this provision applies exclusively to private broadcasters. We disagree with the Committee's opinion that the undertaking was not fulfilled. See para. 29 for more information, in particular about the limited government influence.

1026a. On 1 October 2006 the successful 'Open Channel' [*Offener Kanal*] became an independent legal entity with the entry into force of the Act on establishing a corporation under public law "*Offener Kanal Schleswig-Holstein*" (OK Act). The Open Channel is a citizens' broadcasting station which has to contribute to the promotion of minority languages (Section 2 para. 1 of the OK Act). This is to encourage the Open Channel to regularly broadcast programmes in the Danish language.

The board of the Open Channel consists of five members. One member is assigned by the commissioner responsible for cultural and minority issues. For the Board's first term, the commissioner assigned a former member of the *Land* parliament who is also a member of the Danish minority. She has a five-year tenure and may be reassigned once.

Art. 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

1027. The Committee of Experts observed in para. 69 of the second Monitoring Report that the present undertaking concerns the encouragement and/or facilitation of the broadcasting of radio programmes in North Frisian in the private sector, and that measures such as the appeal of the former Minister-President of Schleswig-Holstein (see para. 571 of the Second State Report) were not sufficient to fulfil the above undertaking. For the reasons given in paras. 29 and 102 we disagree with the

opinion that these undertakings were not fulfilled. Given the freedom of broadcasting, undertakings should not be interpreted in a way that they can no longer be fulfilled through reasonable efforts while neglecting programmes of public broadcasters when setting requirements for the promotion of private broadcasters. (For information on the promotion of Danish programmes, in particular of public broadcasters, see paras. 303 to 315 of the Second State Report.)

1027a. Schleswig-Holstein pointed out the active mediative role of the Schleswig-Holstein parliament and government in the TV controversy between the Danish public service programmes Denmark's Radio and TV 2 on the one hand and the Kabel Deutschland GmbH on the other hand. Because of the disagreements it seemed that the two Danish programmes could no longer be received in Schleswig-Holstein and thus in the territory of the Danish minority as of autumn 2006. Therefore, all parliamentary groups at the *Land* parliament called on the broadcasters and the cable provider to negotiate a contract so that the Danish programmes could continue to be received through the cable network. There was a general consensus in Schleswig-Holstein that free access is crucial for the Danish minority and also the majority population in Schleswig-Holstein for cultural, linguistic and minority reasons.

For the *Land* Government this concerted action of the parliament and the government shows that this undertaking of the Charter is fulfilled, and it asks the Committee of Experts to revise its current opinion that this undertaking was not fulfilled.

Art. 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

1028. Success in fulfilling this undertaking cannot be measured against the number of works which could be produced due to promotion. Likewise, the kind of promotion measures for above-mentioned works is more important than their number (cf. para. 316 ff. of the Second State Report). We are pleased that the Committee of Experts in paras. 75 and 76 of its second Monitoring Report considers this undertaking fulfilled. This conclusion is, however, only based on the observation that the *Unabhängige Landesanstalt für Rundfunk und neue Medien* [ULR - Independent Land Supervisory Authority for Broadcasting] provides funds for a project to help Danish speakers produce their own TV programmes and that a relevant contract was concluded with a private media office in 2002.

The ULR also initiated an assessment of the reception of Danish broadcasts in Schleswig-Holstein and of the improvements made in this regard.

Art. 11, para. 1, sub-para. (e) (ii) - Newspaper Articles -

iii) to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

1029. There is little scope for intervention. Please refer to para. 72 of this report and paras. 226 to 239 of the Second State Report. Para. 322 the Second State Report also gives information about the bilingual (German/Danish) daily newspaper "Flensburg Avis" and about the press service of the South Schleswig Association [SSV, *Südschleswigscher Verein*] and in para. 323 about the recommendations of the former Schleswig-Holstein Minister-President made in 1999 and 2003.

Art. 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

1030. We disagree with the Committees opinion that this undertaking was only formally fulfilled since it is necessary to consider also general promotion measures (cf. para. 29 of this report). In this respect, also refer to para. 334 of the Second State Report for information about general promotion measures and to para. 333 of this report regarding the problem of direct financial assistance by the State which might violate the constitutional right to freedom of broadcasting (cf. paras. 226 to 239 of the Second State Report).

Art. 11, para. 2 - Freedom of Direct Reception of Broadcasts, and Freedom of Expression

Paragraph 2

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

1031. For information about the retransmission of existing broadcast programmes over cable systems regulated in the *Land* Broadcasting Act and about the possibility to receive Danish programmes see para. 337 of the Second State Report and para. 1027a of the present report.

Problems arising through the introduction of digital television are currently being discussed with the speakers of the minority language.

Article 12

Cultural Activities and Facilities

1031a. In para. 47 of the second Monitoring Report, the Committee of Experts refers to its first Monitoring report stating that the six undertakings of this article did not pose any problems.

There are no new developments.

Article 12

Paragraph 1

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

Art. 12, para. 1, sub-para. (c) - Access to Works Produced in Other Languages -

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

1032. Para. 338 of the Second State Report gives information about the access of the institutions of the Danish minority – such as *Sydslesvigsk Forening* (SSF, South Schleswig Association) and *Dansk Centralbibliotek* (Danish Central Library) – to promotional funds provided by Schleswig-Holstein for translation, dubbing, post-synchronisation and subtitling into, or in, the Danish language.

Art. 12, para. 1, sub-para. (d) - Taking Account of the Regional or Minority Language in Cultural Activities -

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

1033. As explained in para. 339 of the Second State Report, with the help of promotional funds provided by Schleswig-Holstein, the institutions of the Danish minority and/or bodies appointed by them and responsible for the cultural autonomy of the Danish minority ensure that the knowledge and use of the Danish language and Danish culture are appropriately incorporated in their cultural activities.

Art. 12, para. 1, sub-para. (e) - Employment of Staff Proficient in the Language(s) Concerned

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

1034 Para. 340 of the Second State Report stated that state subsidies for activities of national minorities in Germany also include funds for covering personnel expenses and that the full-time staff employed in the field of Danish cultural work speak Danish and German, and some of them also Low German.

Art. 12, para. 1, sub-para. (f) - Participation of Representatives of the Group Speaking the Given Language in Cultural Activities -

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

1035. Regarding this undertaking see para. 342 of the Second State Report to learn more about the *Schleswig-Holstein-Tag* [a day dedicated to the special character of Schleswig-Holstein] which is organized every two years in different places of this *Land* and where the organizations of the Danish minority are also invited to participate, and about local cultural events, such as town festivals and town anniversaries. The 2006 *Schleswig-Holstein-Tag* took place in Eckernförde together with the Danish minority. In Schleswig-Holstein, the 2006 festivities for the Day of German Unity were held in the *Land's* capital Kiel. The *Land* Government offered national minorities and language groups the opportunity to contribute to the presentation of Schleswig-Holstein at the citizens' festival.

Art. 12, para. 1, sub-para. (g) - Creation of Archive Bodies -

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

1036. For information on this undertaking see para. 343 of the Second State Report, in particular regarding the *Dansk Centralbibliotek* [Danish Central Library] and its affiliated institutions which are available for collecting, keeping copies of, or publishing works produced in the Danish language, and for these purposes can rely also on promotional funds provided by Schleswig-Holstein. Para. 343 also reports on stage productions of works produced in Danish which are organized and financed, also with the use of promotional funds provided by Schleswig-Holstein, by the *Sydslesvigsk Forening* [South Schleswig Association] and its affiliated institutions and by action groups of other associations.

Article 12, para. 2*Paragraph 2*

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

1037. Paras. 344 and 345 of the Second State Report state that in the Federal Republic of Germany cultural activities complying with the law in force are not subject to any permit procedure or restrictions and that thanks to the broad definition of the specified purposes for which the public promotional funds of Schleswig-Holstein *Land* may be used in the context of the Danish minority's cultural work, it is also possible to stage events outside the immediate language area.

Article 12, para. 3*Paragraph 3*

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

1038. As stated in para. 346 of the Second State Report, this obligation is to be implemented by providing state support for making it possible for cultural groups of the Danish minority – e.g. choirs, orchestras, ensembles, the amateur dramatic group – to perform abroad where they present and represent the culture and language of the Danish minority of German nationality – and thus part of cultural life in Germany.

1039. According to the information provided in para. 347 of the Second State Report and as acknowledged in para. 79 of the Committee of Experts' second Monitoring Report, it is possible for regional or minority language speakers to obtain federal grants for cultural activities abroad.

Regarding the Committee of Experts' opinion expressed in paras. 78 to 81 of the second Monitoring report that the above undertaking was not fulfilled because of an insufficient presentation of Germany abroad, it has to be noted that relevant proposals of the language groups' umbrella organizations were informally discussed at the mentioned implementation conferences or in the language groups' advisory boards. Formal applications will be filed at a later date. The Federal Foreign Office, which is responsible for this issue, would be involved at an early stage, but the language groups must make contributions, too, to fulfil the above obligation.

Moreover, in January and February 2005 there was an exhibition at the Federal Foreign Office in Berlin on the occasion of the 50th anniversary of the 1955 Bonn-Copenhagen Declarations. Among other things, this exhibition dealt with the legal protection of the Frisian and Danish minority languages.

Article 13

Economic and Social Life

Paragraph 1

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

- a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

1040. As stated in para. 348 of the Second State Report, the obligations under sub-para. (a) and (c) are fulfilled since applicable law is respected. Regarding sub-para. (a) the Committee of Experts stated in para. 47 of the second Monitoring Report, referring the first Monitoring Report, that it did not pose any problems. Regarding sub-para. (c) it considers the undertaking fully fulfilled (cf. paras. 82 to 84 of the second Monitoring Report).

Art. 13, para. 1, sub-para. (d) - Facilitating the Use of the Regional or Minority Language

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

1041. For information about difficulties in the use of the Danish language in mixed-nationality marriages and about relevant public promotion and advertising activities see paras. 349 to 351 of the Second State Report.

Article 13, para. 2

Paragraph 2

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

Art. 13, para. 2, sub-para. (c) - Social Care Facilities -

- c) to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;*

1042. In paras. 85 to 87 of the second Monitoring Report, the Committee of Experts confirms that with the situation as described in paras. 352 and 353 of the Second State Report (e.g. Danish language health care service in facilities of the Danish minority) the above obligation is sufficiently fulfilled.

Article 14

Transfrontier Exchanges

1042a. In para. 47 of the second Monitoring Report, the Committee of Experts refers to its first Monitoring report stating that the two undertakings listed below did not pose any problems.

There are no new developments.

The Parties undertake:

Art. 14, sub-para. (a) - Agreements with Other States -

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

1043. For information on this undertaking, in particular on the Bonn-Copenhagen Declarations, see para. 354 of the Second State Report.

Art. 14, sub-para. (b) - Co-operation across Borders -

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

1044. For more information about this undertaking see paras. 355 to 357 of the Second State Report.

In addition, the Joint Declaration on regional cooperation between Schleswig-Holstein and the *Sønderjylland Amt* has been effective since 2001. The declaration will be adapted to the new regional structure on the Danish side after the Danish structural reform will have taken effect in 2007. The same holds true for the *Sønderjylland / Schleswig Regional Council* [*Regionalrat Sønderjylland / Schleswig*] which will be reorganized and called *Sønderjylland / Schleswig Regional Assembly* [*Regionsversammlung Sønderjylland / Schleswig*] as of 1 January 2007.

In Part E of this report, the Danish minority states that funds will be cut for the Union of Agricultural Associations in South Schleswig [*Fælleslandboforeningen for Sydslesvig*]. The Schleswig-Holstein government clarified that the cuts will affect agricultural advisory work. Advisory work by German advisory bodies has not been

promoted since 2005. Funds will be granted solely for the cultural and community work of *Fælleslandboforeningen for Sydslesvig*.

1045. – 1099 These paragraphs are left blank because the information on undertakings accepted with regard to the Sorbian languages starts with para. 2000.

D.2.2 Sorbian (Upper Sorbian and Lower Sorbian) in the Sorbian language area in the *Länder* of Brandenburg and Saxony)

2000. Obligations regarding the Sorbian language have been accepted by the *Land* of Brandenburg and the Free State of Saxony where the Sorbs have their traditional settlement area.

Article 8

Education

2001. For information

- about the Sorbian school system, the legal basis for independently run private schools and individual schools of the agencies see para. 358,
- about the scope of Sorbian language skills among Sorbs see para. 359, and
- about legislation for the teaching and cultivation of the Sorbian language and culture at Sorbian and bilingual day-care centres and schools see para. 360 of the Second State Report.

2002. . / .

Article 8, para. 1

Paragraph 1

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

Art. 8, para. 1, sub-para. (a) - Pre-School Education -

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

2003. In paras. 88 to 91 of its second Monitoring Report the Committee of Experts considers the undertaking under sub-para. (iii) fulfilled since the Free State of Saxony provides funding for a sufficient number of day-care centres and because authorities

and language group representatives work together to overcome a lack of teachers (cf. paras. 361 to 364 of the Second State Report). There are a couple of new developments to be reported:

The Saxon State Ministry for Social Affairs adopted a new regulation on the promotion of the Sorbian language and culture in day-care centres in the Free State of Saxony (Regulation on day-care centres in the Sorbian settlement area, SächsSorbkitaVO). It entered into force on 1 January 2007. The revised regulation applies to day-care centres in the Sorbian settlement area in the Free State of Saxony.

The language of instruction in these day-care centres is Sorbian. There are attended by both children with Sorbian as mother tongue and children with no or insufficient Sorbian language skills who are also instructed in Sorbian to provide them with a better proficiency of the language. There are also bilingual day-care centres with separate groups for (predominantly) German speaking and Sorbian speaking children.

The day-care centres must ensure that the children are made familiar with the Sorbian language and culture in accordance with their stage of development and language skills. Sorbian and bilingual day-care centres receive an annual subsidy amounting to € 5,000 per Sorbian group from the Free State of Saxony. The subsidy is meant to support additional staff needed for group work, preparation and follow-up work and parental counselling.

Art. 8, para. 1, sub-para. (a) (iv)

- iv) *if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;*

2004. This undertaking was accepted by **Brandenburg**. Paras. 365 to 369 of the Second State Report give information about the responsibilities for pre-school education (municipalities) and its promotion (by the *Land*), and about individual institutions and activities.

2005. In paras. 167 to 171 of the second Monitoring Report the Committee of Experts considers this obligation only partly fulfilled. It justified its decision by stating that the decentralized financial support made it more difficult for speakers to convince municipalities to create Sorbian pre-schools and that they were not aware of funds from the *Land* Youth Plan [*Landesjugendplan*], that additional costs for bilingual education were not covered by the budget, that there was a lack of bilingual pre-school teachers, and that there was no structured policy and that the financial framework still needed improvement.

2006. In this respect, the *Land* wishes to express the following opinion and informs about new developments as compared to the Second State Report:

The *Land* shares the Committee of Experts' opinion that an appropriate financial framework is helpful to fulfil the provision. But it does not consider necessary to establish a separate budget item. As regards provision of children's day care, the authorities obliged to provide such facilities grant basic funds and must base their decisions on the parameters stipulated for pedagogical work in Section 10 of the Children's Day-Care Centres Act. The authority liable to provide facilities is not obliged to provide staff in addition to the statutory minimum staffing levels. But in case additional staff is needed in the framework of the Witaj projects, funding may be provided by the Foundation for the Sorbian People [*Stiftung für das sorbische Volk*] whose tasks also include the promotion of such projects. Further funds can be retrieved from the *Land* Youth Plan. The Advisory Committee observed that project organizers are insufficiently aware of promotion measures under the *Land* Youth Plan. However, the relevant authorities (municipalities) advise parents, associations or other groups interested in the Witaj project also regarding financial support. But potential project organizers have to contact the responsible authorities to receive targeted information from them since otherwise the addressees are not known.

Art. 8, para. 1, sub-para. (b) - Primary Education -

- i) *to make available primary education in the relevant regional or minority languages; or*
- ii) *to make available a substantial part of primary education in the relevant regional or minority languages; or*
- iii) *to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- iv) *to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;*

Both Brandenburg and Saxony have accepted the obligation under sub-paragraph (b) (iv).

1. Brandenburg

2007. Regarding paras. 370 to 374 of the Second State Report giving information about Sorbian classes as part of the curriculum at primary schools, relevant information measures and demand, the Committee of Experts, in paras. 177 to 181 of the second Monitoring Report, considers this undertaking only partly fulfilled because the area where the language is spoken was not sufficiently defined by

statutory law (*Sorben-(Wenden)-Gesetz*) and because there was a lack of bilingual primary school teachers (cf. paras. 164 to 166 of the second Monitoring Report).

2008. In response to the Committee's opinion we would like to state the following: The Committee of Experts' assessment might be based on a misunderstanding. In fact, the Sorbs' traditional settlement area for which the obligations need to be fulfilled is clearly defined by Section 3 para. 2 of the *Sorben-(Wenden)-Gesetz*. The Sorbian settlement area comprises 51 municipalities in line with legal requirements; the list was published in the Official Gazette. Territorial reforms did not affect this situation since a settlement remains Sorbian and part of the Sorbian settlement area even after a new territorial allocation.

The assessment might also be based on the opinion of Sorbian associations that, although they fulfil the legal requirements, several municipalities refuse to be assigned to the Sorbian settlement area to avoid incurring costs. However, such refusal is unlawful, and the municipality's decision could be revoked by the local government supervisory authorities. So far local government supervisory authorities in Brandenburg have not encountered such cases.

The assessment might also refer to the long-time discussion in the *Land* whether the law correctly defines the Sorbs' traditional settlement area or whether it should be redefined to include municipalities which so far have not belonged to the settlement area. Some suggested extending the territory to include municipalities with a tradition of Sorbian language *or* culture instead of requiring them to have a tradition of Sorbian language *and* culture. As a result, the Sorbian settlement area could comprise regions where Sorbian traditions are preserved although there are no longer any Sorbian speakers or culturally assimilated municipalities with at least one speaker of the Sorbian language. The *Land* Government thoroughly examined, together with the Parliament, whether to amend the law. Finally, it decided to reject amendments since it considers language and culture inseparable and interdependent so that they should not be detached by law. High costs for the *Land* were another reason for discarding amendments. We will be pleased to provide the government report on this issue, if necessary.

We come to the conclusion that the assumption that the law's territorial scope was unclear should not be the basis for the Committee of Experts' assessment. Hence it should decide that Brandenburg fulfilled its obligations.

2. Free State of Saxony

2009. Paras. 375 to 377 of the Second State Report give information about Sorbian language classes at primary schools. They also explain that the distinction between native language, secondary language and foreign language was replaced by the concept of bilingualism to further develop language skills acquired in the framework of the Witaj project. In paras. 92 to 94 of the second Monitoring Report, the Committee of Experts considered this undertaking only partly fulfilled. It expressed the opinion that there was no coherent legal framework to provide Sorbian classes of equal quantity and quality in central and peripheral regions of the language area. It also stated that the law should not define the minimum number of pupils necessary for certain classes on a case-to-case basis since this would confound parents.

2010. The Free State of Saxony wishes to comment on this assessment and gives information about new developments:

In 2005/2006 Sorbian is taught as a secondary language at four primary schools. Another 14 primary schools in the area covered by the Bautzen Regional Education Office offer Sorbian as a secondary language or as a foreign language. Sorbian and other primary schools are committed to preserving the Sorbian language and culture. Instruction in Sorbian is based on the interschool “2 Plus” concept.

(See http://www.sn.schule.de/~ci/download/mv_la_sorbisch.pdf).

Sorbian is no longer offered as a contact language.

Art. 8, para. 1, sub-para. (c) - Secondary Education -

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

Brandenburg and the Free State of Saxony have accepted the obligation under subparagraph (c) (iv).

1. Brandenburg

2011. The Committee of Experts considers this undertaking only partly fulfilled (para. 177 to 181 of the second Monitoring Report) although paras. 378 to 380 of the Second State Report described the available classes and framework curricula. It stated that it was unclear to what extent classes in Lower Sorbian were included in the “ordinary curriculum” whereas it was well-aware that only very few pupils learn Lower Sorbian at secondary schools. It also noted that the *Sorben-(Wenden)-Gesetz* insufficiently defined the areas where Sorbian is actually spoken and for which the obligation therefore needs to be fulfilled. Finally, it expressed its concern that transferring responsibility for the Cottbus grammar school from the *Land* to the city could entail financial problems for the school.

2012. We would like to note that the Committee’s statements reflect an inadmissible extension of the obligation’s scope as stipulated in the above provision. The provision requires that instruction is offered to the extent wished by families. Thus, the obligation cannot be considered only partly fulfilled because of low demand.

The *Land* wishes to comment on further statements of the Committee and report on new developments since the Second State Report:

Regarding the criticism that the territorial application is insufficiently defined see para. 2008.

Regarding the low number of pupils it has to be noted that in Brandenburg the development of Sorbian classes started at a very low level since young people in the traditional settlement area had almost no Sorbian language skills. Despite negative demographic developments, five times as many pupils attend classes at primary schools, and this high level is maintained. In addition, considerable progress was made in pre-school language instruction due to the Witaj project. This helped create a new basis for language proficiency of young people in the Sorbian settlement area. The improved language proficiency is likely to increase interest for such classes also at secondary schools.

Regarding the transfer of responsibility for the Lower Sorbian grammar school in Cottbus the *Land* points out that such transfer will not have any negative impacts on the financial situation of the school. There is no evidence that the work of the grammar school will be affected through a shift of responsibilities.

2. Free State of Saxony

2013. Taking into account the offer described in paras. 381 to 387 of the Second State Report and after the secondary technical school in Crostwitz was closed, the

Committee of Experts considered the above undertaking only partly fulfilled (paras. 96 to 100 of the second Monitoring Report). From the Committee's point of view, the minimum number of pupils has to be reduced to prevent further schools from being closed.

2014. The above undertaking applies only if there are a sufficient number of pupils. Of course it is debatable what number should be considered sufficient taking into account budgets and the demographic situation. Nevertheless, the Free State of Saxony will give an overview of teaching needs and the available Sorbian secondary schools taking into account next year's potential demand. The *Land* will also reiterate why these results are appropriate with respect to the above undertaking, e.g. taking into account reasonable accessibility of Sorbian secondary technical schools today and in the future:

In the 2005/2006 school year, the rural districts [*Landkreise*] of Kamenz and Bautzen had five Sorbian secondary technical schools. Detailed information about instruction in the Sorbian language at secondary technical schools and grammar schools is given in paras. 381 to 385 of the Second State Report. Overall, Sorbian instruction was given in the 2005/2006 school year at 31 schools in Saxony and was attended by some 2,220 pupils, of whom about 850 speak Sorbian as their mother tongue. Four of the five Sorbian secondary technical schools have native language classes. Given the demographic development, the number of pupils at Sorbian secondary technical schools dropped so low that the educational goal of secondary technical schools, i.e. to provide education resulting in a secondary modern school or secondary technical school degree, could not be realized anymore – not even to a limited extent. Consequently, the Free State of Saxony withdrew its support for the Sorbian secondary technical school in Crostwitz on 31 July 2003. According to the Saxon State Ministry of Education and Cultural Affairs, there will be no longer a public need to maintain the Sorbian secondary technical school in Panschwitz-Kuckau as of the 2007/2008 academic year. In the 2005/2006 academic year there are no grades 5 and 7. Only seven students applied for attending the 5th grade. Prognoses do not show any significant increase of students for the next years. The Saxon State Ministry of Education and Cultural Affairs sees a public need to maintain at most two classes of one grade in the administrative community “Am Klosterwasser” – which has the highest number of Sorbian schools in Kamenz *Landkreis* – pursuant to Section 4 para 4 no. 4 of the Schools Act. Furthermore, it is a distance of only a few kilometres to other Sorbian secondary technical schools in Räckelwitz and Ralbitz. In the long run, there will be a public need to maintain at most three classes of one grade at Sorbian secondary technical schools in the Bautzen *Landkreis*. It is currently not possible to make any reliable statements about the long-term public need concerning the Sorbian secondary technical school in Radibor. The responsible body was informed by the Saxon State Ministry for

Education and Cultural Affairs that the decision concerning this secondary technical school may be revised if a balanced concept on Sorbian secondary technical schools in the Bautzen *Landkreis* is presented. The Sorbian secondary technical schools in Bautzen, Radibor, Räckelwitz and Ralbitz-Rosenthal will be maintained without restrictions.

Currently, all secondary technical schools do not have the required number of classes per grade or of pupils in certain grades.

All decisions concerning Sorbian education are based on the rights of the Sorbian people as determined in Article 6 para. 1 of the Constitution of the Free State of Saxony and in Section 2 and Section 4a para. 4 no. 4 of the Schools Act. Even if the Free State of Saxony does no longer provide certain grades at the Sorbian secondary technical schools in Panschwitz-Kuckau, the maintenance and development of their culture, language and traditions is ensured through the remaining Sorbian secondary technical schools in the Sorbian settlement area since they can be reached in fair time and offer good quality education.

Before the decision was taken, the educational arguments of Sorbian bodies were thoroughly examined. The evaluation of the concept of the bilingual Sorbian-German school “2plus” (Witaj concept), which encompasses all types of schools, will not be affected by the withdrawal of *Land* participation in offering certain grades. This concept is intended to stabilize or even increase the number of pupils at Sorbian schools.

The number of Sorbian schools will remain at such a level that Sorbian secondary technical schools can be reached in reasonable time.

This is ensured by the Free State of Saxony through legal provisions in support of the Sorbian people. A reasonable adaptation of the school network, in line with the obligations under Article 6 of the Constitution of the Free State of Saxony, is necessary to use available resources as effectively as possible. The historic network of Sorbian schools will remain intact even after the closure of the Sorbian secondary technical school in Panschwitz-Kuckau, since primary schools are available in all locations concerned.

Art. 8, para 1, sub-para. (d) - Technical and Vocational Education -

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

2015. Information about capacities at vocational schools offering Sorbian classes and about low demand for such offers (see paras. 388 to 389 of the Second State Report) is updated and specified after the Committee of Experts considered this undertaking, accepted by the Free State of Saxony, only partly fulfilled (paras. 101 to 104 of the second Monitoring Report). It stated that vocational training was a priority in rural areas and that representatives of the speakers reported that there were a number of Sorbian-speaking companies who expressed their wish to take on Sorbian-speaking apprentices, which indicates that there is indeed a demand. In 2004/2005 a total of 213 pupils graduated from Sorbian secondary technical schools and the Sorbian grammar school; in the entire Sorbian settlement area 4,994 pupils successfully completed their course of education. There are some 145 vocational training offers (i.e. apprenticeships such as bakers, masons etc. without courses of study at universities) available for the pupils in the Sorbian settlement area.

On 28 June 2006 Domowina held a conference on Sorbian language use in business and career. Participants at the conference discussed the impact of regional businesses on the preservation of the Sorbian language. They also discussed possibilities to provide additional apprenticeships and further Sorbian language instruction during vocational training after secondary school.

Since 2005 the Saxon State Ministry for Economics and Labour has been in contact with Domowina to provide information about funds for additional apprenticeships in Sorbian companies. For example, the State Ministry funds some 5,000 additional apprenticeships in Saxony; given the employment situation, support focuses in particular on the Lausitz region.

In late 2005 Domowina launched a pilot project which aims at providing graduates from Sorbian schools with professional Sorbian skills (Sorbian terminology, Sorbian language programmes on the computer etc.) in addition to the regular professional skills they acquire during their apprenticeships. Domowina set up a working group to monitor the project. Participants also include company representatives. The Saxon State Ministry for Economics and Labour provided information about promotional funds.

Since September 2006 Domowina has been actively supporting a pilot project of the *Gesellschaft für Aus- und Fortbildung in Hoyerswerda mbH* [Organization for Basic and Advanced Training in Hoyerswerda]. Through this project, apprentices in tourism (with or without Sorbian school-leaving degree) are to acquire Sorbian language skills and learn more about Sorbian history and culture. The apprentices will need these professional and language skills for their future work in the Lausitzer Seenland

(area where artificial lakes are being created from former open-cast mines) and in other regions of the Sorbian settlement area. The project is funded by the Kamenz Centre for Labour and Social Affairs [*Arbeits- und Sozialzentrum des Landkreises Kamenz*].

Art. 8, para. 1, sub-para. (e) - University and Other Higher Education -

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

2016. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that the Free State of Saxony did not encounter any difficulties in fulfilling this obligation.

The information about Sorbian studies at Leipzig University and at the Sorbian Institute [*Sorbisches Institut*] given in paras. 390 to 393 of the Second State Report are updated as follows:

Leipzig University will introduce new courses of study (Bachelor and Master) as of the winter semester 2006/2007. At the *Institut für Sorabistik* of Leipzig University, students can still enrol for Sorbian teacher training or in a course of study for Sorabistics.

Art. 8, para. 1, sub-para. (e) (iii)

- iii) *if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*

2017. Paras. 394 and 395 (regarding the undertaking accepted by Brandenburg) of the Second State Report stated that Brandenburg and Saxony agreed to share their resources by offering opportunities to study Sorbian only at Leipzig University given the low number of teacher students at Potsdam and Leipzig University. In paras. 182 to 185 of the second Monitoring Report, the Committee of Experts considered the undertaking only partly fulfilled explaining that university education was not adequate due to the lack of staff specialized in Lower Sorbian.

With respect to this undertaking and others that the Committee of Expert considers only partly fulfilled it needs to be clarified that such undertakings must be considered

fulfilled already if there are no bans and not only in cases where there is a specific offer.

Moreover, Brandenburg provides material support to Leipzig University, which goes far beyond the obligation to ensure Sorbian higher education. Given the low demand, increasing or outsourcing higher education programmes would not be reasonable.

The Free State of Saxony would also like to note the following:

With regard to the higher education programme described in para. 2016, the *Institut für Sorabistik* of Leipzig University has sufficient staff and resources to offer Sorbian studies (in Upper and Lower Sorbian). There are places for applicants focusing on Lower Sorbian. For all basic teacher training courses there are rules on courses and examinations. Unfortunately, the demand for a basic teacher training in the subject of Lower Sorbian is very low. Information campaigns have so far not produced satisfactory results. Given the urgent need for Sorbian (Wendish) teachers at primary schools in Brandenburg, the federal states Brandenburg and Saxony, in cooperation with Leipzig University, make every effort to train teachers of other subjects so they will be able to teach in Lower Sorbian. Similar measures were taken in the Free State of Saxony for Upper Sorbian. Advanced teacher training in Upper and Lower Sorbian can be provided.

Art. 8, para. 1, sub-para. (f) (iii) - Adult Education -

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

2018. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For information about Sorbian language instruction in adult education see paras. 396 and 397 of the Second State Report for Brandenburg and para. 398 for Saxony. There were the following new developments:

In the Free State of Saxony advanced training measures in Upper Sorbian for teachers (two years of specialized advanced training) is offered by the regional school authority of Bautzen in cooperation with Leipzig University.

Art. 8, para. 1, sub-para. (g) - Teaching of the History and Culture Education -

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

2019. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For information about further training of teachers and teaching material in Saxony see paras. 399 to 401, and about the legal basis and material in Brandenburg and Saxony see paras. 402 and 403 of the Second State Report.

Art. 8, para. 1, sub-para. (h) - Basic and Further Training of Teachers -

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

2020. Regarding this undertaking accepted by Brandenburg and Saxony, para. 405 of the Second State Report gives information about teacher training at Leipzig University and about the extended course of study at Potsdam University. Paras. 409 to 412 include information about relevant promotion measures, and paras. 406 to 408 report on activities for advanced teacher training, e.g. through the Cottbus workshop for educational development [*Arbeitsstelle Bildungsentwicklung Cottbus*], in Brandenburg and Saxony.

For Saxony, the Committee of Experts considered the undertaking fulfilled (paras. 105 to 108 of the second Monitoring Report) after the *Land* had provided additional information about efforts to increase the number of teachers and to revise the admission policy (*numerus clausus*) for combined courses of study for the Sorbian language. For Brandenburg, the Committee considered the undertaking only partly fulfilled pointing out that insufficient efforts were made to increase the number of teachers for all levels of education since there were not enough programmes for basic and advanced teacher training (paras. 186 to 191).

The *Länder* comment on the Committee's statements as follows and report the following new developments:

1. Brandenburg

The *Land* Government agrees to the Advisory Committee's conclusion that basic and advanced training of Sorbian teachers is not yet sufficient. The *Land* will soon take the appropriate measures. First, it will assess the actual demand, and on this basis it

will take measures to improve basic and advanced training of teachers for all types of schools. This expressly includes targeted measures to recruit teachers. Given the low demand for teachers due to the unfavourable demographic development, better qualification through advanced training will motivate a sufficient number of teachers to participate in such training programmes.

In the fourth State Report, the *Land* will report on the progress made in detail.

2. Free State of Saxony

To ensure that there will be a sufficient number of well-trained teachers in the future, the Saxon State Ministry for Education and Cultural Affairs said that the recruitment of teachers for schools in the Free State of Saxony can be guaranteed, if the graduates of the Sorbian grammar school in Bautzen speak Sorbian as their mother tongue and have successfully completed teacher training (first and second state examination for teachers) in a combination of subjects required by the regional school office in Bautzen.

For information on teacher training see paras. 2016 and 2017. When adopting amendments to the Saxon Act on University Admission [*Hochschulzulassungsgesetz*] the Free State of Saxony will also decide on the criterion 'Sorbian language skills and knowledge of Sorbian history and culture' given the problems arising from the admission policy (numerus clausus) for teacher training in combined courses of study in the Sorbian language.

Art. 8, para. 1, sub-para (i) - Supervisory Bodies -

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

2021. Paras. 414 to 416 (Brandenburg) and paras. 417 to 421 (Saxony) of the Second State Report give information about supervisory school authorities responsible for Sorbian instruction and about reports of these *Länder* on the Sorbian language. The Committee of Experts considers this undertaking not fulfilled (paras. 192 to 194 of the second Monitoring Report for Brandenburg und paras. 110 to 113 for Saxony) stating that there was no supervisory body specifically entrusted with the task of monitoring the measures taken and that reports do not correspond to the requirements of this undertaking.

2022. We disagree with these statements: The undertaking does not require that supervisory bodies are responsible solely for Lower Sorbian classes and that the reports may solely include information about instruction in Sorbian. The provision does also not stipulate that supervisory bodies must not be integrated in existent administrative structures.

The *Länder* concerned will not increase bureaucracy through a broad interpretation of the above provision. They comment on this issue as follows:

1. Brandenburg

The supervisory body continues to be part of the Ministry for Education and of regional supervisory school authorities. In recent years, we extensively reported on minority language instruction, in particular in replies to parliamentary interpellations (e.g. major interpellation no. 67; printed document of the *Landtag* 3/7002). We will be pleased to provide the relevant documents, if necessary. A separate report would not give any new information and would thus not be of added value.

2. Free State of Saxony

A report on the situation – in particular the educational system – of the Sorbian people in the Free State of Saxony is submitted pursuant to Section 7 of the *Saxon Sorbs Act* by the Saxon State Government to the Saxon *Landtag* at least once per legislative period. The report is published for release to the general public. We consider an additional report on the educational situation unnecessary.

Article 8, para. 2

Paragraph 2

With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

2023. Although the Committee of Experts – referring to paras. 422 to 424 of the Second State Report which gives information about limited offers outside the Sorbian language area – considers this undertaking fulfilled by the Free State of Saxony (paras. 114 to 116 of the second Monitoring Report) we should like to point out that

this undertaking would already be fulfilled by avoiding bans so that any further action would basically not be needed.

Article 9

Judicial Authorities

Paragraph 1

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

Art. 9, para. 1, sub-para. (a) - Criminal Proceedings -

in criminal proceedings:

- ii) to guarantee the accused the right to use his/her regional or minority language; and/or*
- iii) to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language;*

2024. Paras. 425 to 427 of the Second State Report listed provisions in Brandenburg and Saxony which grant the right to use a regional or minority language. However, the Committee of Experts again considered the undertakings under Article 9 para. 1 only formally fulfilled. Against this background we would like to note that the Committee and the German authorities will presumably continue to disagree on this point since the latter still insist that establishing a legal framework was sufficient to fulfil the above undertaking.

In Brandenburg there are still no reports about participants in legal proceedings who expressed a wish to use the Sorbian language.

Since the Second State Report there have been no new developments in the Free State of Saxony.

We should only like to note that the *Sächsischer Rechtswegweiser* [Saxon Law Guide] (as per November 2005), a brochure published by the Saxon State Ministry of Justice, expressly mentions the possibility to use the Sorbian language in the Sorbian settlement area (in line with Section 9 of the Saxon Sorbs Act). Of course, this also applies to criminal proceedings involving public prosecutors and courts.

Art. 9, para 1, sub-para. (b) - Civil Proceedings -*in civil proceedings:*

- ii) *to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or*
- iii) *to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*

2025. The obligations under sub-paragraph (b) (ii) and (iii) have been accepted by the Free State of Saxony; also, the obligation under (iii) has been adopted by Brandenburg.

2026. Please also refer to para. 193 of the Second State Report. Moreover, this undertaking would already be fulfilled by allowing minority language use, i.e. by not banning it.

Art. 9, para 1, sub-para. (c) - Proceedings before Courts concerning Administrative Matters -*in proceedings before courts concerning administrative matters:*

- ii) *to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense; and/or*
- iii) *to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*

Art. 9, para 1, sub-para. (d) - Expense -

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

2027. The obligations under sub-paragraph (c) (ii) and (iii) and under sub-paragraph (d) have been expressly accepted by the Free State of Saxony; also, the obligation under sub-paragraph (c) (iii) has been adopted by Brandenburg.

2028. For more information see paras. 193, 195 and 430 of the Second State Report, in particular regarding the principle of *ex officio* investigations.

2029. Regarding the responsibilities accepted by the Free State of Saxony under sub-para. (d) the Committee of Experts stated in para. 47 of the second Monitoring Report, referring to the first Monitoring Report, that no major issues were raised in relation to this provision.

Art. 9, para. 2, sub-para. (a) - Validity of Legal Documents -

Paragraph 2

The Parties undertake:

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

2030. In para. 47 of the second Monitoring Report, referring to the first Monitoring Report, the Committee of Experts states that Brandenburg fulfilled the above undertaking without any problems and considers the undertaking fulfilled also by Saxony since it was not aware of any rejected documents (para. 122 of the second Monitoring Report). In this respect, we would like to refer to paras. 193 and 432 of the Second State Report as regards the lack of experience in handling such documents in Brandenburg. In addition, we would like to note that Brandenburg still has no information about the use of documents drafted in the Sorbian language.

Article 10

Administrative Authorities and Public Services

Paragraph 1

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

Art. 10, para. 1, sub-para. (a) - Applications, and Submission of Documents -

- iv) *to ensure that users of regional or minority languages may submit oral or written applications in these languages;”*
or
- v) *to ensure that users of regional or minority languages may validly submit a document in these languages;*

2031. The obligations under sub-paragraphs (iv) and (v) have been accepted for administrative districts in the Sorbian language areas in Saxony and Brandenburg.

2032. Para. 433 of the Second State Report depicted the limits of the obligations under Art. 10 (no obligation to actively encourage individuals to use the Sorbian language), and paras. 434 to 441 described the legal basis and possible personnel measures in administrations in Saxony and Brandenburg to fulfil the above undertaking. Nevertheless, the Committee of Experts considers the undertaking, also for federal authorities, only formally fulfilled since there was a lack of Sorbian speaking staff (see paras. 123 to 126 of the second Monitoring Report).

2033. Concerning the federal level, we would like to note the following:

Contrary to the Committee’s statements, Article 10 para. 1 sub-para. (a) (iv) only requires to offer the possibility to submit applications in the Sorbian language (unlike the provision in sub-para. iii). But it does not require that replies are drafted in Sorbian.

Moreover, the criticized financial authorities (tax administration) are not federal but *Land* authorities.

The Committee also presumed that federal authorities would not accept documents drafted in Sorbian. However, federal authorities accept only written applications, which is in line with the obligation, and they can fulfil the undertaking by translating documents submitted in the Sorbian language (which has not happened so far).

Finally, it has to be pointed out that the above undertaking would be violated only if an authority refused to accept a Sorbian application.

Brandenburg comments on the issue as follows:

The Brandenburg Ministry of the Interior conducted a survey on the demand for advanced training in the Sorbian language of public staff in the traditional Sorbian settlement area. The survey showed that the authorities concerned did not have such demand since they are able to fulfil their obligations under Section 29 para. 5 of the Brandenburg Administration Enforcement Act. It is possible to submit applications and documents in the Sorbian language.

Article 10, para. 2

Paragraph 2

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

Art. 10, para. 2, sub-paras. (a) and (b) - Use of a Regional or Minority Language, and Applications to Local and Regional Authorities -

- a) the use of regional or minority languages within the framework of the regional or local authority;*
- b) the possibility for users of regional or minority languages to submit oral or written applications in these languages;*

2034. The obligations under sub-paragraphs (a) and (b) have been accepted by the Free State of Saxony; also, the obligation under sub-paragraph (b) has been entered into by Brandenburg.

2035. Regarding paras. 442 to 448 and paras. 433 to 441 of the Second State Report, the Committee of Experts considers the obligation under sub-para. (a) fulfilled (para. 128 of the second Monitoring Report). But in para. 129 of the Report, the Committee considers the obligation under sub-para. (b) formally fulfilled only in the core area of the Sorbian language area, i.e. in areas with a Sorbian language minority, because of insufficient organizational measures.

For this reason, Brandenburg refers to para. 2033 and notes that the dissent on whether the possibility to use the Sorbian language requires additional organizational measures should not affect the assessment that the undertaking is fully fulfilled as long as the use of the Sorbian language is not generally restricted by authorities.

The Free State of Saxony reports that from 2004 to 2005 the competition *Sprachfreundliche Kommune* [language-friendly municipality] was carried out to encourage the use of the Sorbian language. The competition was organized by the Council for Sorbian Affairs under the auspices of the president of the Saxon

parliament. This competition focused on local activities to increase bilingualism. A city or municipality is “language-friendly” if it ensures that bilingualism as an intellectual and cultural heritage is made visible with the help of the Sorbian language and if the awareness of bilingualism is raised and language proficiency is promoted.

A similar competition was organized in Brandenburg.

Art. 10, para 2, sub-para. (g) - Place-names -

- g) the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.*

2036. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

Paras. 449 to 451 of the Second State Report give information about the legal basis and measures to fulfil the obligations accepted by Saxony and Brandenburg; para. 452 reports on the specific requirements for assigning municipalities to the Sorbian area.

Article 10, para. 3

Paragraph 3

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

Art. 10, para. 3, sub-paras. (b) and (c) - Applications in a Regional or Minority Language with regard to Public Services -

Paragraph 3

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

2037. The obligations under sub-paragraphs (b) and (c) have been accepted by the Free State of Saxony and the *Land* of Brandenburg.

2038. Regarding para. 453 of the Second State Report referring to previous statements, the Committee of Experts requested further information on the practical implementation stating that the obligation under sub-para. (b) refers to language use in the public service (see paras. 132 to 134 of the second Monitoring Report).

Brandenburg cannot, however, provide further information so that the Advisory Committee's request can unfortunately not be fulfilled. The *Land* will provide the requested information as soon as possible, at the latest in the fourth State Report.

2038a. Regarding the obligation under sub-para. (c) the Committee of Experts stated in para. 47 of the second Monitoring Report, referring to the first Monitoring Report, that no major issues were raised in relation to this provision in Saxony.

Article 10, para. 4

Paragraph 4

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

Art. 10, para. 4, sub-para. (a) - Translation or Interpretation -

a) translation or interpretation as may be required;

2039. The Committee considers the undertaking, accepted by Brandenburg, fulfilled (paras. 212 to 214 of the second Monitoring Report) because German authorities pointed out that pursuant to Art. 23 para. 5 of the Brandenburg Administrative Procedure Act the cost for interpretation and translation of Sorbian applications are borne by the authorities.

Art. 10, para. 4, sub-para. (c) - Appointment of Public Service Employees having a Knowledge of a Regional or Minority Language -

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

2040. In para. 215 of the second Monitoring Report the Committee of Experts reiterates that Brandenburg cannot fulfil the undertaking (accepted by Saxony and Brandenburg) without taking further structural measures although paras. 455 and 456 of the Second State Report stated that no relevant applications were filed and that the Charter is directly applicable so that no additional legal provisions or bureaucratic effort is needed. However, it acknowledges that the measures described in paras. 439 to 441 of the Second State Report, i.e. to deploy persons with Sorbian language skills in Saxon municipalities, could be a possible way of complying with this undertaking.

The *Länder* concerned comment on this assessment as follows:

Brandenburg notes that there is no demand for further structural measures because neither the Charter nor any other provisions include such obligation and because there are no implementation or other deficits. There are no reports on Sorbian speaking staff whose application to work in the Sorbian settlement area was rejected so that there is no sufficient evidence for assuming that the undertaking was not fulfilled.

Article 10, para. 5

Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

2041. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For detailed information see the comments in paras. 220 to 225 of the Second State Report.

Article 11

Media

Paragraph 1

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

Art. 11, para. 1, sub-para. (b) (ii) - Broadcasting of Radio Programmes -

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

2042. Paras. 458 to 464 of the Second State Report include information on the legal basis and numerous activities to ensure that account is taken, in the field of public broadcasting, of Sorbian interests and concerns in Saxony and Brandenburg. The Committee of Experts considers the undertaking not fulfilled stating that the undertaking applies to private broadcasting and that the *Länder* did not have much influence in this field (second Monitoring Report, paras. 216 to 218 for Brandenburg and paras. 136 to 139 for Saxony).

2043. We disagree with this assessment since Germany accepted only the 'to encourage' part of the undertaking and has only limited influence on private broadcasters (see para. 29).

Art. 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

2044. See para. 29 regarding the assessment that the undertaking, which only applies to private broadcasters, was not fulfilled (paras. 220 to 223 of the second Monitoring Report for Saxony and paras. 140 to 143 for Brandenburg).

Art. 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

2045. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For detailed information see the comments in paras. 469 to 474 of the Second State Report.

Art. 11, para. 1, sub-para. (e) (i) - Newspaper -

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

2046. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For detailed information see the comments in paras. 475 to 476 of the Second State Report.

Art. 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

2047. Paras. 477 and 478 of the Second State Report described the legal limits and activities to fulfil this undertaking (accepted by Saxony). In paras. 144 and 145 of the second Monitoring Report the Committee of Experts considers the undertaking only partly fulfilled because there was no evidence that the existing measures of financial assistance are designed in such a way that programmes in Sorbian could qualify for them in practice.

This is commented on as follows:

Para. 479 of the Second State Report describes that the major part of audiovisual works in the Upper Sorbian language are subsidized by the Foundation for the Sorbian People, by the publishing house *Domowina-Verlag GmbH* and the *WITAJ-Sprachzentrum* [Witaj Language Centre]. Numerous examples were given to support this point. This overview could be updated and extended. Against this background, Saxony does not understand why the undertaking is considered only formally fulfilled.

Regarding the *Land* Supervisory Authority for Private Broadcasters [*Landesmedienanstalt*] mentioned by the Committee of Experts we would like to call attention to the SAEK project (*Sächsische Ausbildungs- und Erprobungskanäle* [Saxon training and trial channels]) launched in 1997 by the Saxon Supervisory Authority for Private Broadcasters [*SLM, Sächsischen Landesanstalt für privaten Rundfunk und neue Medien*]. During the past eight years, the project has been significantly extended. The project is funded by the SLM. The SAEK combination project in Bautzen is a sub-project addressing media education. A special feature of

Bautzen is cooperation with Sorbian schools and institutions including specific projects.

Art. 11, para. 2 - Freedom of Direct Reception of Broadcasts, and Freedom of Expression

Paragraph 2

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

2048. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling this obligation.

For detailed information see the comments in paras. 481 and 482 of the Second State Report.

Article 12

Cultural Activities and Facilities

Paragraph 1

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

- a) to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*
- b) to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*
- c) to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*
- d) to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*
- e) to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;*
- f) to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*
- g) to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;*
- h) if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.*

2049. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling the obligations under sub-paras. (a) to (h).

Please also refer to paras. 483 to 496 of the second monitoring report for information about the structure of the joint cultural promotion of these *Länder*, in particular about the Foundation for the Sorbian People.

Article 12, para. 2*Paragraph 2*

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

2052. This undertaking was accepted by Brandenburg and Saxony. In paras. 224 to 226 of the second Monitoring Report the Committee of Experts considers the undertaking fulfilled by Brandenburg and in paras. 147 to 149 by Saxony.

2053, 2054. . / .

Article 12, para. 3*Paragraph 3*

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

2055. This undertaking was accepted by Brandenburg and Saxony. In paras. 227 to 230 of the second Monitoring Report the Committee of Experts considers the undertaking fulfilled by Brandenburg and in paras. 150 to 153 by Saxony. However, the Committee decided that the undertaking was not fulfilled at federal level.

We would like to note that this undertaking does not necessarily require activities at the federal level. If the *Länder* fulfil the undertaking it is at the same time fulfilled by the federal level. In a federative state's cultural policy abroad, regional aspects, including regional or minority languages in specific settlement and language areas, are generally dealt with by the *Länder* in cooperation with the Federal Government taking into account the division of responsibilities.

For more information see paras. 502 and 503 of the Second State Report. We would like to inform you about the following new developments:

2056. The Free State of Saxony supports the *Domowina – Bund Lausitzer Sorben e.V.* [Federation of Lusatian Sorbs] to preserve traditional Sorbian relations to the Wendish Seminar [*Wendisches Seminar*] in Prague. The Saxon State Ministry for Science and Arts morally supported the cross-border project of the Bautzen Sorbian Museum *Im Reich der schönen, wilden Natur. Der Landschaftszeichner Heinrich Theodor Wehle 1778-1805* [In the realm of the beautiful and wild nature. The landscape artist Heinrich Theodor Wehle 1778-1805] by accepting the patronage for the project. The project was co-funded by the Foundation for the Sorbian People. In addition, the Foundation for the Sorbian People together with several cooperation

partners organized the 2005 Sorbian Cultural Days in Prague [*Sorbische Kulturtage 2005*].

2057., 2058. . / .

Article 13

Economic and Social Life

Paragraph 1

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

- a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

2059. In para. 47 of the second Monitoring Report (referring to the first Monitoring Report) the Committee of Experts states that Saxony and Brandenburg did not encounter any difficulties in fulfilling the obligation under sub-para. (a).

2059a. In paras. 231 to 233 of the Second Monitoring Report the Committee of Experts considered the undertaking under sub-para. (c) fulfilled by Brandenburg, but in paras. 154 to 156 it could not conclude that this undertaking was fulfilled by Saxony. The Committee requested further information about the prohibition of the use of the Sorbian language in a private ecclesiastical establishment. Paras. 248, 506 and 507 of the Second State Report referring to both undertakings noted that no further measures are necessary since there were no laws and practices which discourage the use of minority languages (cf. paras. 75 and 76 of this report).

2059b. The Free State of Saxony would like to add the following information requested by the Committee:

In November 2003 the management of the St. Marienstern monastery in Panschwitz-Kuckau ordered that staff at the home for people with a disability must use the German language at work. Since about half of the staff is bilingual (Sorbian/German) this practice discourages the use of the Sorbian language. The instruction became public in 2004. The Saxon State Ministry for Social Affairs and the Saxon State Ministry for Science and Arts attended to this issue and announced their position toward the public and the monastery in February 2005. Basically, they stated that the instruction neither was unlawful from the perspective of the institution nor did it violate labour law. But they conceded that it was problematic from the minority point of view, in particular regarding applicable law. They asked the monastery to find a compromise between professional tasks and the rights of bilingual staff. In the meantime, the monastery and the nursing home adapted their instructions, which

eased the tensions. However, the ministries still argue that the issue was not sufficiently settled. Therefore, the Free State of Saxony will continue its efforts to find a final solution which all parties can accept.

The St. Marienstern monastery runs a nursing home for mentally disabled people of all ages. Only very few residents speak Sorbian. It is commendable that the management tried avoid confusing the disabled people by ensuring that in the presence of the residents a language is spoken which they understand.

Art. 13, para. 1, sub-para. (d) - Facilitating the Use of the Regional or Minority Language

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

2060. Regarding paras. 508 to 511 of the Second State Report, the Committee of Experts in paras. 234 to 237 of the second Monitoring Report stated that Brandenburg did not fulfil the undertaking arguing that the submitted information was only about measures under Art. 9 and 10 concerning judicial and administrative authorities. In paras. 157 to 160 it stated that Saxony fulfilled the undertaking after submitting additional information about state funded activities of the Krabat association.

Brandenburg wishes to give the following new information:

2061. The social activities mentioned in the provision also include church life. Most religious Sorbs in Brandenburg are members of the Protestant Church. The centre of the Protestant Sorbs' church life in the Niederlausitz region is the German-Wendish "double church" in Vetschau where Sorbian-language services have been held for several years. The Ministry for Culture supported to a large extent the restoration and preservation of this church, which is indispensable for the Sorbian people.

The local Protestant Church in Berlin-Brandenburg - Silesian Upper Lusatia created a parochial post to coordinate and promote Sorbian services. It has also promoted the deployment of a Sorbian priest and plans to publish Sorbian-language material for services and parochial work. These measures are financially supported by Brandenburg through an inter-state treaty (*Evangelischer Kirchenvertrag Brandenburg*) of 8 November 1996).

In addition, Brandenburg supports image campaigns in favour of the Sorbian language by including Sorbian aspects when presenting itself to the public, e.g. at the Brandenburg Day or the Day of German Unity.

2062. . / .

Article 13, para. 2

Paragraph 2

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

Art. 13, para. 2, sub-para. (c) - Social Care Facilities -

- c) *to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;*

2063. The Committee of Experts decided that this undertaking, addressed in paras. 512 to 514 of the Second State Report, was only partly fulfilled by Saxony (paras. 161 to 163 of the second Monitoring Report) because a bilingual personnel policy in these facilities was necessary to fulfil the undertaking.

2064. Saxony comments on this as follows:

In the Upper Sorbian region the possibility of receiving and treating in their own language persons using a regional or minority language in hospitals cannot be granted on a permanent basis.

None of the physicians working at the Saxon hospital in Großschweidnitz speaks Sorbian. It is only by chance that a Sorbian woman is employed at the hospital as social worker. However, the lack of Sorbian speakers has never been an issue, although the Sorbian language is very important in the region, since all Sorbs know German very well.

Sorbs living in the region did not affect the daily life of the nursing home *Heim für Menschen mit Behinderung "Anna Gertrud" Großschweidnitz*.

2065. – 2999. These paragraphs are left blank because the information on undertakings accepted with regard to the Frisian languages starts with para. 3000.

D.2.3 North Frisian in the North Frisian speech area in Schleswig-Holstein

Article 8 Education

3000. For the current status regarding the model for teaching in and of North Frisian, which is to be used for improving education/classroom instruction and has been commended by the Committee of Experts, see Nos. 3002, 3004 and 3006 below.

Article 8, para. 1

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

Article 8, para. 1, sub-para. (a) - Pre-School Education -

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

3001. While Nos. 517 -519 of the Second State Report described the pertinent measures taken in nursery schools and provided the information that, on the basis of Article 5, para. 2, of the Schleswig-Holstein *Land* Constitution, the obligations under sub-paras. (iii) and (iv) as accepted by Schleswig-Holstein are fulfilled without the need for any further legal provisions, given that offers of pre-school Frisian instruction are made despite a shortage of Frisian-speaking nursery-school teachers, even in those places where parents do not request such instruction for their children, and subsequent to the information that an "act on nursery schools" taking particular account of the Frisian language could only be expected in the long term, the Committee of Experts, in paras. 239 to 244 (of the second Monitoring Report [MIN-LANG (2005) 7]), confirmed their conclusion that these undertakings were only partly fulfilled.

3002. Responsibility for planning and defining the offers available in day-care centres lies with the providing bodies of the local child and youth services. This also includes deciding on whether - and which - regional or minority languages will be included in a centre's programme.

The importance of including minority and regional languages also features in the "Guidelines on the educational mandate of child day-care centres".

In 2006, as stated by *Frasche Rådj Sektion Nord* [Frisian Council, Nordfriesland Section], ten different providing bodies offered Frisian language activities in 16 nursery schools. As compared with the situation described in the Second State Report (cf. No. 518), the number has increased by two (from 14 to 16 nursery schools). This brings the number of children taking part in Frisian language activities up to about 660 at present.

Therefore, Schleswig-Holstein considers this obligation fulfilled.

Article 8, para. 1, sub-para. (b) - Primary Education -

- (i) *to make available primary education in the relevant regional or minority languages; or*
- (ii) *to make available a substantial part of primary education in the relevant regional or minority languages; or*
- (iii) *to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- (iv) *to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;*

3003. In Nos. 523 and 524 of the Second State Report regarding the undertaking under para. (iv) above, Schleswig-Holstein *Land* indicated the number of pupils taking part in Frisian language courses offered as part of foreign language instruction as a voluntary subject, the number of schools offering such courses, and the number of teachers for this classroom subject; however, despite the acknowledged improvements in Frisian language offers, the Committee of Experts - in paras. 246 - 250 of the second Monitoring Report - considered this undertaking only partly fulfilled, especially on the grounds that Frisian was not offered as an optional subject to be chosen from a compulsory group (*Wahlpflichtfach*) and was not generally offered from the 1st school year onwards. In response to this conclusion of the Committee, information is provided on the following new developments:

3004. In the 2005/2006 school year, 30 teachers offered Frisian instruction to a total of 1455 pupils at 27 schools.

Article 8, para. 1, sub-para. (c) - Secondary Education -

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

3005. As stated in paras. 251 - 255 of the second Monitoring Report of the Committee of Experts, the undertaking accepted by Schleswig-Holstein *Land* under para. (iv) was only partly fulfilled at present because, at nearly all schools, North Frisian could not be considered as being an integral part of the curriculum; the Committee reached this conclusion despite the information provided in No. 526 of the Second State Report on the lessons offered by grammar schools [*Gymnasien*] and secondary technical schools [*Realschulen*] in the various dialects of Frisian, despite express mention of the fact that the cause of the problem was not the lack of resources but, instead, insufficient demand for such lessons, and although the Committee was pleased to note the plan to make North Frisian an optional core subject [*Wahlgrundkurs*]. In response to this finding by the Committee, the following additional remarks and information on new developments are provided:

3006. Starting in the school year 2005/2006, a project was launched on the island of Sylt by Sylt *Hauptschule* [secondary modern school] and Westerland *Realschule* [secondary technical school] with the aim of enhancing continuity of Frisian lessons beyond the primary school stage. During the so-called diagnostic, or orientation, stage [5th and 6th grades], it was planned to offer Frisian-language projects to ensure pupils' continued interest in Frisian lessons and to provide for pupils' language skills required for offering Frisian, as an alternative to French lessons, in grades 7 and 8 of the *Realschule*; also, this offer would have been available as an optional course chosen from a compulsory subject group [*Wahlpflichtkurs*] to *Hauptschule* pupils as well. In that case, *Realschule* pupils would then have been able to take their "O Levels" in Frisian as their second foreign language. Schleswig-Holstein's Ministry for Education and Women had provided the legal basis required to this end by granting an exceptional permission.

The project started with two mixed groups of pupils attending various types of schools (altogether 30 children) in the 5th grade, with 2 hours/week of Frisian lessons for each group. The island's primary schools and the headmasters/headmistresses of the secondary schools had widely publicized the project to enlist support for it.

In the subsequent school year, i.e. 2006/07, the *Realschule* no longer takes part in the project, due to lacking interest on the pupils' part and thus a lack of new

enrolments. The *Hauptschule* is continuing the project in the 6th grade and also started a new course in the 5th grade.

Article 8, para 1, sub-para. (d) - Technical and Vocational Education -

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

3007. As regards the undertakings not accepted by Schleswig-Holstein, cf. No. 527 of the Second State Report concerning Frisian offered as a 'compulsory subject of choice' [optional subject chosen from a compulsory group] at the *Fachschule für Sozialpädagogik* [College for Social Pædagogics] in Niebüll (a vocational training school for tutors/educators).

Article 8, para. 1, sub-para. (e) - University and Other Higher Education -

- (ii) *to provide facilities for the study of these languages as university and higher education subjects*

3008. In paras. 257 - 259 of their second Monitoring Report, the Committee of Experts considered that this undertaking continued to be fulfilled on account of the authorities' willingness to maintain the present standard also in the context of the initiated reform of the university education system; in corroboration of this finding and with reference to Nos. 528 to 533 of the Second State Report describing the reported research and teaching offers available at Flensburg University, including its North Frisian Dictionary Institute (*Nordfriesische Wörterbuchstelle*), and to the co-operation pursued with Kiel University, information is provided on the following developments in the field of university education:

3009. For the major part, the information provided under No. 528 of the Second State Report is no longer up to date as regards Frisian courses of study offered in Schleswig-Holstein, especially in view of the reorganization of the course of studies for the teaching profession as a Bachelor's/Master's programme and due to changes made in the meantime to the Teacher Examination Regulations (*Prüfungsordnung für Lehrkräfte - POL I*). The courses of study offered at present are as follows: Under the current *POL I*, Frisian can be studied as a subject forming part of the course of studies for the teaching profession for primary and secondary modern schools.

Moreover, as part of the respective courses of studies in the subject 'German' for prospective teachers of primary schools and secondary modern schools or *Realschulen* [secondary technical schools] and *Gymnasien* [grammar schools], students are required to obtain certificates regarding their attainments / attendance of advanced level courses in Frisian.

Also, Frisian can be studied as a so-called complementary or extension subject. Such studies are offered by Kiel University (CAU - *Christian-Albrechts-Universität*) to students training to become grammar school or *Realschule* teachers, and by Flensburg University (U FL - *Universität Flensburg*) to students training to become vocational school teachers.

After reorganization of the teachers' course of studies as a Bachelor's/Master's programme, U FL no longer offers State Examination courses of studies for prospective teachers of primary and secondary modern schools, secondary technical schools and special schools.

Instead, a Bachelor's course of study "*Vermittlungswissenschaften*" [Imparting of knowledge: fundamentals and general skills] has been introduced at U FL, which is intended, *inter alia*, to prepare students for their teacher studies under the Bachelor's/Master's programme. As part of this course of studies, one of the requirements stipulated for admission to examinations in the subject 'German' is proof of attendance of a course in Low German or Frisian. Also, in later stages of this course of studies, students may enrol for the subject 'German philology' with Frisian as a core subject.

As part of studies other than the teachers' course of study, students can - as before - enrol for the Master's programme offered by Kiel's CAU for the subject 'Frisian philology', both as a major and minor. CAU also continues to offer a doctor's degree in this subject.

Article 8, para. 1, sub-para. (f) - Adult Education -

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

3010. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the above undertaking.

In this respect, see also Nos. 534 to 536 of the Second State Report describing the courses offered by *Nordfriisk Instituut* (NFI) and two adult education centres in Nordfriesland *Kreis*.

3011. . / .

Article 8, para. 1, sub-para. (g) - Teaching of the History, and Culture Education -

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

3012. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the above undertaking.

For details concerning fulfilment of this undertaking, cf. Nos. 537 to 539 and Nos. 179 to 184 of the Second State Report.

3013. . / .

Article 8, para. 1, sub-para. (h) - Basic and Further Training of Teachers -

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

3014. With reference to the information provided in Nos. 540 to 546 of the Second State Report on the further training offered by the Schleswig-Holstein Institute for Quality Development at Schools (*IQSH*) and on the development of teaching materials, *inter alia* by *Nordfriisk Instituut* (NFI), the Committee of Experts, while acknowledging the efforts made by the authorities, concluded in paras. 260 - 266 of their second Monitoring Report that the above undertaking was only partly fulfilled in view of the continued shortage of teachers, and saw a requirement for additional incentives for students to opt for bilingual training.

In respect of pre-school education, the Committee observed that financial support and a legal basis for the project initiated by Frisian-speakers to provide multilingual teacher training in a vocational school were not ensured and the pertinent qualification was not recognized by the authorities.

In respect of the training of teachers for primary and secondary schools, the Committee noted the difficulties encountered by teacher candidates as regards their appointment, for the second stage of their training, to a school needing North-Frisian-speaking teachers.

3015. Against this background, the following additional information is provided:

The information provided under Nos. 544 and 528 of the Second State Report on the possibility for teachers to take a supplementary exam in Frisian, in part no longer reflects the current situation. As regards the present status, cf. No. 3009 above.

Article 8, para. 1, sub-para (i) - Supervisory Bodies -

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

3016. There is disagreement on the question of whether the aforementioned requirements for supervisory bodies and periodic reporting are indeed fulfilled - or, as stated by the Committee of Experts under paras. 267 - 270 of the second Monitoring Report, are not fulfilled - by the supervisory structures reported under Nos. 547 to 549 of the Second State Report, by the annual survey conducted by the Nordfriesland Education Office of the numbers of pupils attending North Frisian courses, and by the *Land* Government's annual 'Minorities Report' to the *Landtag*. In this respect, reference is made to the answer provided under No. 1017 of the present Report dealing with the very same issue with regard to Danish.

3017. ./. .

Article 8, para. 2

Paragraph 2

With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

3018. While the Committee of Experts, in para. 47 of the second Monitoring Report, referred to their finding in the first Monitoring Report that no difficulties were encountered in fulfilling the above undertaking, the Committee - under paras. 271 - 273 of that report - considered this undertaking only partly fulfilled because North Frisian teaching outside the traditional language area took place only at Klaus-Groth-Schule in Husum (cf. Nos. 550 and 551 of the Second State Report) but not, for instance, at a Kiel-based school as well.

As regards the Committee's second conclusion, it should be noted that the above undertaking had, with Germany's participation, intentionally been worded in such a way as to imply its fulfilment already in the form of "allowing" such teaching.

Article 9 Judicial Authorities

Paragraph 1

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

Article 9, para 1, sub-para. (b) (iii) - Civil Proceedings -

- (iii) to allow documents and evidence to be produced in the regional or minority languages,
if necessary by the use of interpreters and translations;*

3019. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the above undertaking.

For further details regarding fulfilment of the aforementioned undertaking under the established law, cf. No. 552 of the Second State Report.

Art. 9, para 1, sub-para. (c) (iii) - Proceedings before Courts concerning Administrative Matters -

in proceedings before courts concerning administrative matters:

- (iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*

3020. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the aforementioned undertaking.

For further details, cf. No. 552 and - with regard to the above branch of the judiciary - No. 554 of the Second State Report.

Article 9, para. 2, sub-para. (a) - Validity of Legal Documents -

The Parties undertake:

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

3021. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the above undertaking.

For further information, cf. the comments in No. 552 of the Second State Report.

Article 10 Administrative Authorities and Public Services

Paragraph 1

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

Article 10, para. 1, sub-para. (a) (v) - Submission of Documents -

(v) to ensure that users of regional or minority languages may validly submit a document in these languages;

3022. First of all, reference is made to Nos. 556 to 560 of the Second State Report stating that the above undertaking does not include encouragement of citizens to use a minority language before the administrative authorities but, instead, only refers to the user's right - already guaranteed under the law in force - to opt for this possibility if he/she so wishes and is able to do so.

However, in compliance with the wish expressed by the Committee of Experts under paras. 274 - 279 of the second Monitoring Report, further information is provided in the following on the extent to which the provisions of the Act to Promote Frisian in Public Life ("Frisian Act") - cf. No. 71 above - which reaffirm the undertakings under Article 10 (i.e. to provide for the possibility to use the minority language in dealings with public authorities) have had an additional positive effect on the fulfilment of the above undertaking or are expected to have such an effect, e.g. by the planned enhancement of the proficiency of staff members in the given language:

3023. Section 1 of the Frisian Act provides that citizens can address administrative authorities in Nordfriesland *Kreis* and on the Island of Heligoland in Frisian, as well as submit applications, records, deeds or other documents in this language. In oral communication with public authorities, use can be made, as a general rule, of the Frisian language as well. In addition, authorities can also prepare bilingual forms and issue bilingual notices to the public.

A survey conducted by the *Land* Government about a year after the Act's entry into force yielded the following findings:

- Frisian-speaking staff members are available at a number of *Land* and local authorities, but this is the exception.
- No cases were reported where citizens addressed public authorities in the Frisian language in writing. However, the Nordfriesland Revenue Office reported that, in about 60 or 70 cases (of a total of 43,000), tax returns and/or related matters were discussed in Frisian at the Office's unit for employees and wage-earners. Frisian will be used for communication with police authorities when the citizens and police officers concerned are personally acquainted.

- A number of cases where Frisian was used for communication with public authorities were reported by the towns of Niebüll and Wyk auf Föhr and by the authorities of the local authority unions [*Ämter*] of Föhr-Land and Süderlügum.
- Several administrative authorities of Nordfriesland *Kreis* pointed out that they are not part of the Frisian speech area, but of the Low German speech area.

Article 10, para. 2

Paragraph 2

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

Article 10, para. 2, sub-para. (a) - Use of a Regional or Minority Language -

- (a) the use of regional or minority languages within the framework of the regional or local authority;*

3024. As regards the above undertaking not expressly accepted by Schleswig-Holstein *Land*, reference is made to No. 561 of the Second State Report and No. 3023 of the present Report describing the positive effects of the proficiency of some of the staff members in the North Frisian language on the actual use made of this language.

Article 10, para. 2, sub-para. (f) - Use by Local Authorities of the Minority Language in Debates in Their Assemblies -

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

3025. As regards the above undertaking not expressly accepted by Schleswig-Holstein *Land*, cf. No. 562 of the Second State Report.

Article 10, para 2, sub-para. (g) - Place-names in Frisian -

- (g) the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.*

3026. For details regarding this undertaking, considered fulfilled by the Committee of Experts under paras. 280 - 284 of the second Monitoring Report, reference is made to No. 563 of the Second State Report, and information is provided on the following recent developments:

3027. As compared with the previous reporting period, there has been a marked increase - from ten to fifteen - in local governments posting bilingual place-name signs. As of 31 January 2006, the following 15 local authorities had such signs:

Borgsum/ Borigsem (Föhr/Feer); Bredstedt/Bräist; Dagebüll/Doogebel, for its districts Waygaard, Waygaarddeich and Fahretoft; Kampen/Kaamp (Sylt/Söl); Midlum (Föhr); Nebel/Neebel (Amrum/Oomram); Niebüll/Naibel; Norddorf/Noorsaarep (Amrum/Oomram); Oldsum (Föhr); Rantum (Sylt); Risum-Lindholm/Risem-Lonham; Süddorf (Amrum); Süderende/Söleraanj (Föhr/Feer); and Utersum/Ödersem (Föhr/Feer), for its district Hedehusum. Another five localities on the island of Sylt are considering inclusion of the respective Frisian names: Hörnum; List; Sylt-Ost; Wenningstedt; and Westerland. The town of Wyk announced inclusion of the Frisian place-names when signs are replaced.

Responsibility for posting bilingual signs for road or street names lies with the respective local government (Section 47, para. 1, of the Roads, Streets and Lanes Act of Schleswig-Holstein *Land*). It is known, however, that in some localities signs only show the Frisian road or street names.

In autumn 2005, the town of Niebüll posted newly designed signs welcoming and saying good bye to visitors, including the Frisian and Danish wording, at all entrance and exit points of the town.

With financial support provided by the Federal Government, bilingual railway station signs were posted along the much frequented Husum - Westerland railway route.

Article 10, para. 4

Paragraph 4

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

Article 10, para. 4, sub-para. (c) - Appointment of Public Service Employees having a Knowledge of Frisian -

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

3028. For details regarding this undertaking, considered fulfilled by the Committee of Experts under paras. 285 - 288 of the second Monitoring Report, reference is made to Nos. 564 to 568 of the Second State Report describing the activities aimed at taking account of knowledge of the Frisian language in decisions concerning personnel management, and information is provided on the following recent developments:

Article 2 of the "Frisian Act" once more specified the options already provided for in the Regional/Minority Language Charter. Under this Article, the *Land*, Nordfriesland *Kreis* and its various local authorities as well as the Heligoland local authorities are

required to take account of Frisian language skills when recruiting personnel for the public service, if this is considered necessary in the given case for performing a specific function. A survey conducted by the *Land* Government among the *Land* authorities in Nordfriesland *Kreis* showed that in various cases applicants for employee posts are asked about their knowledge of the Frisian language, and that such language skills are included as a selection criterion.

Article 10, para. 5

Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

3029. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the above undertaking.

For further details, cf. the comments in Nos. 220 to 225 of the Second State Report.

Article 11 Media

Paragraph 1

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

Article 11, para. 1, sub-para. (b) (ii) - Broadcasting of Radio Programmes -

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

3030. As regards the above undertaking which, as stated by the Committee of Experts under paras. 289 *seqq.* of the second Monitoring Report, only concerns private broadcasting companies, reference is made to No. 29 above describing the limited scope for state control, and it is pointed out that we disagree with the Committee's conclusion that this undertaking is not fulfilled.

3030a. Also, it is hoped that the following extract from a report on a project carried out by *Friisk Foriining* [Frisian Association] - published in the journal *Nordfriesland*, No. 154/2006, page 5, and entitled "*Nordfriisk Radio startet durch*" ["Nordfriisk Radio going into higher gear"] - might induce the Committee to revise their conclusion:

"The first - and so far, only - Web radio programme in the North Frisian language, *NFR (Nordfriisk Radio)*, was established on 1 April 2005. After a one-year introductory phase, a transmission time of four hours per week was laid down. Every Friday morning, from 10 to 12 o'clock, www.nfradio.de transmits a live programme which is repeated on the same day from 5 to 7 p.m." "The FR programme reflects the diversity of Frisian-language activities."

3030b. The *Gesetz über die Errichtung einer Anstalt öffentlichen Rechts "Offener Kanal Schleswig-Holstein" (OK-Gesetz)* [Act establishing the public-law institution "Open Channel Schleswig-Holstein (Open Channel Act)] provided, as of 1 October 2006, for legal independence of the Open Channel which has been successfully on air in Schleswig-Holstein. The foremost task of the Open Channel, as a citizens' broadcasting station, now is to contribute towards promotion of minority languages (Section 2, para. 1, of the Open Channel Act). This is to encourage broadcasting, over the Open Channel, of radio programmes in the North Frisian language on a regular basis.

In this context, reference is also made to No. 1026a above, which already mentioned that the Minister-President's Commissioner for Minority and Cultural Issues, who is entitled to delegate one member to the five-member Advisory Board of the Open Channel, assigned a member of the Danish minority to that Board for its first

term of office. The Commissioner expects this member to attend to the interests of *all* languages protected in Schleswig-Holstein.

Article 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

3031. In paras. 295 *seqq.* of the second Monitoring Report, the Committee of Experts noted that in this case, too, the above undertaking only concerned encouragement and/ or facilitation of private sector broadcasting of programmes, and that measures - such as the appeal addressed by Schleswig-Holstein's Minister-President at that time, cf. No. 571 of the Second State Report - would not be effective enough for fulfilment of the undertaking; in response to this conclusion and for the reasons given under Nos. 29 and 1026 above, we disagree with the conclusion that these undertakings were not fulfilled, and additionally reference is made to the reasons stated under No. 1027 above.

3031a. For further information, cf. the comments in No. 3030b above (Open Channel Act).

Article 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

3032. For details regarding this undertaking, which the Committee of Experts - in paras. 299 - 302 of their second Monitoring Report - considered fulfilled, cf. the comments in Nos. 584 to 586 of the Second State Report.

Article 11, para. 1, sub-para. (e) (ii) - Newspaper Articles -

(ii) to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;

3033. On account of the limited scope for government intervention - cf. No. 72 above and Nos. 226 - 239 of the Second State Report - and with regard to the appeal launched by Schleswig-Holstein's Minister-President at that time to implement the above undertaking, cf. No. 591 of the Second State Report, Germany rejects the conclusion in paras. 303 - 305 of the second Monitoring Report of the Committee of Experts that the undertaking was not fulfilled. Also, it is pointed out that the monthly

edition of Frisian language supplements - cf. No. 590 of the Second State Report - meets the criterion of "publication on a regular basis" as stipulated in sub-para. (e) (ii).

3034. . / .

Article 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

3035. We disagree with the Committee's opinion, cf. para. 308 of the second Monitoring Report, that this undertaking was only formally fulfilled since existing measures for assistance were listed in No. 593 of the Second State Report and there is no requirement that actual use should be made of such options. In this respect, see also the generally applicable information provided in No. 1030 above.

Article 11, para. 2 - Freedom of Direct Reception of Broadcasts, and Freedom of Expression

Paragraph 2

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

3036. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the aforementioned obligation.

Article 12 Cultural Activities and Facilities

Paragraph 1

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

(3036a.) In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the four undertakings accepted under sub-paras. (a) to (d).

Further details are provided in the following:

Article 12, para. 1, sub-para. (a) - Types of Expression, and Access to Works

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

3037. For the encouragement of initiatives regarding the cultural expression of regional or minority languages, within the meaning of the above undertaking, by the *Land's* promotional measures for Frisian institutions, cf. Nos. 595 - 598 of the Second State Report.

Article 12, para. 1, sub-para. (b) - Access to Works in the (Minority) Languages -

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

3038. As regards the above obligation to foster means of access, reference is made to Nos. 600 - 603 of the Second State Report; in addition, it is reported that the Federal Government provided financial support for the production of Frisian movies and videos, including either synchronization or subtitling.

Article 12, para. 1, sub-para. (c) - Access to Works Produced in Other Languages -

- (c) *to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

3039. As regards the above obligation to foster access, cf. No. 604, in conjunction with Nos. 600 - 603, of the Second State Report.

Article 12, para. 1, sub-para. (d) - Taking Account of the Regional or Minority Language in Cultural Activities -

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

3040. For details regarding fulfilment of the above undertaking, cf. Nos. 605 and 606 of the Second State Report.

In response to the comments submitted by *Frasche Rädj* (Frisian Council) (cf. Part E of the present Report), Schleswig-Holstein reported that the *Land's* minorities are regularly invited to take an active part in centrally organized events, such as the 2006 "Schleswig-Holstein Day" in Eckernförde and the centrally organized ceremonies in Kiel on the occasion of the 2006 Day of German Unity, so that they can present themselves to the majority population. Schleswig-Holstein's minorities, including the Frisian ethnic group, accepted the invitation to the aforementioned events.

Article 12, para. 1, sub-para. (e) - Employment of Staff Proficient in the Language(s) Concerned

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

3041. In para. 309 of the second Monitoring Report, the Committee of Experts considered the above undertaking only partially fulfilled on account of information regarded as insufficient and for the reason that only the North Frisian cultural organizations had North-Frisian-speaking staff at their disposal; however, in the view of the German authorities, the above undertaking is completely fulfilled, in terms of the language skills of the staff of these bodies, by the fact that the promotional measures mentioned under No. 607 of the Second State Report are intended, in addition, to enable the pertinent bodies, indirectly or directly, to employ staff with Frisian language skills.

Article 12, para. 1, sub-para.s (f) - (h)

3041a. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein *Land* in fulfilling the three undertakings under sub-para.s. (f) to (h).

Article 12, para. 1, sub-para. (f) - Participation of Representatives of the Group Speaking the Given Language in Cultural Activities -

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

3042. For further details regarding fulfilment of the above undertaking, cf. Nos. 608 and 609 of the Second State Report.

Article 12, para. 1, sub-para. (g) - Creation of Archive Bodies -

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

3043. For details regarding fulfilment of the above undertaking, cf. the information provided in No. 610 of the Second State Report on the *Nordfriisk Instituut* (NFI).

Article 12, para. 1, sub-para. (h) - Translation and Terminological Research Services -

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

3044. For details regarding fulfilment of the above undertaking, cf. Nos. 611 and 612 of the Second State Report.

Article 12, para. 2*Paragraph 2*

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

3045. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig Holstein in fulfilling this undertaking. For detailed information, cf. the comments in Nos. 613 and 614 of the Second State Report.

Article 12, para. 3

Paragraph 3

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

3046. In paras. 310 - 313 of the second Monitoring Report, the Committee of Experts found that the above undertaking was not fulfilled at the federal level, but was fulfilled for Schleswig-Holstein. In response to this conclusion, reference is made to No. 1039 above and, again, to the fact that this undertaking does not in all cases require activities at the national, i.e. federal, level; rather, fulfilment of the undertaking by any of the *Länder* implies fulfilment at the federal level as well because, in the context of a federated state's cultural policy abroad, it is, for the major part, the constituent states that will - taking account of the respective division of responsibilities, and advisably in co-ordination with the federal government - deal with the regional aspects which also include the regional or minority languages used only in specific settlement and speech areas.

3047. Also, reference is made to No. 615 of the Second State Report on transfrontier activities of the *Interfrasche Rådj* (Inter-Frisian Council) for Frisian cultural exchanges; and, once more, we point out the fact that on the occasion of the 50th anniversary of the 1955 Bonn-Copenhagen Declarations, the Federal Foreign Office, Berlin, hosted an exhibition that also dealt with the legal protection of the Frisian and Danish minority languages.

Finally, the triennial Inter-Frisian Congress in 2006 was held in Schleswig-Holstein and was attended, *inter alia*, by participants from Westfriesland (Netherlands). The Federal Government provided financial support for this event.

Article 13

Economic and Social Life

Paragraph 1

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

- (a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- (b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- (c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

3048. As regards the undertakings accepted under (a) and (c), reference is made to Nos. 617 and 245 - 248 of the Second State Report; also, especially in respect of the undertaking under (c), it is pointed out that in paras. 314 - 316 of the second Monitoring Report, the Committee of Experts considered it fulfilled in the absence of information to the contrary.

Article 13, para. 1, sub-para. (d) - Facilitating the Use of the Regional or Minority Language

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

3049. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Schleswig-Holstein in fulfilling this undertaking.

Generally, reference is made to the information provided under Nos. 618 to 620 of the Second State Report on the freedom to use one's own language - as guaranteed by Article 2, para. 1, of the Basic Law - in respect of increasing the number of North Frisian language users and promoting the learning of this language.

Article 14 Transfrontier Exchanges

The Parties undertake:

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

3050. No. 624 of the Second State Report referred to talks - very much in their initial stages, and with an eventual outcome not yet foreseeable - between the *Frasche Rädj Sektion Nord e.V.* [Frisian Council, Nordfriesland Section] and the Schleswig-Holstein *Land* Government about the conclusion of a cultural agreement between Schleswig-Holstein *Land* and the Netherlands. On the basis of this information, the Committee of Experts - in para. 319 of the second Monitoring Report - considered this undertaking fulfilled. In agreement with the *Frasche Rädj*, these talks were suspended in 2004 for time-related reasons and have not yet been resumed. It remains to be seen whether these negotiations will be resumed, e.g. in the context of issues considered within the North Sea Co-operation framework.

Also, reference is made to No. 30 of the present Report describing the problems encountered in this respect.

3051. – 3499. These paragraphs are left blank because the information provided on undertakings accepted with regard to the Sater Frisian language starts with para. 3500.

D.2.4 Sater Frisian (*Seelterfräisk*) * in the Sater Frisian speech area (*Seelterlound*) in Lower Saxony

Article 8 Education

Paragraph 1

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

Article 8, para. 1, sub-para. (a) - Pre-School Education -

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

Lower Saxony has accepted the undertaking under sub-paragraph (a) (iv).

3500. As stated in No. 626 of the Second State Report, marked progress has been made in local activities aimed at preserving and fostering the Sater Frisian language on the basis of the options provided by the Lower Saxony Children's Day-Care Centres Act (*Kindertagesstättengesetz - KitaG*). Concerned about the seriously endangered position of the Sater Frisian language, the Committee of Experts - in paras. 320 - 323 of the second Monitoring Report [MIN-LANG (2005) 7] - assumed that the above undertaking was not fulfilled because at pre-school level the Sater Frisian language continued to be taught by voluntary helpers and did not constitute a substantial part of pre-school education.

3501. We have to reject the Committee's conclusions because the wording of the above provision does not state the required extent ["substantial part"] to which such measures must be favoured or encouraged; nevertheless, we respect the concerns underlying these conclusions and provide information on the following new developments:

* spoken in three slightly different local varieties: the idioms of (the villages of) Strukelje/Strücklingen, Roomelse/Ramslöh and Schädde/Scharrel

As of January 2005, the Orientation Plan for Elementary Education [*Orientierungsplan für Bildung und Erziehung im Elementarbereich*] specified the educational mandate of elementary education in Lower Saxon children's day-care centres. With regard to the edu-

cational objectives for the various areas of learning and experience, the Plan states under the heading "Language and Speech" [*Sprache und Sprechen*] that in regions where a regional language (including the Sater Frisian minority language) is spoken, multilingualism is a good way of enhancing the children's language comprehension and their speaking skills.

Article 8, para. 1, sub-para. (e) (ii) - University and Other Higher Education -

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

3502. Nos. 627 to 629 of the Second State Report stated that Lower Saxony did not offer Frisian teacher training and that since November 2003 research on, and teaching of, the Sater Frisian language had been discontinued in Oldenburg due to lacking demand, while Oldenburg University still provided for such activities; on the basis of this information, the Committee of Experts, in paras. 324 - 327 of the second Monitoring Report, considered this undertaking not fulfilled.

3503. Information is provided on the following new developments:

In response to the *Land* Government's efforts to establish Low German studies at Oldenburg University, a structural concept developed by the Department of Linguistics and Cultural Studies was submitted by Oldenburg University to the Lower Saxon Ministry of Scientific and Cultural Affairs. Under this concept, a focus on Low German research is to be assigned to one of the professorships at the Institute for German Philology. In this context, the Department decided to establish a lectureship for Sater Frisian. It remains to be seen to which extent it will be possible, depending on the number and qualifications of the candidates for the four advertised professorships for German philology, also to include research on Sater Frisian in that scheme. The comments under No. 5035 below also apply to Sater Frisian *mutatis mutandis*.

Article 8, para. 1, sub-para. (f) (iii) - Adult Education -

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

3504. While No. 631 of the Second State Report stated that *Katholisches Bildungswerk Saterland* [Saterland Catholic Educational Association] still offered the course

"*Saterländisch spreken und lesen*" [Speaking and reading Sater Frisian] once per year, the Committee of Experts - under paras. 328 - 330 of the second Monitoring Report - furnished the new information that the course was discontinued due to budget cuts, and concluded that the above undertaking was not fulfilled.

3505. Information is provided on the following new developments:

Preservation and fostering of the Sater Frisian language cannot be achieved by adult education language courses alone. Rather, integration of language promotion into the activities of associations - especially those of the Sater Frisian association for the preservation of local/regional traditions [i.e. *Seelter Buund*] - is the better, i.e. more successful, approach. This is proven, *inter alia*, by the fact that, at the initiative of the association's chairman, it had been possible in the period February - May 2006 to organize a successful language course for beginners (adults) in Filsum, which was attended by 20 participants. Also, a continuation course attended by ten persons was successfully held in Hesel in May/June 2006, and a similar course was scheduled for seven participants in Scharrel in autumn 2006.

Article 8, para. 1, sub-para. (g) - Teaching of the History, and Culture Education -

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

3506. Nos. 632 to 640 of the Second State Report described the form and extent of integrating the Sater Frisian language and culture in the various educational areas and instruction offers and, in particular, mentioned the setting up of a Sater Frisian Working Panel and, *inter alia*, the development of pertinent teaching materials; nevertheless, the Committee of Experts considered this undertaking only partially fulfilled on the grounds that Sater Frisian was not an integral part of the mainstream school curriculum in the Saterland.

3507. In response to these conclusions it is pointed out that the above provision does not specify the required extent of pertinent arrangements and that such extent is determined not only by the threat of extinction posed to the respective minority language, but by other factors as well, such as the demand on the part of pupils and their parents and the given budgetary situation.

Against this background, information is provided on the following new status:

On 1 August 2006, new curricula - so-called "core curricula" [*Kerncurricula*] - entered into force for the subjects 'German' and 'English' for all types of school in Lower Saxony. The educational mandate for both subjects states, *inter alia*, that Sater Frisian is to be used in the context of linguistic studies and comparisons. With respect to the "core curricula" for the subject 'German', the competence profiles provide further specifications.

Article 8, para. 1, sub-para (i) - Supervisory Bodies -

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

3508. Nos. 641 and 642 of the Second State Report stated that a Working Group - with representatives from the *Landschaften* and *Landschaftsverbände* [regional local authorities], the *Niedersächsischer Heimatbund* [Lower Saxony Union for Local and Regional Traditions] and the schools offices - monitored implementation of the Charter and that a Specialist Adviser appointed by the district government of Weser-Ems-Bezirk was responsible for monitoring the measures aimed at further developing the teaching of Sater Frisian. Nevertheless, the Committee of Experts - in paras. 335 - 337 [of the second Monitoring Report] - considered the above undertaking not fulfilled on the grounds that no reports had been published on this monitoring,

3509. In response to this finding, the following additional information is provided: Since the publication of the Second State Report, extensive changes to the internal and external structure of schools and the school administration have taken place in Lower Saxony. Also, the decree "*Die Region im Unterricht*" ["The region in classroom instruction"] has expired. This decree which, *inter alia*, describes organizational requirements for the schools and their support system and also comments on the supervisory function, is to be updated and adapted to the new conditions in school education. Since the legislative process related to the envisaged reforms in the school sector has not yet been completed in all respects, important prerequisites for the updating of the decree on "The region in classroom instruction" have not yet been finalized; thus, it is not yet possible at present to draft a revised decree. Therefore, the procedures followed so far will remain in force in Lower Saxony until an amended decree will be issued.

Article 9 Judicial Authorities

Paragraph 1

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

Article 9, para 1, sub-para. (b) (iii) - Civil Proceedings -

in civil proceedings:

- (iii) to allow documents and evidence to be produced in the regional or minority languages,
if necessary by the use of interpreters and translations;*

3510. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

Also, No. 643 of the Second State Report stated that this undertaking was met by the prevailing legal situation, without the need for any special measures.

Article 9, para 1, sub-para. (c) (iii) - Proceedings before Courts concerning Administrative Matters -

in proceedings before courts concerning administrative matters:

- (iii) to allow documents and evidence to be produced in the regional or minority languages,
if necessary by the use of interpreters and translations;*

3511. The information provided in No. 3510 above applies to this sub-paragraph as well. In this respect, reference is made to No. 645 of the Second State Report concerning the obligation of administrative courts to conduct *ex officio* investigations.

Article 9, para. 2, sub-para. (a) - Validity of Legal Documents -

The Parties undertake:

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

3512. The information provided in No. 3510 above applies to this sub-paragraph as well.

Article 10 Administrative Authorities and Public Services

Paragraph 1

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

Article 10, para. 1, sub-para. (a) (v) - Submission of Documents -

(v) to ensure that users of regional or minority languages may validly submit a document in these languages;

3513. Nos. 647 and 648 of the Second State Report stated that the *Land*, in compliance with a request put forward by the Committee of Experts in the first Monitoring Report, examined the scope for inducing the administrative authorities also to "encourage" use of the Sater Frisian language (although the wording of the above provision only calls for the *possibility* to use the minority language but not *encouragement* of such use, with the first of these options actually being fulfilled); on this point, the following state of affairs is reported to remedy the lack of information noted by the Committee in paras. 338 - 340 of the second Monitoring Report:

3514. On the basis of local self-government and organizational jurisdiction of local authorities, responsibility for the organization of local administrative bodies lies with the respective local government. The decision to have official documents or general notices translated is within the discretion of Saterland *Gemeinde* with its four districts. This also applies to the appointment of public service staff having a knowledge of the Sater Frisian language.

Article 10, para 1, sub-para. (c) - Drafting of Documents -

(c) to allow the administrative authorities to draft documents in a regional or minority language.

3515. In their first evaluation report, the Committee of Experts had noted the non-existence of official documents drafted in Sater Frisian and in this context had also criticized the lack of pertinent legal rules, although the above provision only refers to "allowing" (which is already ensured) and, in Germany's view, the need is for reducing regulations rather than for increasing their number; in response to the Committee's finding, the *Land* of Lower Saxony - in No. 651 [648] of the Second State Report - announced that it would examine the possibility of issuing directives or formal guidance to this effect.

3516. Taking account of the lack of information noted under paras. 341 - 343 of the second Monitoring Report, with particular reference to supraregional *Land*

authorities, the following information is provided:

The examination of this matter showed that formal directives to make greater use of the Sater Frisian language would have to be issued to Saterland *Gemeinde* in the form of statutory provisions (*i.e.* a law or, in the case of a legal authorization, an ordinance) since this would affect the self-government domain of the local authority and because local self-administration bodies are not bound, in this field, by directives issued by the *Land* Government. However, any statutory regulation in this respect would encroach upon the (local) self-government domain, which is protected under the Constitution, and would have to be based on valid common-weal reasons. As part of the reform of public administration, the *Land* Government initiates deregulation measures and, in the context of evaluating existing legislation, strives for significant reduction of bureaucracy. At the same time, the *Land* Government's policy aims at extending the scope for action on the part of local authorities. Therefore, in many of its bills submitted to the Lower Saxon *Landtag*, it proposes non-inclusion, or revocation, of restrictive stipulations.

Article 10, para. 2

Paragraph 2

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

Article 10, para. 2, sub-para. (a) - Use of a Regional or Minority Language -

(a) the use of regional or minority languages within the framework of the regional or local authority;

3517. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

For further details, cf. the comments in Nos. 652 and 653 of the Second State Report on the use of the Sater Frisian language.

Article 10, para. 2, sub-para. (b) - Submission of Applications -

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

3518. Although the above undertaking, too, is already fulfilled by merely "allowing" submission of applications, which is actually ensured, the *Land* of Lower Saxony - under Nos. 654 - 655 [No. 648] of the Second State Report - announced that it would examine the possibility of issuing directives or formal guidance also in respect of this undertaking; nevertheless, in paras. 344 - 346 of the second Monitoring Report, the

Committee of Experts again considered the undertaking only formally fulfilled due to the lack of positive results of that examination.

3519. In this regard, cf. No. 3516 above.

Article 10, para. 2, sub-para. (c) - Publication by Regional Authorities of Official Documents
in the Frisian Language -

(c) the publication by regional authorities of their official documents also in the relevant regional or minority languages;

3520. Although the above undertaking - like all undertakings under Article 10, para. 2 - is fulfilled by "allowing" the respective action, in this case: publication of Sater Frisian official documents by regional authorities, the Committee of Experts - in para. 347 of the second Monitoring Report - considered it not fulfilled on account of the lack of actual publications made by regional authorities.

3521. In response to this conclusion, the *Land* of Lower Saxony pointed out that comprehensive publication of official documents of the regional authorities would be out of proportion and would go beyond what is reasonably practicable and acceptable.

In this respect, the information provided in No. 3516 above applies to this sub-paragraph of Art. 10 as well.

Article 10, para. 2, sub-para. (d) - Publication by Local Authorities of Official Documents in
the Frisian Language -

(d) the publication by local authorities of their official documents also in the relevant regional or minority languages;

3522. In compliance with the request made by the Committee of Experts under para. 348 of the second Monitoring Report, the following information is provided on activities aimed at fulfilling the above undertaking also in the form of "encouraging" such publications, *i.e.* activities in addition to the notices on the bulletin board mentioned under No. 657 of the Second State Report and, in particular, activities going beyond "allowing" publication of official documents of local authorities, which in legal terms is the only alternative that is mandatory for fulfilment of the undertaking.

3523. Reference is made to No. 3514 above.

Article 10, para. 2, sub-para. (e) - Use by Regional Authorities of the Minority Language in Debates in Their Assemblies -

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

3524. Pointing out that the above undertaking is already fulfilled by "allowing" use of the language in assembly debates, we respond to the request made by the Committee of Experts under para. 349 of the second Monitoring Report for further information on regional authorities by including the following addition to our comments under No. 658 (quoting information provided by Saterland *Gemeinde*) of the Second State Report regarding the futility of encouraging use of the language in view of the fact that the majority of the council members do not have a command of the Frisian language:

3525. Regional authorities - in this case: the Lower Saxon *Bezirk* governments - have been dissolved in the course of the reform of public administration, and some of them have been incorporated centrally in *Land* agencies.

Article 10, para. 2, sub-para. (f) - Use by Local Authorities of the Minority Language in Debates in Their Assemblies -

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

3526. On the basis of the comments under No. 3525 above, reference is made to No. 659 of the Second State Report clearly stating the reason why no use is made of Sater Frisian by Saterland local council members, and (in response to the request for information made by the Committee of Experts, under paras. 350 - 351 of the second Monitoring Report, despite the aforementioned statement of reasons) the following information is provided:

3527. In the council meetings of Saterland *Samtgemeinde* [local government union], Sater Frisian is neither spoken nor otherwise used. Both the mayor and his deputy as well as the majority of council members do not have a command of the Sater Frisian language.

Article 10, para 2, sub-para. (g) - Place-names in Frisian -

- (g) *the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.*

3528. Contrary to the information provided under No. 660 of the Second State Report, the Committee of Experts - in paras. 353 - 355 of the second Monitoring

Report - stated that bilingual signposting in Saterland *Gemeinde* had not yet been implemented and that only the necessary funds had been provided; in response to this finding, the following information is provided to clarify the present state of affairs:

3529. All four districts have posted bilingual signs at the points of entrance to the locality. Also within these localities, especially in new building areas, there are street-name signs in Sater Frisian.

Article 10, para. 4

Paragraph 4

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

Article 10, para. 4, sub-para. (a) - Translation or Interpretation -

(a) translation or interpretation as may be required;

3530. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

In this context, reference is made to No. 661 of the Second State Report describing the facilities and staff available for the purpose and pointing out that considerable work is involved in written translation.

Article 10, para. 4, sub-para. (c) - Appointment of Public Service Employees having a Knowledge of the Frisian Language -

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

3531. In paras. 356 - 358 of the second Monitoring Report, the Committee of Experts stated that the above undertaking was not fulfilled because the *Land* of Lower Saxony - in Nos. 662 and 663 of the Second State Report - had only announced that it would examine the possibility of issuing directives etc. to the authorities with a view to ensuring complete fulfilment; we disagree with this conclusion because there is no evidence to suggest that any requests for appointment within the meaning of this undertaking were not granted (rather, such wishes have not even become known) and because the above undertaking only calls for compliance with requests to this effect, but not for any other action, e.g. awakening any such wishes.

3532. In addition to the above clarifying remarks, Lower Saxony *Land* also refers to the comments under No. 3514 above.

Article 10, para. 5

Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

3533. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

In this respect, see also the comments in No. 664, in conjunction with Nos. 220 to 225, of the Second State Report.

Article 11 Media

Paragraph 1

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

Article 11, para. 1, sub-para. (b) (ii) - Broadcasting of Radio Programmes -

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

3534. Nos. 665 to 670 of the Second State Report provided information on the limited scope for legal requirements affecting the programming autonomy of private broadcasters (Sections 14 *seqq.* of the Lower Saxony Media Act) and on the restrictions regarding governmental intervention. Nevertheless, in view of the introduction of a project aimed at broadcasting radio programmes in Sater Frisian by *ems-vechte-welle*, the Committee - in paras. 359 - 363 of the second Monitoring Report - considered this undertaking fulfilled (which, in the Committee's view only concerns private sector broadcasting) and asked for further information on this project. *ems-vechte-welle* is organized under private law as a limited liability company, with an association [incorporated society] as a company member, and as a citizens' broadcasting station is not operated on a commercial basis.

3535. In order to caution against unwarranted expectations, it is once more pointed out that, in view of the guaranteed freedom of broadcasting, government authorities cannot be required to ensure the success of efforts in this field, for the simple reason that it is hardly possible to compensate possible loss of advertising income, caused by programmes with a relatively low audience rating, if the amount of tax revenues allocated for offsetting such loss is to be kept within reasonably practicable limits.

3536. Notwithstanding the above cautioning, the following information is provided on the aforementioned project:

The *Land* of Lower Saxony (*i.e.* *Niedersächsische Landesmedienanstalt* [Lower Saxony *Land* supervisory authority for private broadcasters]) also supports non-commercial local broadcasters and the so-called "Open Channels". These broadcasters, in particular, with their focus on regional and local matters take account of, and present, specific cultural aspects and linguistic minorities. In Ostfriesland, this also applies to Sater Frisian. On the basis of start-up aid granted by the Lower Saxony *Land* Supervisory Authority [*Landesmedienanstalt*] for setting up the local studio, for the training of multipliers and for introducing non-professional producers to active radio broadcasting, *ems-vechte-welle* every week airs the magazine "*Saterland aktuell*"

[Saterland Current Affairs] in the Sater Frisian language; this magazine is developed in close co-operation with *Seelter Bund*, the Sater Frisians' association for the preservation of regional and local traditions.

Article 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

3537. Nos. 671 and 672, *inter alia*, of the Second State Report referred to the extremely limited scope for government intervention; on this basis, the Committee of Experts, under paras. 364 - 367 of the second Monitoring Report, considered the above undertaking (referring to programmes of private broadcasters) not fulfilled, in particular on the grounds that the statutory provisions regarding inclusion of regional matters in private TV programmes were too vague.

This conclusion is rejected on the ground that on account of constitutional stipulations to the contrary, an amendment, as desired by the Committee, of regulations governing broadcasting cannot be expected; and that the above undertaking, too, is already fulfilled by "encouraging" broadcasting of such programmes, and that success of such encouragement need not be ensured. On the other side, "encouragement" can be required only if and where it is not manifestly pointless.

3538. . / .

Article 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

3539. While Nos. 673 and 674 of the Second State Report described the general support schemes from which also works in the Sater Frisian language are to benefit, the Committee of Experts considered the above undertaking not fulfilled on the grounds that an equal share in general promotion measures was already covered by the non-discrimination provisions of Article 7, para. 2, and Article 11, sub-para. 1 (f) (ii) and that consequently allowing works to benefit from the general schemes was not sufficient. Also, the Committee gave examples of possible specific support measures in this respect.

3540. With reference to the Committee's comments, the following information is provided:

In Lower Saxony, applications for subsidizing of the production and distribution of audio or audiovisual works in a regional or minority language will regularly be granted provided that all other eligibility requirements are met (see also No. 5151 below). In practice, subsidizing bodies give preferential treatment to such applications without the need for any formal regulations in this respect. Any demand on the part of the population for works in the Sater Frisian language is not in evidence. So far, no application has been filed for subsidizing the production or distribution of such a work in the Sater Frisian language. Budgetary regulations preclude artificial creation of demand (which so far is non-existent) by means of pro-active measures by *Land* authorities.

Article 11, para. 1, sub-para. (e) (ii) - Newspaper Articles -

(ii) *to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;*

3541. Nos. 675 to 677 of the Second State Report listed the newspapers that, also in response to encouragement, publish articles in the Sater Frisian language and, in addition, gave the constitutional guarantee of freedom of the press as the reason precluding stipulation of direct governmental requirements to be met by publishers concerning the content of their newspapers; also, it was announced that further measures would be taken to encourage publication of such articles. Nevertheless, the Committee of Experts - under paras. 371 - 375 of the second Monitoring Report - considered the above undertaking only formally fulfilled. The reasons given by the Committee were that symbolic measures did not suffice, but that - effective - financial or technical support measures were needed instead, and that in the last analysis, articles in Sater Frisian were published only irregularly.

3542. These findings are rejected on the grounds that, if the above undertaking is fulfilled in the form of the first alternative, fulfilment cannot be obtained by means of encouragement measures that are doomed to failure from the very beginning in view of the postulated objective of regular Sater Frisian reporting and on the other hand, that - as opposed to fulfilment in the form of "facilitating" - encouragement need not take the form of economically effective measures but might, for instance, be confined to moral appeals; moreover, a specific success of such encouragement need not be ensured.

3543. Against this background, the following additional information is provided: Articles in Sater Frisian also appear in the home-editions of the regional newspapers read in Saterland. The following newspapers are published in this region:

General-Anzeiger, Rhauderfehn ("Gazette" - around 10,130 copies)
Münsterländische Tageszeitung, Cloppenburg ("Münsterland Daily" - some 20,000 copies)
Nordwest-Zeitung, Oldenburg ("North West Newspaper" - some 130,000 copies)

Article 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

3544. No. 678, referring to No. 674, of the Second State Report, stated that subsidizing of productions in the Sater Frisian language had not been possible because no applications for pertinent project funding had been submitted; under paras. 376 - 378 of the second Monitoring Report, the Committee of Experts considered the above undertaking only formally fulfilled because financial assistance measures had to be designed in such a way that programmes in Sater Frisian could qualify for them in practice.

3545. We object to this conclusion on the grounds that there is no evidence to suggest that the fact that no applications were filed for funding of productions in the Sater Frisian language was due to general requirements that *a priori* could not be met by this language; also, it is pointed out that lowering the quality requirements - e.g. with regard to contents design - established for Sater Frisian productions as compared to those stipulated for other productions would amount to anticipatory depreciation of Sater Frisian productions.

3546. . / .

Article 11, para. 2 - Freedom of Direct Reception of Broadcasts, and Freedom of Expression

Paragraph 2

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

3547. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

Also, reference is made to the detailed comments on the various undertakings under Article 11, para. 1, and to Nos. 226 - 239 of the Second State Report.

Article 12 Cultural Activities and Facilities

Paragraph 1

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

In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling the four undertakings under sub-paras. (a) to (c).

The following comments are made on the various undertakings under this Article:

Article 12, para. 1, sub-para. (a) - Types of Expression, and Access to Works -

(a) to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

3548. As regards the above undertakings, reference is made to Nos. 680 - 683 of the Second State Report, describing the measures taken in Lower Saxony for promotion of Sater Frisian literature (promotion of production, distribution and reception) and the advice provided by the Lower Saxon Ministry for Scientific and Cultural Affairs to Saterland *Gemeinde* and the registered association for the preservation of Saterland local/regional traditions, i.e. *Seelter Buund* (which deals with a large variety of activities supported by Lower Saxony *Land* and aimed at preserving and fostering the Sater Frisian language and the Saterland's culture), and information is provided on the following new developments:

3549. In the course of the 2005 restructuring the *Land's* policies and activities for promoting culture, the regions were strengthened with a view to enabling them to orientate their action closer to their clients, and the task of promoting regional culture was transferred to the *Landschaftsverbände* [regional local authority associations]. Thus, a target agreement was concluded with *Oldenburger Landschaft e.V.* on the promotion of literature, music and theatre and of projects of particular relevance to the culture of the *Oldenburger Land* region which includes the Saterland. As in other regions, funds are granted in Oldenburger Land upon submission of applications, and consequently commitment and initiative on the part of the population are an essential prerequisite.

Article 12, para. 1, sub-para. (b) - Access to Works in the Minority Language -

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

3550. For further details regarding translation facilities and staff available for fulfilment of the above undertaking, cf. Nos. 684 and 685 of the Second State Report.

Article 12, para. 1, sub-para. (c) - Access to Works Produced in Other Languages -

- (c) *to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*

3551. Again, reference is made to Nos. 684 and 685 of the Second State Report.

Article 12, para. 1, sub-para. (d) - Taking Account of the Regional or Minority Language in Cultural Activities -

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

3552. As already reported under Nos. 687 and 688 of the Second State Report, Saterland *Gemeinde* and the associations and units representing the Sater Frisian interests, especially *Seelter Buund*, ensure that the knowledge and use of the Sater Frisian language and the Saterland culture are adequately included in their cultural activities. In paras. 380 - 382 of the second Monitoring Report, the Committee of Experts considered the above undertaking fulfilled, especially in view of the fact that *Seelter Bund* operated a (Sater Frisian) cultural centre in a former railway station, for the conversion of which federal funding had been provided.

For additional information on the operation of the cultural centre, cf. the comments provided by *Seelter Buund* in Part E of the present Report.

In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling the following two undertakings under sub-paras. (e) and (f).

Detailed information on the various undertakings under this Article is as follows:

Article 12, para. 1, sub-para. (e) - Employment of Staff Proficient in the Language(s) Concerned

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

3553. Reference is made to Nos. 687 and 688 of the Second State Report and to No. 690 of that Report, describing activities promoting language learning, especially those carried out by *Katholisches Bildungswerk Saterland* [Saterland Catholic Educational Association], and to the information provided under No. 3505 above. In addition, Saterland *Gemeinde* reported that a sufficient number of its staff have a command of the Sater Frisian language and actually use this language in their daily administrative practice.

Article 12, para. 1, sub-para. (f) - Participation of Representatives of the Group Speaking the Given Language in Cultural Activities -

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

3554. Reference is made to No. 691 of the Second State Report, describing the commitment and initiative of Sater-Frisian-speaking helpers and their invited and encouraged participation in the *Land* festival, i.e. "*Tag der Niedersachsen*" ["Day of the People of Lower Saxony"].

Article 12, para. 1, sub-para. (g) - Creation of Archive Bodies -

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

3555. It is pointed out that, in view of the number of Sater Frisian publications held by public libraries (as reported under Nos. 692 and 693 of the Second State Report), the Committee of Experts considered this undertaking fulfilled.

3556. As regards recent developments concerning the library and media library of the Sater Frisian cultural centre mentioned under No. 3552 above, reference is made again to the comments provided by *Seelter Buund* in Part E of the present Report.

Article 12, para. 2*Paragraph 2*

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

3557. In para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

Reference is made to the available activities and facilities reported under No. 694 of the Second State Report and to the fact that cultural activities and facilities within the meaning of the above undertaking are allowed in any case provided that they are within the bounds of the prevailing general statutory provisions.

Article 12, para. 3*Paragraph 3*

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

3558. No. 695, referring to No. 615, of the Second State Report described the participation of Frisian organizations in cultural policy abroad, and No. 505 of that report provided information on the general measures taken in pursuance of cultural policy abroad; the Committee of Experts - under paras. 388 - 389 of the second Monitoring Report - noted a lack of information in this regard and considered the above undertaking only formally fulfilled with respect to the federal authorities, and only partly fulfilled with respect to the Lower Saxony *Land* authorities.

3559. - 3560. . / .

Article 13 Economic and Social Life

Paragraph 1

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

- (a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- (b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- (c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

3561. On the basis of the information provided under No. 697 of the Second State Report that the established law of Germany already meets the requirements of the above undertakings under sub-paras. (a) and (c), which have been accepted by Lower Saxony *Land* for Sater Frisian, the Committee of Experts - under paras. 390 - 392 of the second Monitoring Report - explicitly stated that, in the absence of reports on such discouraging practices, the undertaking under sub-para. (c) was considered fulfilled; already in para. 47 of the second Monitoring Report, the Committee of Experts referred to their finding in the first Monitoring Report that no difficulties were encountered by Lower Saxony in fulfilling this undertaking.

Article 13, para. 1, sub-para. (d) - Facilitating the Use of the Regional or Minority Language

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

3562. In view of the measures described under Nos. 698 - 702 of the Second State Report and, in particular, the promotional measures described under No. 701 of that report with regard to the conversion of Scharrel railway station into a cultural centre in the Saterland, the Committee of Experts - in paras. 393 - 396 of the second Monitoring Report - considered the above undertaking fulfilled.

3563. – 3599. These paragraphs are left blank because the information on undertakings accepted with regard to the Romany language starts with para. 4000.

D. 2. 5 The Romany language [Rromani] in the speech area of the Federal Republic and of the various *Länder*

4000. Under paras. 744 - 745 of the second Monitoring Report [MIN-LANG (2005) 7], the Committee of Experts referred to the acceptance of 35 undertakings for the Romany language in Hesse (as reported under No. 703 of the Second State Report) - by virtue of the Second Act to Implement the European Charter for Regional or Minority Languages, which entered into force on 19 September 2002 - as a very ambitious step. At the same time, however, the Committee pointed out that its evaluation had revealed a significant gap between the accepted undertakings and those undertakings that are fulfilled or can be implemented; this was due, *inter alia*, to the fact that the wishes of at least part of the speakers are in contradiction with the fulfilment of a number of undertakings and that the Romany language does not yet have a codified written form.

4001. In response to this finding, it is pointed out that the above context involves a particularly striking example of such a discrepancy but that generally discrepancies of this sort can always emerge because interpretation and implementation of international conventions for the protection of specific categories of persons always requires consultation of the persons concerned; in none of these cases must the respective Contracting State be held responsible for the resultant implementation deficits.

Article 8 Education

4002. As regards the fundamental divergence of the respective wishes of groups of German Sinti and Roma on the nature and extent of their own protection and the protection of their language(s), reference is made to the general comments on the Romany language under Nos. 12 - 15 of the present Report and to the information provided under Nos. 704 - 706 of the Second State Report, namely that many speakers are against teaching and learning of Romany by outsiders within the public education system, that the Central Council of German Sinti and Roma is in favour of supplemental instruction in Romany provided in schools by members of the minority, but that the *Sinti Allianz Deutschland* and other groups of speakers are against such instruction which, by the way, can hardly be provided in view of the shortage of suitable teachers.

4003. In spring 2006, a survey was conducted to obtain information from the *Länder* in connection with the petition, cf. No. 14 above, requesting that the Romany

language spoken by German Sinti should *not* be protected by the Charter; the answers provided by the *Länder* showed that state-run schools and other public educational institutions at present do not offer instruction in the German Sinti's Romany language, but that provision is made indeed for additional German language tuition for children with education deficits and that only a small number of federal states provide for state-supported promotional measures offered by Roma or Sinti to other Roma or Sinti.

Article 8, para. 1

Paragraph 1

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

Article 8, para. 1, sub-para. (a) - Pre-School Education -

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

Both obligations have been accepted by the *Land* of Berlin.

4004. As before - and in consultation with the Berlin/Brandenburg *Land* Association of German Sinti and Roma - implementation of these obligations is not pursued.

Article 8, para. 1, sub-para. (a) (iii) - Pre-School Education -

- (iii) to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or*

4005. As stated by the Committee of Experts under paras. 746 - 748 of the second Monitoring Report, the above undertaking, accepted for the *Land* of Hesse, was not fulfilled because teaching in or of Romany did not take place in Hesse; also, such teaching was not offered by the federally funded "Education Section" of the Documentation and Cultural Centre of German Sinti and Roma (cf. No. 711 of the Second State Report).

4006. This appraisal seems problematic because the wording of sub-para. (a) (iii) imposes such an obligation only subject to a wish (or request) expressed to this effect by the speakers concerned.

A case in point is the following: The *Land* of Hesse provides both institution-based support and project-oriented promotion to the Hessian *Land* Association of German

Sinti and Roma, and in compliance with a wish expressed by the *Land* Association, the latter independently manages the major part of allocated funds and, according to priorities defined by the Association itself, at present uses the funds allocated for project promotion for two projects. However, these projects only deal, on the one hand, with assistance for school education, jobs and the social life of Sinti and Roma, and on the other, with eliminating or reducing knowledge deficits on the part of the majority population with regard to the Sinti's and Roma's history and culture with the aim of reducing prejudices against the speakers of the minority language and countering anti-Gypsy attitudes. By contrast, no language-related promotion has been initiated so far, either by the *Land* Association or other parties, under institution-based or project-oriented promotion schemes.

However, with regard to the above undertaking, the *Land* Association cannot be blamed either for its decision on the use of the promotional funds allocated to it nor for the fact that, in addition to the aforementioned subsidies granted to the *Land* Association, a yearly subsidy is granted for supporting Sinti children at two "problem schools" [i.e. "hot spot" schools attended by a high proportion of children from socially disadvantaged and low-income families or families with delinquency or substance abuse problems] in Bad Hersfeld with the aim of tackling the difficulties encountered at these schools as regards pupils/ teachers/parents interrelations in order to break the self-reproducing vicious circle where parents with a poor educational background cannot, on their own, ensure the required readiness of their children to achieve well at school.

Even when all parties concerned, in view of the specific prevailing circumstances, perceive a priority need, on the one hand, for integrating the speakers of a given (minority) language, and on the other hand, for providing awareness-raising information to the majority population at the various levels of the education system, and even when practical implementation of the given undertaking does not seem possible at all because the speakers of the Romany language of the German Roma and Sinti do not wish a written form to be codified for their language or refuse any offers designed to implement the undertaking, this undertaking should be considered fulfilled when - as has been the case already - state funding is provided which can be used by the persons/entities concerned for measures within the meaning of this undertaking.

4006a. Finally, any conclusion on the fulfilment or non-fulfilment of an undertaking should take account of the fact that the *Land* strives to eliminate the difficulties encountered in actively promoting the specific minority language by including concepts for dealing with individual differences and socio-cultural diversity as a priority item in its new "education plan for children aged 0 to 10 years", which is in the trial phase and is designed to provide guidance to the various places of learning (i.e. day-care

centres, schools, childminders' homes, families). This plan must also be applied to Sinti and Roma.

Article 8, para. 1, sub-para. (a) (iv) - Pre-School Education -

- iv) if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;*

4007. As regards implementation of the above undertaking by the *Land* of Baden-Württemberg, reference is made to the information provided under Nos. 712 to 714 of the Second State Report that all nursery schools can be attended also by Sinti and Roma children and that the providing bodies of these nursery schools are free to employ any required staff having a command of the Romany language but that no use has been made of this option so far.

4008. Other *Länder* comment on the above undertaking as follows:

1. Hesse

4009. In this regard, cf. the comments in Nos. 4005 and 4006 above.

2. Rhineland-Palatinate

4010. As before, no wishes to this effect have been put to the *Land* by members of this minority/language group.

3. Free and Hanseatic City of Hamburg

4011. Also in this *Land*, no wishes to this effect have so far been expressed by the members of this language group.

Article 8, para. 1, sub-para. (b) - Primary Education -

- (i) to make available primary education in the relevant regional or minority languages; or*
(ii) to make available a substantial part of primary education in the relevant regional or minority languages; or
(iii) to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
(iv) to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;

4012. In contrast with Nos. 718 to 729 of the Second State Report, information is no longer provided on those of the *Länder* (e.g. Baden-Wurttemberg) that have not accepted any of the above undertakings.

1. Berlin

4013. As before - and in consultation with the Berlin/Brandenburg *Land* Association of German Sinti and Roma - implementation of the undertakings under (i) to (iv) is not pursued.

3. Hesse

4014. As regards the undertaking under (iv) accepted by Hesse *Land*, cf. the comments in Nos. 4005 and 4006 above.

4. Free and Hanseatic City of Hamburg

4015. In regard of the undertaking under sub-para. (b) (iv) accepted by the Free and Hanseatic City of Hamburg, Nos. 724 to 727 of the Second State Report provided information on special language instruction and musical education carried out by German Sinti and Roma who have been employed in Hamburg since 1992 on the basis of the separate job description "Roma and Sinti as Teachers and Social Workers".

4016. In order to obviate misunderstandings and to take account of the petition filed by a group of German Sinti requesting that the German Sinti's language which has no standard written form should not be imparted to non-Sinti within the public education system (cf. No. 14 above), the information given in the preceding paragraph on language instruction is complemented by the answers provided by Hamburg in response to the survey conducted in spring 2006 (cf. No. 4003 above): "German Sinti (in Hamburg) are not offered instruction in Romany. However, East European Roma (who, however, are not a national minority protected in Germany under the Council of Europe Framework Convention for the Protection of National Minorities and whose language consequently does not come within the scope of the European Charter for Regional or Minority Languages) can take part, on a voluntary basis, in state-provided Romany language activities.

4017. For specific support provided to Sinti and Roma, a total of five Roma and one Sinti are working at Hamburg schools. The selection of the respective schools

was based on the criteria of urgency and readiness to co-operate. The main tasks of Roma and Sinti teachers and social workers are to participate in classroom instruction and to counsel and support their teaching colleagues and the pupils and parents. In addition they act as contact persons for other schools and for children and youth institutions. In this way, the activity of Roma and Sinti teachers and school-based social workers reaches out to the respective city district: district institutions and, above all, the resident Roma and Sinti families are thus provided with an on-site point of contact. The German language is used in these activities. (In this context, *Sinti Allianz Deutschland* wants to make it quite clear that such a "Sinti teacher" is not a member of the teaching profession in the traditional sense, but an assistant without professional teacher training.)

However, no special German-language promotional activities are offered (in Hamburg) for Sinti and Roma. Like all other pupils, Sinti and Roma children and adolescents can take part in activities offered under the provisions of the Language Promotion Concept which entered into force on 1 August 2006."

4018. The following additional information is provided by the Free and Hanseatic City of Hamburg:

The instruction mentioned under No. 4016 above refers to teaching in the Romany language of the East European Roma. The activities mentioned under No. 4017 above are conducted in the German language and are offered to all children needing extra tuition.

Article 8, para. 1, sub-para. (c) - Secondary Education -

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

1. Baden-Wurtemberg

4019. In contrast to No. 728, referring to Nos. 718 to 720, of the Second State Report, information is no longer provided in the present Report on those of the *Länder* (e.g. Baden-Wurtemberg) that have not entered into any of the above undertakings.

2. Hesse

4020. In this regard, cf. the comments under Nos. 4005 and 4006 above.

3. Free and Hanseatic City of Hamburg

4021. In this regard, cf. the comments under Nos. 4011 and 4016 - 4017 above.

Article 8, para 1, sub-para. (d) - Technical and Vocational Education -

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

4022. As regards the *Land* of Hesse, cf. the comments under Nos. 4005 and 4006 above.

4023. . / .

Article 8, para. 1, sub-para. (e) - University and Other Higher Education -

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

4024. As already stated in No. 733 of the Second State Report, implementation of the undertakings under (i) and (ii) accepted by Berlin is - in consultation with the Berlin/ Brandenburg *Land* Association of German Sinti and Roma - *not* pursued.

Article 8, para. 1, sub-para. (e) (iii)

- (iii) *if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*

4024a. Some of the *Länder* that accepted this undertaking (Baden-Wurttemberg, Berlin, Hesse, North-Rhine/Westphalia and Rhineland-Palatinate) provide the following information:

1. Baden-Wurttemberg

4025. Reference is made to No. 734 of the Second State Report stating that the above undertaking is fulfilled also in Baden-Wurttemberg in the sense of "undertake ... to allow", with reference to the freedom of science and research, as guaranteed under Article 5, para. 3, of the *Basic Law*, and to the autonomy of institutions of higher education deriving from those constitutional provisions.

2. Berlin

4026. No. 735 of the Second State Report already stated that, in consultation with the Berlin/Brandenburg *Land* Association of German Sinti and Roma, implementation of this undertaking (in the form of "encouraging") is not pursued at present; the information provided under No. 4025 above on the alternative of "allowing", however, also applies to Berlin.

4027. - 4028. . / .

3. North-Rhine/Westphalia

4029. For details regarding fulfilment of the above undertaking, cf. No. 739 of the Second State Report and No. 4025 above.

4. Rhineland-Palatinate

4030. For details regarding fulfilment of the above undertaking, cf. No. 739 of the Second State Report and No. 4025 above.

Article 8, para. 1, sub-para. (f) (iii) - Adult Education -

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

4031. No. 740 of the Second State Report stated that the above undertaking, which has been accepted for the entire territory of the Federal Republic, was fulfilled at the national (i.e. federal) level by funding provided for the Documentation and

Cultural Centre of German Sinti and Roma by the federal authorities and Baden-Württemberg Land (which is not obliged to allocate any funds in this respect); however, in paras. 749 and 750 of the second Monitoring Report, the Committee of Experts did not accept this reasoning and considered this undertaking not fulfilled at present.

4032. In its turn, Germany does not accept the appraisal underlying this conclusion and upholds the view that fulfilment by the Contracting State ensues from the mere fact alone that government funds are allocated, *inter alia*, for the implementation of the above undertaking and that, on the basis of this funding support and by virtue of the principle of self-management, it is up to the responsible members of this minority/language group represented in this institution, when deciding on the Centre's activities, to include pertinent adult education measures and to implement these within the limits of the overall funds available.

4033. Nor can fulfilment of the undertaking be denied, contrary to the opinion expressed by the Committee of Experts, on the grounds that according to information obtained by the Committee, requests for funding of adult education measures in the Romany language have not been granted, e.g. in Darmstadt, notwithstanding the announcement (cf. No. 741 of the Second State Report) that the Hesse Land Association of German Sinti and Roma planned to carry out a local needs analysis, and that offers relating to the Romany language in adult education were not available despite the existing demand in this field.

4034. Yet Hesse, which is the *Land* concerned in this respect, provided the information that it was not aware of any actual demand. In this case, too, the principle applies that such educational offers could be made (for implementation by the adult education centres) only on the basis of an actual demand for such education and only if the national minority expressed a wish to this effect by common consent. As reported by the *Land*, the Hesse *Land* Association of German Sinti and Roma had at its disposal funds allocated under institution-based support and project-oriented promotion schemes; decisions on the use to be made of these funds were in the Association's discretion, and these funds allowed the Association to carry out a survey of (local) requirements and subsequently, in consultation with the education providers concerned, to offer pertinent measures.

See also the comments under Nos. 4005 and 4006 above.

Article 8, para. 1, sub-para. (g) - Teaching of the History, and Culture Education -

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

4035. In respect of the above undertaking, which has been accepted by the Federal Republic of Germany, reference is made to Nos. 742 to 757 of the Second State Report describing a number of measures which, in part, also formed the basis for the conclusion reached by the Committee of Experts in para. No. 751 of the second Monitoring Report that this undertaking was considered fulfilled. Therefore, the following information only refers to changes and new developments.

4036. In this regard, the *Land of Hesse* provides the following information: Recent measures taken by the *Land* were subsidizing of the publication of the book entitled *Flucht - Internierung - Deportation - Vernichtung* ["Flight - Internment - Deportation - Annihilation"], published by Adam Strauß, *Verband Deutscher Sinti und Roma, Landesverband Hessen*, and the recommendation to use this book in schools as a useful additional reference text for history lessons.

With regard to the project management bureau "*Pädagogisches Büro nationaler Minderheiten: Sinti und Roma*" [Educational Bureau for National Minorities: Sinti and Roma] which has been a central element of Hessian policies to promote the Sinti's and Roma's interests by adopting an interdisciplinary approach to providing information on the Sinti and Roma and reducing prejudices held by the majority population against them, Hesse *Land* reported that the Bureau had in the meantime been transferred to Marburg University and had undergone structural reorganization with the aim of optimizing its activity. In August 2005, 50 per cent of the Bureau director's position were assigned to the Department of History and Cultural Studies of the Marburg *Philipps-Universität* to provide additional courses in this subject for teacher training. To this end, a co-operation agreement was concluded by the *Amt für Lehrerbildung* [Office for Teacher Training] and Marburg Philipps University. This co-operation model is intended to link the first and the third phases of teacher training, and thus is in line with the Bureau's original terms of reference. The great success of the seminar courses offered in the 2005/2006 winter semester and the 2006 summer semester is proven by the large number of students who attended them. Both seminar courses were based on an interdisciplinary approach (involving the Department of Educational Sciences and the Department of European Ethnology).

At the same time, jointly organized follow-up training for teachers is offered each semester, with the participation of teaching staff of the Departments and including Sinti and Roma issues either as an integral part or as an additional subject of teacher training. A series of lectures entitled "*Fremde in Deutschland - Wege nach Deutschland in Vergangenheit und Gegenwart*" ["Strangers in Germany - Roads leading to Germany in the past and at present"] was given on 29 June 2006. One of these lectures dealt with the history of the Sinti and Roma.

In addition, the aforementioned Educational Bureau, in co-operation with the Hesse *Land* Association of German Sinti and Roma, also in 2005 (March and April) - in Mar-

burg and Fulda - presented the exhibition "*Hornhaut auf der Seele*" ["Callus forming on the soul"] dealing with the persecution of Sinti and Roma in Hesse and including an accompanying programme for schools and teachers; both the exhibition and the programme were very well received by the visitors.

Also, the Bureau in winter 2005 gave a lecture at the Marburg *Gesellschaft für christlich-jüdische Zusammenarbeit* [Society for Christian-Jewish Co-operation] on the Sinti's and Roma's story-telling traditions, and in 2006 a group of pupils contributed to the ceremonies on the occasion of a Memorial Day organized every year by Marburg City in commemoration of the deportation of Marburg Sinti on 23 March 1943.

4037. – 4045. . / .

Article 8, para. 1, sub-para. (h) - Basic and Further Training of Teachers -

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

4046. With regard to the above undertaking accepted nationwide by the Federal Republic of Germany, Nos. 758 to 767 of the Second State Report mainly listed the measures offered in the various federal states in the context of teacher follow-up training in dealing with the fateful history of the German Sinti and Roma and with available information regarding their culture; however, these paragraphs did not refer to measures to ensure basic and further training of teachers with a view to teaching the Romany language of the German Sinti and Roma at all levels of education. Therefore, it was not without reason that the Committee of Experts - under paras. 753 and 754 of the second Monitoring Report - considered this undertaking not fulfilled. However, in this case, too, the cause leading to this unsatisfactory situation is the principle that the Charter for Regional or Minority Languages can only be implemented by mutual agreement with the persons concerned, and that it has not even been possible to report at least a *demand* for educational measures within the meaning of sub-paras. (a) to (g) of Article 8, para. 1, with specific reference to the language spoken by the German Sinti and Roma, which is the only Romany language of relevance to the implementation of the Charter. This, in turn, might result from the fact that it would not be possible to offer measures under the public education system *exclusively* to German Sinti or German Roma and that consequently many members of these groups accept imparting of their language only within the family or group.

4047. Hamburg schools wishing to deal with the Roma's and Sinti's history and needing assistance in this field can make a request to this effect to the *Institut für Lehrerbildung und Schulentwicklung* (LI - Teacher Training and School Development

Institute) and/or to *Roma und Cinti Union*, a Hamburg-based registered association of the Roma and Sinti.

In Hamburg, a permanent working panel has been in existence since 1994; its membership includes six Roma in their capacity as school-based social workers who prepare educational materials, in various Romany dialects, which they personally test and use in practice.

Article 8, para. 1, sub-para (i) - Supervisory Bodies -

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

4048. With regard to the above undertaking, which has only been accepted by the Länder of Berlin and Hesse, No. 767a of the Second State Report presented the view communicated by the Central Council of German Sinti and Roma that such supervisory bodies should not be responsible for monitoring or prescribing the contents (*i.e.* the teaching material, course content, and texts used in classroom instruction) of language instruction given by Sinti or Roma teachers to children and adults of this minority but that, instead, these bodies should only be authorized to control the technical and organizational requirements and processes for supplementary homework assistance, catch-up tuition and other group work (numbers of groups and pupils, compliance with the time schedule, etc.).

In paras. 755 and 756 of the second Monitoring Report, the Committee of Experts stated that no such supervisory body had been brought to their attention, and therefore considered that this undertaking was not fulfilled.

4049. In this case, too, the above conclusion is based on the fact that not even a demand for teaching in or of the Romany language of German Sinti and Roma, as provided for under Article 8, para. 1, sub-paras. (a) - (f), and in respect of which special supervisory bodies would be useful, has been in evidence in the aforementioned federal states. Generally it must be pointed out that adequate supervision is indeed provided in respect of other promotional measures for the Romany language of the German Sinti and Roma.

4050. Accordingly, the Land of Hesse refers to the description of the existing structure for supporting Hesse's Sinti and Roma and to the fact that the Hessian Ministry of Social Affairs, which is responsible for allocating budgetary funds, on a case-by-case basis monitors proper use of allocated funds for the purposes stated in the pertinent application.

Article 8, para. 2*Paragraph 2*

With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

4051. With regard to the above undertaking accepted by the *Länder* of Berlin, Hesse and North-Rhine/Westphalia, No. 770b of the Second State Report - referring to colleges and universities - provided the information that this undertaking was fulfilled, in the sense of "undertake ... to allow", for all languages in the entire territory of the Federal Republic by virtue of Article 5, para. 3, of the Basic Law (autonomy of institutions of higher education) and, referring to the other stages of education, stated that there was no demand for teaching in or of the minority language. Therefore, the Committee's statement in para. 757 of the second Monitoring Report - that it was not in a position to conclude whether this obligation was fulfilled or not - is, in our view, not quite understandable.

4052. . / .

Article 9 Judicial Authorities

Paragraph 1

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

Article 9, para 1, sub-para. (b) - Civil Proceedings -

in civil proceedings:

- (iii) to allow documents and evidence to be produced in the regional or minority languages,
if necessary by the use of interpreters and translations;*

Article 9, para. 1, sub-para. (c) - Proceedings before Courts concerning Administrative Matters -

in proceedings before courts concerning administrative matters:

- (iii) to allow documents and evidence to be produced in the regional or minority languages,
if necessary by the use of interpreters and translations;*

4053. Nos. 771 to 774 of the Second State Report stated that these two undertakings - accepted nationwide by the Federal Republic of Germany - were already fulfilled by the legal situation prevailing in Germany without the need for any additional provisions; however, in para. No. 758 of the second Monitoring Report, the Committee of Experts considered these undertakings (only) formally fulfilled. Therefore, the Federal Republic would appreciate information on the reasons underlying this qualification regarding fulfilment of the undertakings.

4054. As regards fulfilment of this undertaking, information is provided on the following new status:

As already reported in the Second State Report (No. 774) for Baden-Württemberg Land, also the *Land* of North-Rhine/Westphalia maintains lists of interpreters and translators, which can be consulted by the courts and Prosecutor's Offices in order to locate suitable language mediators.

Article 9, para. 2, sub-para. (a) - Validity of Legal Documents -

The Parties undertake:

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

4055. In para. 759 of the second Monitoring Report, the Committee of Experts confirmed the conclusion in No. 775 of the Second State Report that the above undertaking accepted by the Federal Republic is fulfilled on the basis of the prevailing law in Germany and all of its *Länder*.

Article 10

Administrative Authorities and Public Services

Paragraph 1

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

Article 10, para. 1, sub-para. (a) (v) - Submission of Documents -

- (v) to ensure that users of regional or minority languages may validly submit a document in these languages;*

4056. With regard to the above undertaking accepted for Romany and the other regional or minority languages used in Schleswig-Holstein Land, reference is made to No. 776 of the Second State Report describing its fulfilment on the basis of Section 82a, para. 2, of the *Land Administration Act*, and to No. 777 of that Report providing information on the divergent opinions held by various groups of speakers as regards acceptance of this undertaking.

Article 10, para. 2

Paragraph 2

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

Article 10, para. 2, sub-para. (b) - Use of a Regional or Minority Language, and Applications to Local and Regional Authorities -

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

4057. In this case, too, *i.e.* concerning the above undertaking accepted by Schleswig-Holstein Land in respect of the Romany language of the German Sinti and German Roma and the Low German language, reference is made to the description of its fulfilment on the basis of Section 82 of the *Land Administration Act* and to the different views taken, with regard to this undertaking, by the various groups of speakers (as described under Nos. 778 to 780 of the Second State Report).

Article 10, para. 2, sub-paras. (e) and (f) - Use of a Regional or Minority Language in Debates of their Assemblies -

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

4058. No. 781 of the Second State Report stated that the above undertakings, accepted by the *Land* of Hesse, were fulfilled in the form of "allowing", but that no information on relevant practical experience was available; under para. 760 of the second Monitoring Report, the Committee of Experts considered them only formally fulfilled on the grounds that, in the Committee's view, implementation of these undertakings required positive measures of encouragement. This conclusion reached by the Committee for these two undertakings and other undertakings as well is rejected because "allowing" *per definitionem* only requires refraining from impeding measures.

Article 10, para. 3

Paragraph 3

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

Article 10, para. 3, sub-para. (c) - Requests in the Minority Language -

(c) to allow users of regional or minority languages to submit a request in these languages.

4059. With regard to this undertaking, accepted by the *Land* of Hesse, the Committee of Experts - in para. 761 of the second Monitoring Report, considered this undertaking not fulfilled; again, we disagree with this conclusion on the grounds that an undertaking is fulfilled, in the form of "allowing", even without any positive measures.

Article 10, para. 4

Paragraph 4

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

Article 10, para. 4, sub-para. (c) - Appointment of Public Service Employees having a Knowledge of the Minority Language -

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

4060. With regard to the above undertaking, accepted for the Romany language by the *Länder* of Baden-Wurtemberg, Hesse and Schleswig-Holstein, Nos. 783 to 785 of the Second State Report stated that the scope for complying, to the greatest extent possible, with requests made by public service employees for an appointment within the meaning of this undertaking would be examined, but that so far no such requests had been made. Since this undertaking only requires 'compliance as far as possible' with requests actually received from public service employees, we disagree

with the conclusion reached by the Committee of Experts [para. 762, second Monitoring Report] that this undertaking was not fulfilled because there was no pertinent legislation or structured policy in Hesse.

4061. . / .

Article 10, para. 5

Paragraph 5

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.

4062. With regard to the above undertaking, which has been accepted nationwide by the Federal Republic of Germany for the Romany language of the German Sinti and the German Roma, reference is made to the comments under Nos. 220 to 225 of the Second State Report.

Article 11 Media

Paragraph 1

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

Article 11, para. 1, sub-para. (b) (i) - Radio Broadcasting -

(i) to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages; or

4063. With regard to the above undertaking, accepted by the *Land* of Berlin, reference is made to No. 787 of the Second State Report stating that its fulfilment is possible under the existing legal provisions, but that it cannot be fulfilled in practice because so far no requests to this effect have been made by the language group concerned.

Article 11, para. 1, sub-para. (b) (ii) - Radio Broadcasting -

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

Article 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

4064. With regard to the undertaking under Article 11, para. 1, sub-para. (b) (ii), accepted by the *Länder* of Berlin, the Free and Hanseatic City of Hamburg, Hesse and Schleswig-Holstein, and to the undertaking under sub-para. (c) (ii), accepted by the aforementioned *Länder* and Rhineland-Palatinate as well, Nos. 788 to 800 of the Second State Report described the regulatory framework in these federal states and provided information on appeals addressed by the Minister-President of Schleswig-Holstein *Land* to both public and private broadcasters with the aim of encouraging them to broadcast radio and TV programmes in the minority languages; in paras. 764 - 767 of the second Monitoring Report, the Committee of Experts considered that these undertakings were not fulfilled in Hesse because Romany was not being used on private radio or television.

4065. – 4094. . / .

4095. Against the background of the regulatory framework described under Nos. 226 to 236 of the Second State Report and with reference to the comments made under No. 25 of the present Report and to the rationale given under Nos. 1027, 2042,

2043, 3030, 2031 and Nos. 5114 and 5122 of the present Report, we again reject the Committee's conclusion [here: non-fulfilment in Hesse] on the grounds that the above undertakings call for encouragement measures, but not necessarily for the success of such encouragement since the latter also depends on the response by the speakers of the language to such offers.

4096. Accordingly, successful encouragement can at present be reported only for Lower Saxony (which was careful not to accept this undertaking) in respect of radio broadcasts in the Romany language of the German Sinti:

"Latscho Dibes" ("good afternoon") is the title of the only Sinti radio programme that is broadcast in Germany. It was initiated in 2000 by the *Verein Hildesheimer Sinti e.V.* ["Registered Association of Sinti in Hildesheim"] which, as reported by *Sinti Allianz Deutschland*, is its Lower Saxony *Land* Association), and since then has been broadcast by *Radio Flora Hannover* every third Sunday from 2 to 3 p.m. (and is exclusively produced with own funds, as stated by the *Sinti Allianz*).

"Latscho Dibes" is designed as an entertainment programme but is, above all, intended to provide the Sinti in Lower Saxony and throughout Germany with a mouthpiece. The broadcasting team opted for a well-balanced mixture: the programme covers a wide range, from interviews and news to the presentation and review of relevant literature; also, a large variety of music is included.

This magazine programme strives for encouragement and recruitment of young talent by focusing on key subjects such as compensation for forced labourers, discrimination against the Sinti, or treatment of the Sinti in the context of local and regional policies. *"Latscho Dibes"* is one of 61 different programmes broadcast by *Radio Flora*, which are each produced by the respective group under its own direction and with its own production/editorial staff. As stated by this radio station in a self-description, "the station's programmes reflect the pluralism of opinions held by a large variety of social actors".

This music and cultural magazine - which since August 2004 has also been aired by *Radio Tonkuhle* - is presented, *inter alia*, by three pupils from Hildesheim. As "trainee journalists", these three girls, aged 10 to 15 years, already interviewed well-known personalities of the stage and screen and public figures, such as the entertainer Michael Schanze, the Finance Minister of Lower Saxony, Hartmut Möllring, the singer-songwriter Konstantin Wecker, the singers Roland Kaiser and Jeanette Biedermann, and many others.

By means of interviews, suggestions for cultural activities, a mixture of various styles of music, etc., the radio team seeks to produce a programme specifically by Sinti for Sinti and their friends and, when dealing with topical subjects, to put their finger on the sore spot.

Article 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

4097. In response to the conclusion reached by the Committee of Experts under paras. 768 and 769 of the second Monitoring Report that the above undertaking (accepted nationwide by the Federal Republic) was not fulfilled, we state our disagreement and point out that the Federal Republic upholds the opinion expressed under No. 801 of the Second State Report, namely that the undertaking was adequately fulfilled by state-provided support for the Documentation Centre of German Sinti and Roma, irrespective of the Centre's discretionary decisions on the use of the allocated funds. In this case, too, it is pointed out that the undertaking calls for encouragement, but not for the success of such encouragement as well.

Article 11, para. 1, sub-para. (e) (i) - Newspaper -

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

4098. With regard to the above undertaking, accepted by the *Länder* of Berlin and Hesse, reference is made to Nos. 802 to 805 of the Second State Report describing certain conditions, the little scope for state intervention, lack of interest on the part of the speakers in the development of a written form of their language, let alone in publications in this language; on this basis, we disagree with the conclusion, reached by the Committee of Experts in para. 771 of the second Monitoring Report, that this undertaking was not fulfilled, and it is pointed out, once again, that the undertaking only calls for encouragement measures.

4099. . / .

Article 11, para. 1, sub-para. (e) (ii) - Newspaper Articles -

(ii) *to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;*

4100. With regard to the above undertaking, accepted for the entire territory of the Federal Republic, reference is made to No. 806 of the Second State Report stating our view that the undertaking is already fulfilled by state-provided support for the Central Council of German Sinti and Roma and for the Documentation and Cultural Centre of German Sinti and Roma; on this basis, we disagree with the conclusion reached by the Committee of Experts under para. 771 of the second Monitoring Report that, on account of the non-existence of a standard written form of Romany, this undertaking was not fulfilled, and it is again pointed out that the undertaking "to

encourage" can be fulfilled even when the desired success of encouragement cannot be achieved because the speakers concerned freely decide against any measures thus encouraged.

Article 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

4101. With regard to the above undertaking, accepted for the entire territory of the Federal Republic, reference is made to No. 809 (referring to Nos. 226 - 230) of the Second State Report describing the difficulties encountered in respect of direct financial assistance by the state, and to the comment under No. 810 of that Report that this is one of the reasons for state-provided support for the Documentation and Cultural Centre of German Sinti and Roma; on this basis and irrespective of the fact that, due to the discretionary decisions made by the recipient of allocations, no audiovisual productions in the minority language are known to exist, we disagree with the conclusion reached by the Committee of Experts under para. 772 of the second Monitoring Report that this undertaking was not fulfilled.

Article 11, para. 1, sub-para. (g) - Training of Journalists -

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

4102. Contrary to the finding of non-fulfilment under para. 733 of the second Monitoring Report of the Committee of Experts, the Federal Republic of Germany takes the view that the above undertaking, accepted for the entire territory of the Federal Republic, is already fulfilled by the state-provided support for the Documentation and Cultural Centre of German Sinti and Roma, cf. No. 811 of the Second State Report.

Article 11, para. 2 - Freedom of Direct Reception of Broadcasts, and Freedom of Expression

Paragraph 2

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

4103. Against the background of the legal framework described in No. 812 (referring to Nos. 226 - 239) of the Second State Report, the Committee of Experts - in para. 774 of the second Monitoring Report - considered that the above undertaking, which has been accepted for the entire territory of the Federal Republic of Germany, was fulfilled.

Article 12 Cultural Activities and Facilities

Paragraph 1

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

Article 12, para. 1, sub-para. (a) - Types of Expression, and Access to Works -

(a) to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;

4104. With regard to the above undertaking, accepted by the *Länder* of Baden-Württemberg, Berlin, the Free and Hanseatic City of Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate and Schleswig-Holstein, the Committee of Experts - under para. 775 of the second Monitoring Report - stated that it would welcome information, further to that contained in the Second State Report, regarding the encouragement of types of expression and initiative specific to the Romany language(s) of the German Sinti and German Roma.

4105. In this respect, it must be pointed out that the undertaking is to be considered fulfilled by subsidizing measures even in those cases where the recipients of allocations can, by a discretionary decision, use the allocated funds, in part, for the aforementioned specific purpose but also, under certain circumstances, for other activities aimed at raising awareness of issues related to this language group. In view of Germany's history in recent times, there is no conceivable way of making allocation of funds dependent on whether or not these will be used for a desired form of language promotion.

4106. Against this background, some of the *Länder* concerned reported current financial support measures regarding funds to be used, at least in part, for activities as defined under the above undertaking.

1. Baden-Württemberg

4107. Baden-Württemberg refers to the comment under No. 813 of the Second State Report that this undertaking is fulfilled by state-provided support for the Documentation and Cultural Centre of German Sinti and Roma.

2. Free and Hanseatic City of Hamburg

4108. The Free and Hanseatic City of Hamburg once again points out that it exercises particular care in considering applications filed by Hamburg's German Sinti and Roma for culture-related support. Thus, the Senate Authority for Cultural Affairs in 2005 allocated 5,000 € in support of a music and cultural festival of the Roma and Sinti and in 2006 granted 3,000 € for a cultural festival.

3. Hesse

4109. This *Land* first of all points out that it provides support to the Hessian *Land* Association of German Sinti and Roma. Currently Hesse is not aware of any other umbrella organizations of this national minority that might be included in this state-provided support programme.

In view of the non-existence of a standard written form and the fact that, at least as regards the Romany language of the German Sinti, use of the language is confined to the language group, specific forms of music constitute, for the speakers, an important "type of expression" in public life; against this background, Hesse *Land* also draws attention to its promotional activities regarding music:

Allocation of funds to promote music and regional culture is aimed at enabling all groups of the Hessian population to participate, in one form or the other, in arts-related and cultural activities.

No distinction between different ethnic groups is made as regards allocation of such funds to associations and institutions pursuing musical activities (music schools federation, choral societies and music associations).

Within the framework of project assistance for concerts of individual orchestras, the Philharmonic Association of Sinti and Roma in Frankfurt/Main in 2004 was granted special funds amounting to € 1,000 and in 2005 received budgetary funds allocated for music-related activities to the amount of € 2,000.

Also, it is pointed out that support can be provided to cultural institutions or projects of Roma and Sinti concerning theatre and literature in Hesse provided that such institutions or projects are reported and pertinent applications are filed with the Ministry responsible for these matters. As reported by this *Land*, such institutions and projects have equal access to the existing promotional instruments.

Finally, reference is made to No. 4036 above which also is of relevance to the contents listed under Article 12.

4110. - 4111. . / .

4. North-Rhine/Westphalia

4112. Since 1982, the *Land* of North-Rhine/Westphalia has allocated *Land* budgetary funds to a counselling centre for Sinti and Roma which is operated by the Düsseldorf-based North-Rhine/Westphalia *Land* Association of German Sinti and Roma of the *Verband Deutscher Sinti und Roma e.V.* [Union of German Sinti and Roma, reg'd.].

6. Rhineland-Palatinate

4113. On 25 July 2005, Rhineland-Palatinate concluded an agreement under public law ("administrative agreement") with the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association. The preamble to this Agreement states that the

"*Land* Government, in view of the Sinti and Roma genocide committed by the Nazi regime, is aware of its special historical responsibility, in particular towards the members of this minority. DESIROUS of supporting and promoting peaceful living together of the entire population of Rhineland-Palatinate; RESPECTING the ethnic, cultural, linguistic and religious identity of the members of a minority; IN RECOGNITION and MINDFUL of the more than 600 years of the German Sinti's and Roma's history; RESOLVED to make joint efforts to create adequate conditions making it easier for Sinti and Roma in Rhineland-Palatinate to express, preserve and further develop their identity - " ...

In Article 2 of the this framework agreement, the *Land* reaffirmed its acceptance of undertakings under the European Charter for Regional or Minority Languages, which concern many and various spheres of life. "Considering that the minority language Romany is an expression of cultural wealth, the *Land* Government protects and promotes preservation of the minority language Romany on the basis of these undertakings ... For the preservation of the culture and language of the Sinti and Roma, the *Land* Government supports initiatives of the *Land* Association ..." Also, in Article 2, the *Land* Government agrees - within the limits of the availability of budgetary funds - to support applications for project funding filed by the *Land* Association, e.g. in the fields of further vocational training and of promotion of artistic skills and the special features of the music of Sinti and Roma in Rhineland-Palatinate. Further, in Article 5, the *Land* Government agrees to grant institution-based support to the Secretariat and Counselling Bureau of the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association in order to provide a sustained sound basis for the *Land* Association's activities in accordance with the requirements identified in the 2005 Budget and Economic Plan. The full text of the Agreement is enclosed at Annex.

4114. . / .

Article 12, para. 1, sub-para. (d) - Taking Account of the Regional or Minority Language in Cultural Activities -

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

4115. With regard to the above undertaking, the Committee of Experts, under para. 776 of the second Monitoring Report stated that it had received no information as to how the authorities ensured that other bodies responsible for organizing or supporting cultural activities make appropriate allowance for the Romany language of the German Sinti and German Roma.

4116. In the view of the German authorities, this undertaking can only be fulfilled by providing support for cultural activities of the associations of the respective language groups or - as a minimum - by involving these associations in such activities. Particularly in view of the autonomy of associations as guaranteed under German law, these associations - in accordance with their declared purpose - can be assumed to take adequate account of their language. As regards the Romany language of the German Sinti and the German Roma, however, it must be borne in mind that knowledge of the minority language should not be imparted to outsiders since the majority of speakers obviously wish to confine use of the language exclusively to their families and their own group.

Therefore, with regard to the above undertaking, only the measures described under Nos. 4107 and 4114 above are of relevance in this context.

Article 12, para. 1, sub-para. (f) - Participation of Representatives of the Speakers -

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

4117. The above undertaking accepted by the *Länder* of Baden-Wurtemberg, Berlin, the Free and Hanseatic City of Hamburg, Hesse, Lower Saxony, North-Rhine/Westphalia and Schleswig-Holstein, is fulfilled, *inter alia*, on account of the fact that associations of Romany speakers were involved in - or even independently carried out - certain activities, at least as regards the measures described under Nos. 4107 to 4114 above.

4118. - 4125. . / .

Article 12, para. 1, sub-para. (g) - Creation of Archive Bodies -

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

4126. With regard to the above undertaking, accepted for the entire territory of the Federal Republic, No. 842 of the Second State Report stated that it was fulfilled through the funding provided by the Federal authorities and by Baden-Wurttemberg *Land* to the Documentation and Cultural Centre of German Sinti and Roma; in this respect, the Committee of Experts, in para. 778 of the second Monitoring Report, asked for clarification on the point of whether, and in which manner, the Centre collects, keeps copies of, or publishes works produced in the Romany language of the German Sinti and German Roma.

4127. Therefore, it is pointed out that the undertaking is already fulfilled when encouragement is given and that it does not call for the success of such encouragement. In view of the fact that the Romany language, at least that of the German Sinti, does not have a written form, collection of such works is only possible on a limited scale (e.g. sound recordings). In this context, reference is made to Part E, the last paragraph of the comments provided (on No. 4127) by the Central Council of German Sinti and Roma.

Article 12, para. 2

Paragraph 2

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

4128. In para. 779 of the second Monitoring Report, the Committee of Experts stated that, for lack of information, it was not in a position to conclude whether this obligation was fulfilled, which has been accepted by the *Länder* of Baden-Wurttemberg, Hesse, North Rhine/Westphalia and Schleswig-Holstein.

4129. The German authorities find it difficult to understand this conclusion since No. 843 of the Second State Report stated that, for the alternative of "allowing", the undertaking must be considered fulfilled under the German legal system.

Article 12, para. 3*Paragraph 3*

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

4130. On the basis of the activities described under No. 844 of the Second State Report, the Committee of Experts, under para. 780 of the second Monitoring Report, obviously considered this undertaking (which has been accepted for the entire territory of the Federal Republic) fulfilled at the federal level, but asked for further information concerning pertinent activities of the various *Länder*.

4131. However, in the view of the German authorities, the fact that Germany is a federated state does not justify the assumption that a given undertaking must result in activities at every level of the federation; instead, reasonable division of responsibilities must be admissible. Also, as regards cultural policy activities pursued, also abroad, in respect of the Romany language of the German Sinti and German Roma, it must be borne in mind that - unlike the members of the other national minorities - the speakers of this/these language/s do not live in a specific, well-defined settlement area but are dispersed over almost the entire territory of the Federal Republic (even though most of them live in a number of conurbations).

4132. Against this background, reference is made to the comment provided by the Documentation Centre of German Sinti and Roma that

"the Culture Affairs Division of the Federal Foreign Office, the German diplomatic missions abroad and the branch offices of *Goethe-Institut* in Hungary and the Czech Republic, in Poland and the United States provided extraordinary support for the preparation and organization of the exhibition "The Holocaust against the Sinti and Roma, and present-day racism in Europe" and thereby clearly showed that they attach great importance to this issue. The Documentation Centre will also in future continue its co-operation with these institutions.

The assistance and financial support provided by the Federal Foreign Office also has substantially helped to make it possible for this exhibition to be presented in New York in January 2007 in connection with the United Nations' international Holocaust Remembrance Day. This exhibition draws attention to a chapter of German and European history that many European countries have until this day put to one side."

Article 13

Economic and Social Life

Paragraph 1

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

- (a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- (b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- (c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*
- (d) to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.*

4133. As regards the undertakings under sub-paragraphs (a), (c) and (d), accepted for the entire territory of the Federal Republic of Germany, the conclusion stated in No. 845 of the Second State Report is upheld, namely that the established law of the Federal Republic of Germany is in compliance with these provisions and that these undertakings are thus already fulfilled nation-wide for all regional or minority languages.

4134. In respect of the fulfilment of the undertaking under sub-para. (a), the Committee of Experts - in para. 781 of the second Monitoring Report - shared the above conclusion.

4135. In para. 782 of the second Monitoring Report, the Committee of Experts stated that it was not in a position to conclude that the undertaking under sub-para. (c) was fulfilled at present (solely because Romany speakers claimed that the media contributed to their stigmatization) and in this respect asked for further information on the current status regarding anti-discrimination legislation; in response to this request, it is reported that complete implementation of the EC Directives 2000/43/EC [equal treatment irrespective of racial or ethnic origin], 2000/78/EC [equal treatment in employment and occupation], 2002/73/EC [equal treatment for men and women (working conditions)] and 2004/113/EC [equal treatment between men and women (supply of goods and services)] has been achieved by virtue of the "Act to implement European Directives implementing the principle of equal treatment" ("General Equal Treatment Act", Federal Law Gazette I, 2006, p. 1897).

4136. With regard to the undertaking under Article 13, para. 1, sub-para. (d), we uphold the opinion - as stated under No. 846 of the Second State Report - that it is already fulfilled by providing financial support to the Bureau of the Central Council of German Sinti and Roma and consequently express our disagreement with the

conclusion reached (without any detailed reasons given) by the Committee of Experts under paras. 783 - 785 of the second Monitoring Report.

In addition, it is pointed out that this undertaking, either, does not call for measures to be taken in all of the *Länder* but, instead, must make allowance for efficient division of responsibilities. For this reason alone, we must disagree with the Committee's finding that the undertaking was not fulfilled in Hesse on the grounds that information on positive measures had not been provided.

Finally, it should be noted that the various options suggested by the Committee - as regards ways in which this undertaking could be fulfilled otherwise - cannot, for the major part, be implemented in practice because the Romany language, at least the Romany of the German Sinti, has no written form and a majority of the users of the Romany language of the German Sinti and German Roma (in Germany, the Romany spoken by Roma from other countries is not protected under the Charter) have strong reservations against any form of assistance and support where it cannot be ruled out that outsiders might acquire knowledge of this language.

4137. ./. .

Article 14

Transfrontier Exchanges

The Parties undertake:

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

4138. On the basis of the information provided under No. 847 of the Second State Report, the Committee of Experts - with regard to this undertaking (which has been accepted for the entire territory of the Federal Republic) - acknowledged that it was well aware of the pertinent activities of the Central Council of German Sinti and Roma in the context of transfrontier contacts, but asked for further information concerning the extent to which intergovernmental agreements had fostered such contacts.

4139. In response, it is pointed out that the above undertaking has only been accepted for the purpose of fostering, in certain areas, contacts of users of the Romany language of the German Sinti and German Roma with users of the same language(s) who live in other countries. However, a wish of German Sinti or Roma for additional support for existing or new contacts of this type is not in evidence. Nor did any requirement for support as defined by the above undertaking become known on the occasion of the so-called Implementation Conferences (attended by federal and *Land* officials and by representatives of the federal associations of national minorities, of Low German speakers and the users of the minority languages). This resulted in the situation that, on account of the non-existence of the prerequisites for fulfilment, this undertaking - at least in most respects - fails to be implemented at present.

What did emerge, however, was the interest - particularly on the part of foreign Roma representatives/speakers of other Romany languages (not protected in Germany) - in creating a forum for co-operation and joint representation of their interests at a pan-European level. Therefore, Germany used its membership of a working group of the Council of Europe to help substantially to ensure that the conditions required for democratically legitimized representation were provided for the now existing European Roma Forum (ERTF). However, the success of these efforts seems doubtful since the Central Council of German Sinti and Roma and *Sinti Allianz Deutschland* - the principal nationwide associations in Germany - obviously were not provided an adequate opportunity to send delegates to that Forum to represent their interests.

Also, a German delegate is a member of the Council of Europe Group of Specialists on Roma, Gypsies and Travellers (MG-S-ROM) which seeks to solve problems encountered by Roma in Europe and would surely follow up any wishes expressed regarding promotion of inter-Roma co-operation by means of intergovernmental agreements.

In order to provide, *inter alia*, for the possibility to get a better knowledge of the Sinti's or Roma's interest in transfrontier co-operation and, in collaboration with government representatives of the Council of Europe Member States, to make a direct study of the scope for promoting such co-operation by concluding intergovernmental agreements, Germany continued to speak out in favour of re-establishing the DH-MIN committee [Committee of Experts on Issues relating to the Protection of National Minorities] of the Council of Europe and until the end of 2006 held the committee's chairmanship; a German representative is assigned to the post of vice-chairman until the end of 2007. This committee discussed, among others, approaches to solving housing problems encountered by East European Roma. However, any demand for promotion of transfrontier co-operation, e.g. in the cultural field, between Romany speakers on the basis of intergovernmental agreements could not be identified by this committee, either. Similar observations were made in respect of the activities pursued by other supranational organizations, such as OSCE and the United Nations.

4140. – 4999. These paragraphs are left blank because the information on undertakings accepted with regard to the Low German language starts with para. 5000.

D.2.6 Low German

Low German (Low Saxon; *Niederdeutsch*; *Plattdeutsch*) is protected under Part III of the Charter in the following *Länder*: Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein. In the *Länder* of Brandenburg, North Rhine-Westphalia and Saxony-Anhalt, Low German falls under the protection afforded under Part II, since the required quorum of 35 obligations has not been attained.

Article 8

Education

5000. With regard to the role of Low German in education the following event, which may well positively influence cooperation in this area, is reported:

On 8 and 9 June 2006, the *Niedersächsische Heimatbund* (Lower Saxony Union for Local and Regional Traditions) in cooperation with the *Land* of Lower Saxony and the *Bundesrat für Niederdeutsch* [*Bundesraat för Nedderdüütsch*; Federal Council for Low German] hosted the conference “Niederdeutsch und Friesisch im Bildungswesen - ein Ländervergleich” [Low German and Frisian in education – an inter-*Länder* comparison]. The conference was held under the auspices of the Lower Saxon Minister of Cultural Affairs who gave a talk on the role of the state in the promotion of Low German and Frisian in education [“Die Förderung von Niederdeutsch und Friesisch als Staatsaufgabe im Bildungsbereich”].

At the invitation of the *Bundesrat für Niederdeutsch*, the conference was also attended by a member of the Secretariat of the Committee of Experts, a representative of the Federal Government and representatives of the *Land* governments of northern Germany.

The heads of section of the *Land* governments of northern Germany, who are responsible for general matters regarding Low German and for the teaching of Low German in education, intend to extend their cooperation as well as the cooperation with the *Bundesrat für Niederdeutsch*.

(A publication on the conference entitled “Niederdeutsch und Friesisch im Bildungswesen – ein Ländervergleich, Symposion an der Carl von Ossietzky Universität Oldenburg am 8. und 9. Juni 2006” has been issued by De SPIEKER,

Heimatbund für niederdeutsche Kultur e. V. [a local/regional association dedicated to the preservation of Low German culture]; Isensee Verlag, Oldenburg 2006.)

Article 8

Paragraph 1

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

Art. 8, para. 1, sub-para. (a) - Pre-School Education -

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

5001. The *Länder* Brandenburg (cf. para. 849 seqq. of the Second State Report), Free Hanseatic City of Bremen (cf. para. 854 seqq. of the Second State Report), Free and Hanseatic City of Hamburg (cf. para. 852 seqq. of the Second State Report), Mecklenburg-Western Pomerania (cf. para. 856 of the Second State Report), Lower Saxony (cf. para. 857 seqq. of the Second State Report), Saxony-Anhalt (cf. para. 859 seqq. of the Second State Report) and Schleswig-Holstein (cf. para. 862 seqq. of the Second State Report) have accepted the obligation under subparagraph (a) (iv).

With regard to the obligation to promote and encourage pre-school education measures, the *Länder* listed below are subject to the following changes from the situation described in the Second State Report:

1. Bremen

5003. In response to the view expressed by the Committee of Experts in paras. 397-399 of the second Monitoring Report that, in the Free Hanseatic City of Bremen, this obligation must be considered as unfulfilled due to insufficient information on any special provision in this respect and due to the Free Hanseatic City of Bremen having

stated that no systematic approach in the field of pre-school education was envisaged, the following information is provided: Within the field of children's day care (pre-primary education), additional help in the development of language proficiency in the (standard) German language is provided for all 5 year-old children with special language promotion needs (predominantly of immigrant background) before enrolment in an elementary school. In addition, the Low German language is particularly dealt with in institutions located in areas bordering the *Land* of Lower Saxony where children have access to the Low German language. Furthermore, rhymes/verses are learned and relevant songs sung in children's day-care centres in the *Land* of Bremen in an effort to keep the regional language alive.

2. Hamburg

5004. The Committee of Experts, having noted in its second Monitoring Report under paras. 468 and 469 the absence of systematic teaching of Low German at pre-school level in Hamburg, considered that the above undertaking had not been fulfilled despite the aforementioned and other planned measures.

The cultivation of the Low German language is bindingly governed by directive no. 2005/0706 "*Einführung vorschulischer Bildungsstandards und Verstärkung der vorschulischen Sprachförderung*" [Introduction of standards and intensification of measures to promote language proficiency in pre-school education] issued by the Hamburg Senate on 15 June 2005. This fulfils the voluntary commitment of the Hanseatic City of Hamburg with respect to the European Charter for Regional or Minority Languages. Low German is predominantly taught in pre-school classes with a considerable number of speakers, and the significance of the regional language for the North German language area is imparted in a manner suitable for children. Furthermore, the guidelines establish the requirement for age-appropriate access to the Low German language for all Hamburg pre-school classes through the use of, for instance, rhymes, poems, counting-out games and songs, even where the teachers and educators involved are not active speakers of Low German.

The Hamburg *Land* Institute for Teacher Training and School Development has incorporated the promotion of the Low German language into a series of advanced training courses with mandatory participation for teachers and educators of pre-school classes.

3. Mecklenburg-Western Pomerania

5005. Regardless of the above efforts described in the Second State Report and the measures reported on the occasion of the Committee of Experts' visit, the

Committee in paras. 547-551 of the second Monitoring Report considered this undertaking as having been only partly fulfilled by the *Land* of Mecklenburg-Western Pomerania. In accordance with the Committee's request to receive information on further developments the following is brought to its attention:

In cooperation with the *Landesheimatverband Mecklenburg-Vorpommern e.V.* [Mecklenburg-Western Pomerania *Land* Union for Local and Regional Traditions] the *Zentrum für Niederdeutsche Sprache Vorpommern e.V.* [Centre for Low German - Western Pomerania e.V.] in Wilmshagen, which was founded in 2004, organizes Low German courses for nursery-school teachers.

Courses for nursery-school teachers have taken place in the region of Nordwestmecklenburg as well as in Rügen, Schwerin and Demmin in 2006.

The follow-up work on the courses for nursery-school teachers is performed by the *Zentrum für Niederdeutsche Sprache Vorpommern e.V.* [Centre for Low German - Western Pomerania e.V.]. All materials developed in these courses, such as worksheets, stories, poems and arts and craft materials, are collected by the Centre, assorted in mixed boxes and made available to children's day-care centres in the *Kreise* free of charge. Each box contains approx. 150 pages of learning and reading materials for the Low German language. About 50-80 mixed boxes are compiled and distributed in the context of each course. Demand is high. Mixed boxes have already been made available to the children's day-care centres in the *Landkreise* Nordvorpommern, Ostvorpommern, Rügen and Uecker-Randow.

The *Kreis* administrations constitute important partners for the activities of the children's day-care centres and care institutions. The *Zentrum für Niederdeutsche Sprache Vorpommern e.V.* [Centre for Low German - Western Pomerania e.V.] has established good relationships with the relevant authorities in the *Landkreise* Nordvorpommern, Ostvorpommern, Rügen and Uecker-Randow, and in the Hanseatic cities of Stralsund and Greifswald. The *Kreis* administrations have provided constructive assistance and practical support to the Centre.

4. Lower Saxony

5006. With information on adequate measures having been reported only for Ostfriesland, the Committee of Experts (in paras. 611-613 of its second Monitoring Report) evidently considers that this undertaking has been only partially fulfilled by Lower Saxony.

Hence, the following additional information is provided:

In January 2005, the educational mandate for pre-primary education in Lower Saxony was put into specific terms by means of the "*Orientierungsplan für Bildung und Erziehung im Elementarbereich*" [Pathway plan for education measures in the

field of pre-primary education] for Lower Saxon children's day-care centres. With regard to the educational objectives in the fields of learning and experience, the following comments are provided on the subject of "*Sprache und Sprechen*" [Language and Speech]: in areas where a regional language such as Low German is spoken, multilingualism is a good way of broadening language comprehension and speech production. The results of the model tests in Ostfriesland on bilingualism and early multilingualism have been incorporated into the pathway plan.

5. Saxony-Anhalt

5007. In addition to the measures and facilities in the field of pre-school education set forth in the Second State Report, the *Land* government has reinforced its attention to this obligation.

As a first step, an analysis of the situation was carried out in 2006 by the AG *Niederdeutsch* [Working group on Low German] (cf. para. 16), established in the Ministry for Cultural Affairs, with contributions from the head of section of the Ministry for Social Affairs and Health responsible for pre-school education.

In 2006/2007, a group of experts will then be set up to discuss targeted promotional measures for Low German such as advanced training courses for nursery-school teachers and the provision of materials related to didactics and methodology for the nursery schools of the different language areas.

From 2007 on these measures will be developed and successively introduced.

6. Schleswig-Holstein

5008. With regard to the above undertaking the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report, reiterating that it has caused no problems in Schleswig-Holstein.

Reference is made again to the legal framework for the fulfilment of the undertaking: The local bodies for the public child and youth services are in charge of the children's day-care centres as regards planning and overall responsibility. This includes the decision about whether, and to what extent, regional or minority languages are to be offered. Since 2004, the *Kreise* and *kreisfreie Städte* have been receiving *Land* funds which give them the means to assume responsibility for themselves with regard to their duty to provide care and support for children in day-care centres and day nursery places. It is, therefore, the task of the bodies responsible for the children's day-care centres offering Low German activities to negotiate means of assistance with the *Kreis* concerned.

The significance of the minority languages and the regional language of Low German has been expanded into the “*Leitlinien zum Bildungsauftrag von Kindertageseinrichtungen*” [Guidelines for the educational mandate in children’s day-care centres].

The Centres for Low German (ZfN) in Leck and Ratzeburg offer assistance to the children’s day-care centres as regards the integration of Low German into their day-to-day business. In the Schleswig region in particular there is already close cooperation between the ZfN Leck and the responsible bodies. The ZfN offers advanced training courses and assembles teaching and working materials. For children’s day-care centres with no teachers speaking Low German, sponsorships from external speakers can be arranged.

Art. 8, para. 1, sub-para (b) (iii) - Primary Education -

(iii) to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

5009. The *Länder* Free Hanseatic City of Bremen (cf. para. 866 of the Second State Report), Free and Hanseatic City of Hamburg (cf. para. 867 seqq. of the Second State Report), Mecklenburg-Western Pomerania (cf. paras. 870-874 of the Second State Report) and Schleswig-Holstein (cf. para. 875 seqq. of the Second State Report) have accepted the above obligation.

1. Free Hanseatic City of Bremen

5010. Regardless of the reports on its fulfilment in para. 866 of the Second State Report the Committee of Experts, in paras. 400-402 of its second Monitoring Report, does not deem the above undertaking fulfilled in the Free Hanseatic City of Bremen because, despite provisions for Low German in the curriculum and calls for it to be given consideration, Low German remained marginal within the curriculum and the teaching of Low German was dependant on volunteer work.

The following comments are made on the above statements:

The new curriculum for primary schools jointly developed with Berlin, Mecklenburg-Western Pomerania and Brandenburg in 2004 contains no more than a brief note on the need for the teaching of Low German. This is a step backwards in comparison with the previous curriculum. It is therefore intended to reconstitute the significance of Low German in primary education by means of guidance materials for the curriculum by mid-2007.

In Bremen primary schools, Low German is generally taught within the scope of normal teaching hours without the need to have recourse to volunteer work. However, the classroom instruction is dependant on qualified teachers at the respective school locations. Information on a relevant training initiative can be found at the end of para. 5018 and in para. 5052.

2. Free and Hanseatic City of Hamburg

5011. As a result of the new curriculum presented on the occasion of the Committee of Experts' visit, the Committee, in paras. 470-473 of its second Monitoring Report, considers that, with regard to Hamburg, this undertaking has been at least partially fulfilled.

The following subsequent developments are to be noted:

The 2003 German Framework Curriculum for primary schools sets forth Low German as a mandatory subject for inclusion and makes specific reference thereby to the European Charter for Regional or Minority Languages. Low German is "incorporated into conversations" and "the use of Low German is being thought about". Low German literature is a classroom subject for the "Reading" lesson, with at least one poem, or short story, or song dealt with per school year. Teachers are supported by means of a training programme for Low German established by the *Land* Institute for Teacher Training and School Development.

3. Mecklenburg-Western Pomerania

5012. The Committee of Experts, in paras. 552-558 of its second Monitoring Report, acknowledging the extensive efforts being made (cf. paras. 870-874 of the Second State Report), and especially encouraged by data on the actual scope of the teaching of Lower Sorbian as well as by the administrative decree "*Niederdeutsch an Schulen*" [Low German in Schools] - regulating the employment of Low German advisers at the *Landesinstitut für Schule und Ausbildung* (L.I.S.A. - *Land* Institute for Schools and Training) -, considers that this undertaking has been at least partially fulfilled. This conclusion has also been vindicated by information on the increasing number of Low German teachers.

The following subsequent developments are to be noted:

The Ministry for Education, Science and Cultural Affairs of Mecklenburg-Western Pomerania, in cooperation with the *Land* Institute for Schools and Training, conducted a survey in the school year 2003/2004 on the situation of Low German at all schools in Mecklenburg-Western Pomerania providing general education.

The results of this survey are available online from the education server of Mecklenburg-Western Pomerania at www.bildung-mv.de. Development concepts for Low German in Mecklenburg-Western Pomerania have been influenced by these findings.

Under the administrative decree "*Niederdeutsch an Schulen*" [Low German in Schools] of 9 March 2004, Low German advisers were established for the supervisory school authorities of Greifswald, Neubrandenburg and Schwerin. Despite repeated advertising of the position of Low German adviser and extensive promotion in the media, no teacher could be attracted to fill the position of Low German adviser in the Rostock supervisory school authority district. Endeavours to implement the administrative decree "*Niederdeutsch an Schulen*" [Low German in Schools] in the Rostock school authority district are being continued.

The established Low German advisers at the school authorities of Greifswald, Neubrandenburg and Schwerin have been instructed through materials and information sessions. They independently offer advanced teacher training and contribute to the networking and development of contacts with other associations and unions as well as to the *Land*-wide Low German competition organized by the *Landesheimatverband Mecklenburg-Vorpommern e.V.* [Mecklenburg-Western Pomerania *Land* Union for Local and Regional Traditions e.V.].

The Low German advisers will also be involved in advanced training opportunities for the certificate course "*Niederdeutsch für tätige Lehrer*" [Low German for Teachers] (cf. para. 5054). All in all, the Low German advisers have proved of value in their respective school authority districts.

During a meeting on 17 and 18 May 2004 in the *Pommersches Landesmuseum* [Pomeranian *Land* museum] in Greifswald, the joint working group on education of the Low German Consultative Councils of both Schleswig-Holstein and Mecklenburg-Western Pomerania discussed the implementation of the European Charter for Regional or Minority Languages in Mecklenburg-Western Pomerania and Schleswig-Holstein with regard to Art. 8 - Education, Art. 11 - Media and Art. 12 - Cultural Affairs. An extensive amount of materials were provided for the meeting.

4. Schleswig-Holstein

5013. The Committee of Experts, in paras. 675-680 of its second Monitoring Report, acknowledges the substantial efforts of the *Land* but, because of the greatly varying extent of language instruction from school to school, judges the above-

mentioned obligation to have been only partly fulfilled. It therefore recommends guidelines to guarantee a certain minimum number of Low German hours as an integral part of the curriculum.

In response to the Committee's recommendation and with particular regard to the teaching hours of Low German, the following comments are made on the basis of the reported data:

Low German is not a subject in the schools in this *Land*. The curricula which entered into force in 1997 establish Low German as a task of general educational significance; various subject-specific curricula (German, History, Political Science, etc.) explicitly include the Low German language. Explicit reference to Low German is made in the basic curricula and at many points of the subject-specific curricula. Guidance materials for the treatment of Low German in class have also been published. On 18 June 2006, a questionnaire was sent to the headmasters of all schools providing general education. An evaluation of the questionnaire will be presented in 2007.

Art. 8, para. 1, sub-para (b) (iv) - Primary Education -

(iv) to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;

5014. The above undertaking was adopted by the *Länder* Brandenburg (para. 883-887 of the Second State Report) and Saxony-Anhalt (para. 888-894 of the Second State Report) and has resulted in special provisions in this respect.

5015. ./. .

5016. With regard to Saxony-Anhalt the following new developments and adjustments are reported:

- Assistance programmes/promotion directives:

1. Programme "*Kultur in Schule und Verein*" [Cultural activities pursued by schools and clubs]
2. "Richtlinie über die Gewährung von Zuwendungen zur Förderung von Kunst und Kultur" [Directive on the Allocation of Grants for the Promotion of Arts and Culture] - Circular instructions of the Ministry for Cultural Affairs of 1 July 2005 (MBI. LSA 31/2005 of 8 August 2005, p. 455)
3. "Richtlinie über die Gewährung von Zuwendungen für bildungsbezogene Projekte und Angebote" [Directive on the

Allocation of Grants for Educational Projects/Offerings] - Circular instructions of the Ministry for Cultural Affairs of 1 October 2004 (SVBl. LSA No. 13/2004 of 23 November 2004, p. 304)

- Despite a strong downward tendency in the number of pupils and schools, the reading competition “*Schülerinnen und Schüler lesen PLATT*” (Pupils reading Low German) organized under the auspices of the Minister for Cultural Affairs has improved in both qualitative and quantitative terms in recent years with a growing number of pupils and schools taking part. Public awareness (especially in the press) is on the rise, and a multi-level competition involving schools, regions and the *Land* has evolved.
- The theatre workshop “*Niederdeutsch*” has also developed a more prominent profile: it was inaugurated in 2005 in cooperation with the *Schauspielhaus Magdeburg* [Magdeburg Theatre] and culminated in a series of public performances and accompanying broadcasts by the *Mitteldeutscher Rundfunk* (MDR) television.
Every other year - when no theatre workshop takes place - the theatre competition “*Niederdeutsch*” is organized under the direction of the *Landesheimatbund Sachsen-Anhalt e.V.* [Saxony-Anhalt *Land* Union for Local and Regional Traditions], also with growing interest: in 2006, ten Low German theatre groups were involved and more than 90 pupils - mainly from the primary education level - participated.
- The statistical data collection on the extent to which Low German activities in schools, such as activity groups or optional-subject courses, were opted for by pupils - initially conducted in just two school authority districts in the school year 2003/2004 - was extended in the school years 2004/2005 and 2005/2006 to the whole *Land* and given greater precision.
- In 2005, “*Unsere plattdeutsche Fibel. Wir lernen Plattdeutsch in Sachsen-Anhalt. 1. bis 6. Schuljahrgang.*” [Our Low German primer. Learning Low German in Saxony-Anhalt. 1st to 6th grade.] was published by Ursula Föllner and Saskia Luther. This primer (ISBN 3-89812-251-4) was financed completely by the *Land* Saxony-Anhalt and aimed specifically at schools.

Art. 8, para. 1, sub-para. (c) - Secondary Education -

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

5017. The obligation under (iii) has been adopted by the *Länder* Free Hanseatic City of Bremen (para. 895 of the Second State Report), Free and Hanseatic City of Hamburg (para. 896-898 of the Second State Report), Mecklenburg-Western Pomerania (para. 870-874 and para. 899 of the Second State Report) and Schleswig-Holstein (para. 900-904 of the Second State Report) and relevant measures have been taken.

1. Free Hanseatic City of Bremen

5018. Despite the special consideration given to Low German in the Bremen Framework Curriculum for lower secondary education and the goals and methods specified therein, the Committee of Experts - because of the absence of a systematic approach for this instruction area - considered that the above undertaking had been only partly fulfilled.

With regard to the compliance with the above undertaking the following new developments are reported and the Committee's statements commented on as follows:

Intensive instruction in Low German within lower secondary education, takes place exclusively in activity groups. The absence of a systematic approach is due to the only cursory readings of Low German texts made obligatory by the curriculum, as well as to the presence of corresponding texts in readers. In addition, the curriculum requires that attention be paid to analyses of the language as well as to linguistic, cultural and historical aspects.

For upper secondary grades a professional elementary course description is available. Currently, such courses are held in two out of 16 upper secondary grades in *Gymnasien*.

The way of dealing with Low German in schools basically depends on the fact that, contrary to other minority languages, Low German is a regional language not spoken by homogeneous local or social groups and therefore cannot be taught region-wide as a mandatory subject. In the opinion of the Senator for Education the supply-side policy geared to this principle does not contradict the Charter.

The following developments are brought to attention with regard to the above undertakings:

In October 2006, an inventory of the current activities and events in connection with

the Low German language was carried out in the school sector and the number and location of teachers with Low German teaching skills was registered. Results, however, cannot yet be presented.

As a result, a concept for enhancing the position of Low German in classroom instruction and other curricular activities is to be developed and implemented together with the *Land* Institute for Schools and the Low German Institute (INS). Special emphasis will be put on the consolidation of activities that are independent of individual persons.

2. Free and Hanseatic City of Hamburg

5019. The Committee of Experts, in paras. 474-477 of its second Monitoring Report, acknowledges, *inter alia*, the new framework curricula for German with regard to secondary schools and the fact that the teaching of Low German is made obligatory (even) in cases where neither pupils nor teachers are active speakers of Low German as well as the fact that Low German can be chosen as subject for the *Abitur*. However, the Committee has criticized the fact that no use is made of the possibility to attend a basic course over two semesters in the upper secondary grades due to a lack of demand (possibly because of higher importance being ascribed to the learning of modern foreign languages) and that the teaching of Low German (as a result) in secondary education is (even) more limited than in primary education. It is of the opinion that the extent of Low German instruction laid down in the curricula still clearly falls short of the above undertaking's requirements and, notwithstanding the great efforts undertaken, considers that this obligation has been only partly fulfilled by the Free and Hanseatic City of Hamburg.

5020. In the German view, the above undertaking only states a need to provide for Low German as an integral part of the curriculum, i.e. to offer instruction in cases where a demand for Low German is still achievable. This does not mean, for example, that there was an obligation to enforce a certain amount of Low German instruction on pupils and parents against their will.

5021. Furthermore, concerning the compliance with the above undertaking it is noted that the *Land* Institute for Teacher Training and School Development is offering a series of follow-up training courses in the school year 2006/2007 mainly for teachers in lower secondary education who will receive a certificate upon successful completion of the course.

3. Mecklenburg-Western Pomerania

5022. With regard to Mecklenburg-Western Pomerania and the above undertaking, initial reference is made to the comments in paras. 870-874 of the Second State Report.

Subsequently, in paras. 522-558 of its second Monitoring Report, the Committee noted that the above undertaking is to be seen as only partially fulfilled because, despite a major downward tendency in the number of pupils, various activities were being offered and an administrative decree with several provisions for the promotion of Low German had been adopted. However, the activities varied to a great extent between the individual schools due to the unequal motivation of teachers, pupils (and parents), and required data on the extent of Low German courses was not available.

5023. In this regard, it needs to be reemphasized that an assessment of the above undertaking of Low German classroom instruction must consider the achievable demand and does not constitute an obligation to guarantee any particular demand.

For further information, cf. the comments in para. 5012.

4. Schleswig-Holstein

5024. Based on the comments in para. 876 and paras. 901-904 of the Second State Report and further reports by the *Land* government which noted that although most schools were offering Low German, the number of hours varied from school to school and that surveys were being conducted in schools in this respect, the Committee of Experts, in paras. 681-683 of its second Monitoring Report, considered that the above undertaking is to be regarded as only partially fulfilled and requested additional information.

5025. In connection with the above consideration that no obligation to guarantee any particular demand or a corresponding number of Low German events can be deducted from the regulations of the Charter, reference is made to para. 5012 of this report.

It is further stated that the Low German reading competitions continue to form an important part of the Low German instruction in schools. In the school year 2005/2006, 450 schools participated in the reading competition "*Schölers leest Platt*" [Pupils reading Low German]. 46,000 readers were distributed.

In a competition that has been run under the joint auspices of the President of the *Landtag* and the Minister of Education since 2005, schools now compete for the "*Niederdeutsch-Schulsiegel*" [Distinction for Low German] award. The aim of the competition is to honour outstanding achievements and efforts to preserve the

Low German language and culture both in the classroom and beyond. 30 schools competed for the distinction this year. An independent jury of scholars, politicians, teachers and representatives from the Ministry of Education has chosen six winners who were awarded the distinction on 5 January 2006 in the *Landeshaus*, seat of the *Landtag*.

Art. 8, para. 1, sub-para. (c) (iv) - Secondary Education -

(iv) to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

5026. This obligation has been accepted by two *Länder*. Cf. para. 905 (for Brandenburg) and paras. 906-908 (for Saxony-Anhalt) of the Second State Report for information on measures taken to comply with the obligation.

5027. ./. .

Art. 8, para 1, sub-para. (d) (iii) - Technical and Vocational Education -

(iii) to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

5028. Based on the information provided by the Free and Hanseatic City of Hamburg (cf. paras. 909-910 of the Second State Report) that Low German was not part of the curriculum due to a lack of demand, the Committee of Experts regards the obligation as being unfulfilled by the *Land* (cf. paras. 478-480 of the second Monitoring Report). Mecklenburg-Western Pomerania was asked for further information with regard to what extent the general data provided, for instance in para. 911 of the Second State Report, referred to vocational schools (cf. paras. 559-561 of the second Monitoring Report).

5029. ./. .

5030. Mecklenburg-Western Pomerania thus states that the information in paras. 870-874 of the Second State Report includes technical and vocational education. In 2007, a survey comparable with the survey conducted in schools providing general education will be carried out in the vocational schools in Mecklenburg-Western Pomerania with the aim of assessing the situation of Low German.

Art. 8, para. 1, sub-para. (e) (ii) - University and Other Higher Education -

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

5031. With regard to the above undertaking the Committee of Experts, in para. 47 of its second Monitoring Report, referred to the statement in its first Monitoring Report that neither in the Free and Hanseatic City of Hamburg nor in Mecklenburg-Western Pomerania or Schleswig-Holstein has it caused any problems.

However, with respect to the Free Hanseatic City of Bremen, the Committee noted in para. 406 of its second Monitoring Report that this undertaking was no longer fulfilled because, contrary to para. 912 of the Second State Report, Low German was no longer a course of study at the local university but had been replaced by irregular and occasional study opportunities in Low German.

In paras. 614-616 of its second Monitoring Report the Committee accordingly notes that Lower Saxony also no longer fulfils the obligation because the activities described in para. 931 of the Second State Report have been reduced.

5031a. It is therefore pointed out that, contrary to the opinion of the *Bundesrat für Niederdeutsch* [Federal Council for Low German], it should generally be possible for *Länder* which have adopted this obligation not to have to fulfil it at their own responsibility but to have the possibility of requesting the help of other *Länder* for such a purpose.

Furthermore, the restructuring of study programmes and degrees through the Bologna process requires, in the medium term, joint fundamental talks - including with the Committee of Experts - on ways to adequately comply with the obligation in the light of this development.

The following is reported for the *Länder* bound by the obligation:

1. Free Hanseatic City of Bremen

5032. Low German is a regular element in the syllabus of the *Fachbereich 10: Sprach- und Literaturwissenschaften* [Faculty 10: Languages and Literary Studies] at Bremen University.

In the autumn of 2005, the Low German Institute (INS) and Bremen University signed an agreement on cooperation in the field of Low German. Under the agreement, up to three courses per term are to be offered by scholars of the INS in coordination with the faculty 10. Linguistics students and students completing teacher training can

explore the language and culture of Northern Germany from an academic angle. Besides the history of the language this includes aspects of language contact between High and Low German as well as current trends in spoken language and on the cultural scene.

The INS sees itself as a facilitator of knowledge transfer with all aspects of Low German life in Northern Germany being documented and linked. It possesses an extensive specialized library where literary works as well as unique works on aspects of linguistic, literary and cultural history can be accessed.

The INS has always worked closely together with scientific/scholarly institutions at universities and institutes at home and abroad. This cooperation has given important impetus to the promotion of language and linguistic consciousness in the form of, *inter alia*, dictionaries, a grammar and an extensive survey on the dissemination and current usage of Low German. The language-policy objectives of the European Charter for Regional or Minority Languages have reemphasized the role of the Low German language. The agreement between the University and the INS is evidence of the intention of both parties to animate the European Charter.

2. Free and Hanseatic City of Hamburg

5033. Reference is made to the detailed comments in para. 913 of the Second State Report on the syllabus of Hamburg University. Apart from courses on the Low German language and literature, Low German can be studied at Hamburg University as a minor subject in a course leading to a Master's degree (to be discontinued) as well as within the scope of the newly introduced Bachelor's courses in the major subject "*Deutsche Sprache und Literatur*" [German language and literature] with a focus on Low German or as a minor subject within the profile "*Niederdeutsche Sprache und Literatur*" [Low German language and literature]. So far, there has been no such opportunity within the scope of the teacher training courses. From the winter term 2007/2008 on, these courses will be changed over to the Bachelor/Master system. This will include an examination of the viability of integrating Low German into normal German classes in the form of a module. (The concept for a Bachelor course for German with a focus on Low German has already been developed.)

3. Mecklenburg-Western Pomerania

5034. With reference to the detailed comments on the various activities in paras. 914-930 of the Second State Report, the new developments regarding the fulfilment of the above undertaking by Rostock University can be briefly summarized as follows:

At **Rostock** University, the establishment of an independent course of study “*Niederdeutsch – Beifach für Lehrer, Nebenfach für B.A. oder M.A.*” [Low German as a subsidiary subject for teachers, minor subject for B.A./M.A.] is currently not feasible due to a lack of staff (C 3 professorship without assistants). Hence, the courses offered by the Chair for Low German Philology have been integrated into all Germanic philology courses of study. Credits can also be earned for a number of Low German events within the framework of the M.A. degree programme “*Sprachliche Kommunikation und Kommunikationsstörungen*” [Verbal communication and defective communication] and/or study modules “*Vermittlungskompetenz*” [Communicative competence], “*Interdisziplinäre Studien*” [Inter-disciplinary studies] and “*Studium generale*” [Courses in general education]. An M.A. degree programme offering advanced studies in Low German/Folklore as part of a major in Germanic philology is currently in preparation.

As the professor holding the chair is going to retire in about one year, the Low German professorship in Rostock is currently being advertised.

Currently, Low German can be studied at the *Institut für Deutsche Philologie* [Institute for German/Germanic Philology] of **Ernst Moritz Arndt University in Greifswald** as part of the following courses of study:

- “*Beifach für Lehramt Gymnasium*” [Subsidiary subject for the teaching profession at *Gymnasien*]
- “*Beifach für Grund-, Haupt- und Realschule*” [Subsidiary subject for the teaching profession at *Grund-, Haupt- or Realschulen*]
- “*Aufbaustudium für einen Lehrstudiengang*” [Postgraduate studies in Teaching]
- B.A. degree programme

Since the position of professor for the Low German language was cut in 2003, the Low German course of Study is represented by half a lectureship position with two hours per week per semester. The professor holding the chair for German Linguistics is responsible for the course of study. Following an internal agreement, contributors to the *Pommersches Wörterbuch* [Pomeranian Dictionary] are offering a further six hours of lectures per week per semester. The teaching responsibilities under the conditions of study can be met by providing access for Low German students to thematically relevant courses of the *Institut für Deutsche Philologie* [Institute for German/Germanic Philology] and the *Historisches Institut* [Historic Institute].

In 2003, the *Studierendeninitiative Plattdeutsch* [Student's initiative for Low German] was founded with the aim of constructively opposing the reduction of courses and lectures. This initiative aims at calling attention to the strong advocacy of Low German among students at the Ernst-Moritz-Arndt University who are prepared to stand up for the cultivation and preservation of the Low German language at university and beyond. Specific measures were the organization of two lecture series and the publication of a Low German anthology. Another volume was published at the end of 2006.

4. Lower Saxony

5035. In 2005, the *Land* parliament of Lower Saxony adopted a decision concerning "The regional languages of Low German and Sater Frisian in school education". The *Land* government, *inter alia*, 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". Following the decision to discontinue the course of study "*Niederdeutsche Sprache und Literatur/Niederdeutsche Philologie*" [Low German Language and Literature Master's Degree] at Göttingen University, the Lower Saxony Ministry of Scientific and Cultural Affairs has undertaken great efforts to establish Low German as a main subject at Oldenburg University. On the occasion of the appointment of successors to four professorships in the field of Germanic philology, the University presented a concept that provides for the assigning of a focus on Low German research to one of these professorships. In accordance with the recommendations of the *Wissenschaftliche Kommission Niedersachsen* [Scientific Commission of Lower Saxony (WKN)] the focus of this professorship will be on linguistic studies. All professorships for Germanic philology including the one with a priority on Low German have been officially approved and were publicly advertised in April 2006. The appointment procedure will probably not be concluded before the end of the year. The priority on Low German will be divided between the fields of research and teaching. Oldenburg University envisages a course of study composed of individual modules which can be certified separately.

5. Schleswig-Holstein

5036. In addition to the various opportunities to study Low German at Kiel University described in paras. 933-936 of the Second State Report the following is pointed out:

With regard to para. 933 of the Second State Report it must also be mentioned that Flensburg University requires proof of attendance of a course in Low German or Frisian for the admission to the examination or as an examination requirement in *German* as part of the Bachelor's course *Vermittlungswissenschaften* [Teaching sciences] which serves, *inter alia*, as a preparatory course for teacher training within the Bachelor/Master framework.

With reference to the comments in para. 936 of the Second State Report that the number of courses in Flensburg was not sufficient to enable the students to comply with the requirements of the applicable examination regulations (POL I) for the teaching profession, it must be pointed out that this does not apply to the subjects Frisian and Low German in the aforementioned Bachelor's course *Vermittlungswissenschaften*. Flensburg University will ensure that teaching capacities for the subjects in this course of study are sufficient to meet demand.

Art. 8, para. 1, sub-para. (e) (iii) - University and Other Higher Education -

(iii) *if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;*

5037. Concerning the above undertaking adopted by North Rhine-Westphalia, which is already fulfilled by allowing for the provision of teaching in Low German, the following new aspects are pointed out with regard to paras. 937 and 938 of the Second State Report:

The *Niederdeutsche Sprache und Literatur* department in the *Germanistisches Institut* of Münster University is continuing its endeavours for the cultivation of Low German language and literature. Research priorities in past semesters included, for instance, the fields "*Alt- und mittelniederdeutsche Sprache*" [Old and Middle Low German Language], "*Niederdeutsche Toponomasik*" [Low German Toponomastics], "*Studien zur mittelniederdeutschen Literatur*" [Studies on Middle Low German Literature] and studies on *Mundartliteratur* [Vernacular literature] such as the works of Augustin Wibbelts. Furthermore, relevant courses are held at Münster University on a regular basis.

The cultivation of the Low German language and literature continues as a subject of research and teaching at Bielefeld University. The research activities in Low German language and literature at the Faculty of Linguistics and Literature have especially focused on the following aspects: the micro- and macrolinguistic status of

Low German, Low German grammar, Low German as used in the U.S. Midwest, Low German under National Socialism and the Low German cultural scene. Various publications have resulted from these research activities. Moreover, a congress on “The German presence in the U.S.A.” was hosted by the *Bielefeld University Center for Interdisciplinary Research* between 10 and 22 October 2004. Low German has also been part of the teaching activities for the last three years.

Events relating to Low German are regularly organized by the *Fachbereich Germanistische Linguistik/Mediävistik* [Germanist Linguistics and Medieval Studies] of the *Germanistisches Institut* at Bochum’s Ruhr University.

Paderborn University also organises seminars on Low German issues on a regular basis.

Art. 8, para. 1, sub-para. (f) (i) - Adult Education -

- (i) *to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or*

5038. With regard to this undertaking adopted by the Free Hanseatic City of Bremen, reference is made to para. 939 of the Second State Report where it is noted that courses on Low German language and literature are organized by adult education centres in the *Land*.

Art. 8, para. 1, sub-para. (f) (ii) - Adult Education -

- (ii) *to offer such languages as subjects of adult and continuing education*

5039. With regard to this undertaking adopted by the Free and Hanseatic City of Hamburg, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report where it concludes that it has caused no problems.

Reference is also made to the Low German courses offered by the Hamburg adult education centre which have continuously been increased due to a rise in demand in recent years. The programme for autumn 2006 and spring 2007 lists twelve courses (six for autumn and six for springtime) with one course tailored to Senior Citizens, two to women and nine courses for a more general public. These take place in the city districts Harburg/Finkenwerder, Hamburg-Mitte, Hamburg-Nord and Hamburg-Ost.

Art. 8, para. 1, sub-para. (f) (iii) - Adult Education -

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

1. Brandenburg

5040. The Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report that the above undertaking has caused no problems in the *Land* Brandenburg.

Reference is also made to paras. 941 and 942 of the Second State Report where it is noted that the state-supported adult education in the *Kreis* Adult Education Centres Uckermark, Prignitz, Ostprignitz-Ruppin and Oberhavel, in line with the freedom of action of schools, also extends to courses in Low German.

2. Lower Saxony

5041. Subsequent to the Committee's statement in paras. 617-619 of the second Monitoring report in connection with paras. 943 and 944 of the Second State Report and additional reports that the above undertaking is fulfilled in Lower Saxony, the following figures with regard to Low German courses are provided:

In Lower Saxony, Low German is offered throughout the *Land* by various adult education centres, both for language learning and as proficiency consolidation and conversation courses. In the winter term 2004/2005 alone, more than 50 courses with a total of around 750 hours were held in 25 adult education centres in Diepholz, Hildesheim, Leer, Nienburg, Stade, Verden et al. Furthermore, one residential adult education school contributed to the offering.

For more than ten years, the *Land* association has also been offering the follow-up training course "*Plattdeutsch in der VHS*" [Low German in adult education] for instructors which takes place on a weekend in autumn every year with 12 to 14 participants.

3. Schleswig-Holstein

5042. The Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report that the compliance with the undertaking in sub-para. (f) (ii) - which has not been adopted by Schleswig-

Holstein - has caused no problems in the *Land*. It is therefore assumed that the statement is meant to refer to the undertaking in sub-para. (f) (iii).

It is further reported that the bodies and offers mentioned in paras. 945-948 of the Second State Report continue to exist.

Art. 8, para. 1, sub-para. (g) - Teaching of the History and Culture -

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

5043. With regard to the above undertaking adopted by the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report where it is noted that it has caused no problems in Hamburg, Lower Saxony and Schleswig-Holstein.

As regards the general implementation of the above undertaking within the federal structure of the Federal Republic of Germany see the comments in paras. 179-184 and 590 of the Second State Report.

In addition, the following is reported for the *Länder* bound by the obligation:

1. Brandenburg

5044. As no changes have occurred concerning the implementation of the undertaking reference is made to the information in paras. 951 and 952 of the Second State Report.

2. Free Hanseatic City of Bremen

5045. Further to paras. 939, 953 and 954 of the Second State Report, with comments on adult education and to the statement made by the Committee of Experts requiring that the framework curricula for German in primary and lower secondary education make provision for the teaching of Low German history and culture, and considering its request for information about the exposure of pupils to Low German history and culture in class with special regard to teaching material, the *Land* makes reference to para. 895 of the Second State Report and para. 5018 of the

present report. The classroom instruction - as described therein - generally includes aspects of the history and analysis of language as well as of culture and cultural history. Support and Guidance materials to the curricula for the schools have yet to be accomplished.

As a consequence of the inventory of the current status in para. 5018 it is intended to improve the situation in order to achieve a more consistent compliance with the requirements of the Charter.

3. Free and Hanseatic City of Hamburg

5046. In this regard, see the comments in para. 955.

4. Mecklenburg-Western Pomerania

5047. Further to the comments in para. 956 of the Second State Report and the statements of the Committee of Experts in paras. 562-564 of its second Monitoring Report that the above undertaking has been fulfilled, *inter alia*, through advanced seminars on the history of Low German and its regional culture at Greifswald University and the *Institut für Volkskunde* [Institute of Folklore] of Rostock University (Wossidlo Archives) as well as the framework curriculum for Low German and the framework curricula for German in primary and secondary education, and considering the Committees request for additional information about the exposure of pupils to Low German history and culture in class with special regard to teaching material, the following is reported:

The teaching of Low German history and culture occurs in children's day care centres, in schools providing general education, in universities and extracurricular sectors such as clubs, associations, adult education centres etc. Teaching materials appropriate to the course content are always provided (cf. the guidance material regarding the Low German Framework Curriculum published in 1996 and revised in 2000 with working materials). Paragraph 2 of the administrative decree of the Ministry for Education, Scientific and Cultural Affairs of 9 March 2004 contains instructions for the teaching of Low German history and culture in classroom. The regulations for students of the certificate course "*Niederdeutsch für tätige Lehrer*" [Low German for Teachers] - in the comments on the modules 1-4 - provide an overview of topics from the Low German history and culture study field. These are

available from the education server of Mecklenburg-Western Pomerania at www.bildung-mv.de.

5. Lower Saxony

5048. In addition to the information in paras. 957-966 of the Second State Report the following is reported:

After the abolishment of the *Bezirk* governments in Lower Saxony, their responsibilities were passed over to the *Land* school office and its departments. As of 1 August 2006, new curricula (*Kerncurricula*) entered into force for the subjects German and English for all school types in Lower Saxony. The educational mandate for both subjects states, *inter alia*, that Low German is to serve as an object for linguistic studies and comparisons. With respect to the *Kerncurricula* for German further specifications will be made in the qualification requirements. For further information see para. 5060 of the present report.

6. North Rhine-Westphalia

5049. The current curricula for German allow for the treatment of Low German in the subject area of "*Sprachvarianten und Sprachwandel*" [Varieties and changes in language].

As an introduction to the reading of Low German texts and the rehearsal of Low German plays working groups are organized by language-proficient teachers.

7. Saxony-Anhalt

5050. In this regard see the comments in para. 969 of the Second State Report.

8. Schleswig-Holstein

5051. See the comments in paras. 875-882, 900-904 and 970 of the Second State Report.

Art. 8, para. 1, sub-para. (h) - Basic and Further Training of Teachers -

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

1. Free Hanseatic City of Bremen

5052. Further to the Committee of Experts' statement in paras. 408-410 in connection with para. 406 of its second Monitoring Report that the information in paras. 971 and 972 of the Second State Report was obsolete and the above undertaking no longer fulfilled, reference is made to para. 5032 of the present report. Furthermore, the advanced teacher training in Bremen currently does not comply with the requirements of the Charter. This is due to experienced teachers of Low German having retired from teacher training. As the *Land* institute for school is increasingly offering its services in the form of an agency, from 2007 on the advanced training can also be carried out by external providers.

2. Free and Hanseatic City of Hamburg

5053. Further to para. 481-484 of the second Monitoring Report of the Committee of Experts that the above undertaking has been only partially fulfilled, notably due to the lack of a special qualification for Low German teachers, the following comments are provided as an update on the measures announced in para. 973-975 of the Second State Report.

As stated in para. 5031, the incorporation of Low German in the form of a module at Hamburg University is being evaluated as part of the reorganization of the teacher training courses in the winter term 2007/2008.

Within the scope of the annual target and performance agreements with the Authority for Education and Sports, the *Land* Institute for Teacher Training and School Development is offering advanced training courses for Low German in the school year 2006/2007 where attendees receive a certificate upon completion of assignments.

3. Mecklenburg-Western Pomerania

5054. With regard to the above undertaking concerning the basic and further training of Low German teachers, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report which notes that it has caused no problems in Mecklenburg-Western Pomerania. In addition to paras. 976-981 of the Second State Report the following is reported:

In 2004/2005, as a result of the Second State Report, a working group on Low German in Schools was established with the Low German Consultative Council in the Ministry of Education in Mecklenburg-Western Pomerania. Its task was to establish the study regulations for advanced teacher training for Low German as a subsidiary subject. This process was accompanied by the Universities of Rostock and Greifswald, the *Institut für Volkskunde* [Institute of Folklore] of Rostock University, the *Landesheimatverband Mecklenburg-Vorpommern e.V.* [Mecklenburg-Western Pomerania Land Union for Local and Regional Traditions], the German department of the *Land* Institute for Schools and Training, the Low German theatres and the Ministry for Education, Scientific and Cultural Affairs and has since been successfully completed.

The study regulations for the certificate course “*Niederdeutsch für tätige Lehrer*” [Low German for Teachers] are available online from the education server of Mecklenburg-Western Pomerania at www.bildung-mv.de. The aim of this certificate course is to enable teachers in Mecklenburg-Western Pomerania to teach Low German in schools. It consists of four modules in which individual course certificates can be acquired within three school years. These must then be presented to the course director at the *Landesinstitut für Schule und Ausbildung* (L.I.S.A. - Land Institute for Schools and Training) to obtain full certification.

<p><u>1.</u> <u>”Spracherwerb, Erlernen einer Niederdeutschen Mundart</u> [Language acquisition: learning a Low German vernacular] <u>(5 hrs/week/semester)</u></p>	<p><u>2.</u> <u>”Überblick über die niederdeutsche Sprache und Literatur”</u> [Overview of Low German language and literature] <u>(5 hrs/week/semester)</u></p>
<p><u>3.</u> <u>”Volkskunde Mecklenburgs und Vorpommerns”</u> [Folklore of Mecklenburg and Western Pomerania] <u>(5 hrs/week/semester)</u></p>	<p><u>4.</u> <u>”Vermittlung des Niederdeutschen in der Schule”</u> [Teaching of Low German in schools]</p>

4. North Rhine-Westphalia

5055. In North Rhine-Westphalia, the general responsibility for advanced teacher training is incumbent on the schools. Hence, the *Bezirk* government Münster - upon request by the schools - offers modules for advanced training courses in schools on the history of literature as well as linguistic theory and practice in accordance with the

fundamental circular degree 11/1990 *“Niederdeutsch in der Schule”* [Low German in schools]. Subjects of these courses include dealing with Low German texts, changes in language from Low German to High German and fragments of Low German lexis and Low German syntax in the language of everyday communication. The ideas set forth in the book *“Niederdeutsch in der Schule – Beiträge zur regionalen Zweisprachigkeit”* [Low German in schools - Articles on regional bilingualism] edited by Ludger Kremer in 1989 were further adapted for implementation in teaching in 1993 by the publication of book No. 5 of the *“Schriftenreihe zur Lehrerfort- und Weiterbildung”* [Publication series for advanced teacher training] of the Münster Regional Commissioner entitled *“Pflege des Niederdeutschen in Schule und Unterricht - Aufsätze, Materialien, Unterrichtsentwürfe”* [Cultivation of Low German in schools and teaching - essays, materials, teaching concepts] and in 2001 by the publication of numbers 52 and 53 of the same series.

5. Saxony-Anhalt

5056. In addition to the information in para. 983 of the Second State Report the following is reported:

Following the introduction of *“Unsere plattdeutsche Fibel”* [Our Low German primer] (cf. para. 5016) a systematic programme of advanced teacher training with this educational material has been organized by its publishers.

6. Schleswig-Holstein

5057. With regard to the above undertaking concerning the basic and further training of Low German teachers, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report where it notes that it has caused no problems in Schleswig-Holstein.

Regarding this obligation, Schleswig-Holstein additionally makes reference to the comments in paras. 984-987 of the Second State Report and in para. 5036 of the present report. Low German, it says, is a requirement within the framework of the preparatory service for German teachers at primary schools, *Hauptschulen* [lower secondary schools], *Realschulen* [secondary technical schools] and *Gymnasien* [grammar schools].

Art. 8, para. 1, sub-para (i) - Supervisory Bodies -

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

1. Free and Hanseatic City of Hamburg

5058. Further to the comments in paras. 988-991 of the Second State Report, in particular where it is stated that a representative of the supervisory Authority for Education and Sports coordinates and regularly reports on the measures for the promotion and extension of Low German language and literature in the schools sector, and with reference to the comments in paras. 485-487 of the second Monitoring Report stating that the above undertaking is not fulfilled unless these measures are realized, the current situation is as follows:

As regards the implementation of concepts to promote Low German in schools, a representative from the supervisory school authority has been nominated by the Authority for Education and Sports and will closely work together with the subject specialist for German.

2. Mecklenburg-Western Pomerania

5059. With regard to the transfer of the supervisory function for Low German in schools to the *Niederdeutsch-Beirat Mecklenburg-Vorpommern* [Mecklenburg-Western Pomerania Low German Consultative Council], promised in para. 993 of the Second State Report and approved of by the Committee of Experts in paras. 565-567 of its second Monitoring Report, the current situation is as follows:

The Mecklenburg-Western Pomerania Low German Consultative Council has published the results of a survey on the situation of Low German in schools providing general education together with the regulations for students regarding the certificate course "*Niederdeutsch für tätige Lehrer*" [Low German for Teachers] on the education server of Mecklenburg-Western Pomerania at www.bildung-mv.de. This represents the current state of affairs.

3. Lower Saxony

5060. Further to the comments of the Committee of Experts in paras. 620-623 of its second Monitoring Report that still no fulfilment of the above undertaking with the help of the Working Group - described anew in paras. 994-996 of the Second State

Report - could be ascertained, it is described below how the Working Group has ensured and will continue to ensure its supervisory function for Low German school activities including transparency in their reporting:

Since the publication of the Second State Report extensive changes to the internal and external constitution of the schools and the school administration have taken place in Lower Saxony. In addition, the decree "*Die Region im Unterricht*" [The region in classroom instruction] has expired. This decree which, *inter alia*, describes organizational requirements for the schools and for the support system and contains comments on the supervisory function, is to be carried forward and adopted to the new conditions in schools. Because the legislation process for the projected reforms in the school sector is still incomplete, important prerequisites for the updating of the decree on the treatment of regions in classroom instruction are still to be established. As a consequence, no amended decree can be adopted at this time. In the meantime, the procedures described in para. 995 of the Second State Report remain in force in Lower Saxony.

4. Schleswig-Holstein

5061. Taking its achievements in the promotion of Low German, and especially in the school sector into account, the *Land* government, in opposition to renewed statements made by the Committee of Experts in paras. 684-688 of its second Monitoring Report, upholds its opinion expressed in paras. 997-1001 of the Second State Report that the above undertaking only obliges it to establish a working supervisory body for Low German and to provide for adequate reporting in this respect but does not imply the creation of additional levels of bureaucracy which would consume resources and add to the burden of the people concerned.

For this reason, the Committee is asked to explain in greater detail in future the reasons why - taking into consideration costs and potential benefits to an equal extent - it considers the existing system insufficient.

No additional facts or findings can be reported.

Art. 8, para. 2

Paragraph 2

With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

5062. As regards colleges and universities (cf. paras. 1002-1005 of the Second State Report) this obligation - in the sense of "undertake ... to allow" - is met for the entire territory of the Federal Republic by virtue of Article 5, para. 3, of the *Grundgesetz* [Basic Law] on the autonomy of institutions of higher education.

Article 9

Judicial Authorities

Paragraph 1

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

Art. 9, para 1, sub-para. (b) - Civil Proceedings -

(iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

5063. As regards the compliance with the undertaking adopted by Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report where it is noted that it has not caused any problems in the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg or in the *Länder* Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein. (North Rhine-Westphalia was not considered during the second monitoring cycle.)

See para. 1007 in correspondence with paras. 213-215 of the Second State Report concerning the compliance with the undertaking by the procedural provisions for the courts.

Art. 9, para 1, sub-para. (c) - Proceedings before Courts concerning Administrative Matters -

in proceedings before courts concerning administrative matters

(iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;

5064. As regards the undertaking adopted by Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report makes explicit reference to the statement in its first Monitoring Report, where it is noted that it has not caused any problems in the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg or in the *Länder* Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein. (North Rhine-Westphalia was not considered during the second monitoring cycle.)

In all other respects, see para. 1008 in correspondence with paras. 213-215 and para. 1009 of the Second State Report.

Art. 9, para. 2, sub-para. (a) - Validity of Legal Documents -

The Parties undertake:

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

5065. As regards the undertaking adopted by Brandenburg, Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report, where it is noted that it has not caused any problems in the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg or in the *Länder* Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein. (North Rhine-Westphalia was not considered during the second monitoring cycle.)

In all other respects, see para. 1008 in correspondence with paras. 213-215 and para. 1009 of the Second State Report concerning compliance with the undertaking.

Article 10

Administrative Authorities and Public Services

Paragraph 1

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

Art. 10, para. 1, sub-para. (a) (v) - Submission of Documents -

(v) to ensure that users of regional or minority languages may validly submit a document in these languages;

5066. It is argued that the perception expressed in paras. 1011-1018 of the Second State Report relative to Bremen, Hamburg and Lower-Saxony that the above undertaking does not require any particular administrative decrees because the Charter constitutes directly enforceable law in Germany applies to all *Länder*. Accordingly, the view of the Committee of Experts set forth in paras. 568-570 (relating to Mecklenburg-Western Pomerania), paras. 624-626 (relating to Lower Saxony) and paras. 691-693 of the second Monitoring Report and reiterated with regard to the aforementioned *Länder* Bremen, Hamburg and Lower Saxony in paras. 411-413 and paras. 488-491 of the Report that the above undertaking has not been fulfilled due to the lack of appropriate provisions is refuted once again. Contrary to the statements of the Committee, the German view is that the above undertaking does neither constitute any obligation to present documents in the protected language nor any requirement that this option be promoted. What it rather does is provide an opportunity for their presentation.

At any rate, some *Länder* have taken additional measures with regard to the above undertaking:

5067., 5068.. / .

3. Mecklenburg-Western Pomerania

5069. Mecklenburg-Western Pomerania's citizens know, *inter alia*, from the press and the media, from teacher training courses and club's publications and from lectures on the European Charter for Regional or Minority Languages organized by clubs, local authorities and the *Land* as well as from the two State Reports on the Charter for Languages, that the regional language of Low German is the second official language in the *Land*. As a consequence, Mecklenburg Western-Pomerania, in an effort to reduce bureaucracy and promote deregulation, refrains from advertising

to the obligation through directives or administrative regulations. Mecklenburg-Western Pomerania is not aware of any cases where documents or requests drafted in Low German would have been rejected or refused as a result of the non-existence of administrative regulations regarding the implementation of Article 10. There are no current instances with regard to the presentation of documents drafted in Low German to be noted.

5070. . / .

5071. Within the framework of local self-government and the organizational jurisdiction of local governments the organization of local public administration is incumbent on the communities. Communities where the number of residents who are speakers of the protected language justifies the translation of official documents and/or general publications can decide on their own responsibility in respect thereof.

5. Schleswig-Holstein

5072. In the absence of any practical implementation, the Committee of Experts considers the above undertaking as only formally fulfilled in Schleswig-Holstein. Schleswig-Holstein in this context again refers to its comments in para. 1022 of the Second State Report. It is not known whether Low German speakers would be encouraged to make use of this provision of the Charter.

Art. 10, para 1, sub-para. (c) - Drafting of Documents -

(c) to allow the administrative authorities to draft documents in a regional or minority language.

5073. As regards the above undertaking, see para. 1023 - of the Second State Report (in each case) - in correspondence with paras. 1011-1012 for Bremen, para. 1024 in correspondence with paras. 1013-1014 for Hamburg, paras. 1025-1027 in correspondence with paras. 1038-1045 for Mecklenburg-Western Pomerania and paras. 1028-1029 in correspondence with paras. 1017-1018 for Lower Saxony.

The Committee's statement in its second Monitoring Report (cf. paras. 415-417 for Bremen, paras. 492-495 for Hamburg, paras. 571-573 for Mecklenburg-Western Pomerania and paras. 695-698 for Schleswig-Holstein) that the undertaking - in the absence of any practical implementation - can be considered as only formally fulfilled is refuted also because the undertaking, to allow the above proceeding, does not provide for any measures but only for the its non-interdiction.

At any rate, the new developments in the *Länder* below can be summarized as follows:

5074.; 5075 . / .

1. Mecklenburg-Western Pomerania

5076. The regional language of Low German continues to be used for the drafting of administrative documents (papers, speeches, letters, messages of greeting) both within the *Land* Administration and in local administrations. The Minister-President of Mecklenburg-Western Pomerania, for instance, uses Low German almost exclusively, i.e. on about 90% of official occasions, such as messages of greeting, speeches and interviews at the opening of events celebrating local/regional culture such as the *Internationales Trachten- und Volkstanzfest* in Dargun [International Costumes and Popular Dance Festival], Hanesail sports event, the *Landeskulturtage* [Land Cultural Days] and the *Mecklenburg-Vorpommern-Tag* [Mecklenburg-Western Pomerania Day]. Letters from citizens in Low German are generally answered in Low German.

5077. . / .

5. Schleswig-Holstein

5078. Schleswig-Holstein is continuing its endeavours to encourage the use of Low German. For this reason, high-ranking political representatives make use of Low German at official events. The Minister-President, for instance, delivered an address in Low German on the occasion of a debate in the *Land* parliament on 2 June 2006. Various other Members of Parliament have also made speeches in Low German. The minutes of these speeches were also kept in Low German.

Art. 10, para. 2

Paragraph 2

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

Art. 10, para. 2, sub-para. (a) - Use of a Regional or Minority Language -

(a) *the use of regional or minority languages within the framework of the regional or local authority;*

5079. As with all undertakings in Art. 10 para. 2, the above undertaking is already fulfilled by allowing the use of the language. It does not require active encouragement but only refraining from forbidding its use, so that the framework conditions for each *Land* set forth in paras. 1034-1051 of the Second State Report suffice to fulfil the undertaking. Therefore, the statements of the Committee in its second Monitoring Report that the undertaking was only formally or partially fulfilled (cf. para. 418 for Bremen, paras. 496-499 for Hamburg and paras. 629-632 for Lower Saxony) must be rejected.

5080. Germany is very well aware of the special concern shown by the Committee for the future of the Low German language and is pleased about the Committee's reference in para. 47 of its second Monitoring Report to its first Monitoring Report where it is stated that the fulfilment of the undertaking has not caused any problems in Schleswig-Holstein and that in paras. 574-576 compliance with the undertaking was noted at least for Mecklenburg-Western Pomerania. However, Germany asks the Committee to consider that the sense and success of measures depend on basic requirements that can differ greatly from *Land* to *Land* and are subject to conditions which can hardly be controlled. This is why the Charter was formulated in such a way that the compliance with individual provisions is already achieved by allowing for them without the need for specific action.

5081., 5082 . / .

5083. Notwithstanding this, it is reported with regard to Mecklenburg-Western Pomerania that the *Land* continues to encourage the use of the regional language of Low German in local and regional authorities.

5084., 5085 . / .

Art. 10, para. 2, sub-para. (b) - Submission of Applications -

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

5086. As the *Länder* - according to the comments in paras. 1052-1063 of the Second State Report - have made provisions for the submission of applications but almost no use is being made thereof and because the Committee - in addition to the

wording of the Charter - generally considers that the undertaking has not been fulfilled (cf. paras. 419-420 of the second Monitoring Report for Bremen, paras. 500-502 of the report for Hamburg and paras. 633-636 for Lower Saxony) the same as in Art. 10 para. 2 sub-para. (a) applies with regard to the above undertaking.

Some of the *Länder* concerned have provided the following additional information:

1. Brandenburg

5087. Brandenburg refers to the remarks made in connection with the implementation of the undertaking as regards Lower Sorbian, which make obligatory only the facilitation of the use of language but not its encouragement.

5088., 5089. . / .

2. Mecklenburg-Western Pomerania

5090. Under Section 23 of the *Land* Administrative Procedure Act, Low German may be used for oral and written communication within local and regional authorities. This use is supported by answering applications submitted in Low German in the same language. These applications generally deal with measures regarding the local culture, literature and history.

5091., 5092 . / .

Art. 10, para. 2, sub-para. (c) – Publication of Official Documents of the Regional Authority in the Regional Language

(c) *the publication by regional authorities of their official documents also in the relevant regional or minority languages;*

Art. 10, para. 2, sub-para. (d) – Publication of Official Documents of the Regional Authority in the Regional Language

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

5093. Just as the undertaking in Art. 10 para. 2 sub-para. (a) the above undertakings are already fulfilled in terms of granting permission and the negative

statements of the Committee in its second Monitoring Report (cf. paras. 424-426 for Bremen and paras. 638-640 for Lower Saxony) therefore cannot be accepted.

5094., 5095 . / .

Art. 10, para. 2, sub-para. (e) – Use of the Minority Language by Regional Authorities in Debates in Their Assemblies -

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

5096. In connection with the above undertaking adopted by the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg and Lower Saxony the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report where it notes that it has not caused any problems in Bremen and Hamburg.

5096a. As regards the Free Hanseatic City of Bremen it was reported in para. 1070 in connection with para. 1035 of the Second State Report that the above undertaking (like all provisions with adopted obligations) constitutes directly enforceable law. As regards Hamburg and Lower Saxony, in paras. 1071-1073 of the Second State Report examples for the above use were given.

5097. - 5099. . / .

Art. 10, para. 2, sub-para. (f) – Use of the Regional Language by Local Authorities in Debates in Their Assemblies -

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

5100. In connection with the above undertaking adopted by the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg and the *Länder* Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, made explicit reference to the statement in its first Monitoring Report that it has not caused any problems for most *Länder*. (It is not clear why no reference to Lower Saxony is made in this context.)

5100a. Furthermore, the following communications of the Second State Report are pointed out:

While in para. 1074 of the Second State Report relating to Bremen it could only be pointed that the above undertaking constitutes directly enforceable law, in paras. 1075-1079 it was possible to point out specific measures for the fulfilment of this undertaking with reference to the Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein.

5101., 5102 . / .

5103. With regard to Mecklenburg-Western Pomerania it is once more confirmed that Low German is being used extensively, and often exclusively, in local council meetings, especially in rural areas.

5104., 5105 . / .

Article 10, para. 3

Paragraph 3

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

- (a) to ensure that the regional or minority languages are used in the provision of the service; or*
- (b) to allow users of regional or minority languages to submit a request and receive a reply in these languages; or*
- (c) to allow users of regional or minority languages to submit a request in these languages.*

5106. With regard to the undertaking in sub-para. (c) adopted by Brandenburg, the view expressed in paras. 1080-1081 of the Second State Report that this undertaking is already fulfilled by granting permission and abstaining from an interdiction is maintained, and the earlier statement of the Committee of Experts according to which the undertaking was only formally fulfilled is refuted.

Article 10, para. 4

Paragraph 4

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

Art. 10, para. 4, sub-para. (a) - Translation or Interpretation -

(a) translation or interpretation as may be required;

5107. As regards the undertaking adopted by Lower Saxony, the statement in para. 1082 of the Second State Report that no shortcomings in the use of Low German have become known still applies.

5108. . / .

Art. 10, para. 4, sub-para. (c) – Appointment of Public Service Employees having a Knowledge of a Regional Language -

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

5109. With regard to the above undertaking, the Committee of Experts had requested further information from the Free and Hanseatic City of Hamburg in paras. 503-504 of its second Monitoring Report in connection with the statement in para. 1083 of the Second State Report that public service employees are asked about their knowledge of Low German when decisions on appointments are being made.

Furthermore, the Committee

- as a reaction to paras. 1084-1085 of the Second State Report - regarding Mecklenburg-Western Pomerania (cf. paras 577-579 of its second Monitoring Report)
- and - as a reaction to paras. 1088-1090 of the Second State Report - Schleswig-Holstein (cf. paras. 702-704 of its second Monitoring Report) -

had considered the above undertaking as only partially fulfilled mainly because no applications had been submitted and no specific human resources policy taking account of the Low German proficiency followed.

As a reaction to paras. 1086-1087 of the Second State Report, the Committee of Experts, in paras. 644-647 of its second Monitoring Report, had considered that the undertaking had been only partially fulfilled with regard to Lower Saxony because, although before the dissolution of the Weser-Ems *Regierungsbezirk* command of the Low German language was taken into consideration based on practical needs, no specific bilingual human resources policy had existed in this respect.

With regard to the realities of considering Low German proficiency in human resources planning, the following is reported without implying consent to the view that the fulfilment of the above undertaking inevitably requires formal provisions:

5110. ./. .

1. Mecklenburg-Western Pomerania

5111. Within the framework of the Administration Modernisation Act which divides Mecklenburg-Western Pomerania into five *Großkreise* (Greater districts) and within the human resources concept adopted in 2005 which is aimed at a reduction of jobs by 10,500 by 2012, the human resources management (HRM) for the *Land* Administration has been established in the Ministry of Finance. When transferring positions from the *Land* administration and the subordinate institutions to the *Kreise* and *kreisfreie Städte*, Low German proficiency is taken into consideration to the greatest extent possible.

5112., 5113 ./. .

Article 11

The media

Paragraph 1

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

Art. 11, para. 1, sub-para. (b) (ii) - Broadcasting of Radio Programmes -

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

5114. In paras. 1091-1116 of the Second State Report the *Länder* which have adopted the above undertaking, i.e. Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Saxony-Anhalt and Schleswig-Holstein, described the framework conditions for Low German radio broadcasting as well as the scale of such broadcasting by the public service corporations. Concerning the remonstrance from the Committee of Experts that the above undertaking - in contrast to the obligations in para. 11 sub-para. 1 (a) - could only be fulfilled by private service broadcasters, the aforementioned *Länder* answered that under the constitutional rule of governmental non-intervention in broadcasting the state was not allowed to take influence on private broadcasters.

The Committee thereupon stated in paras. 427-430 (as regards Bremen), paras. 505-508 (as regards Hamburg), paras. 580-585 (as regards Mecklenburg-Western Pomerania), paras. 648-651 (as regards Lower Saxony) and paras. 706-710 (as regards Schleswig-Holstein) of its second Monitoring Report that the above undertaking had not been fulfilled.

This situation will continue to prevail due to the constitutional situation described in great detail in the Second State Report: In addition, see the above comments in para. 29 of this report.

The following new developments potentially contributing to the fulfilment of the above undertaking can be reported:

5115. ./. .

1. Free Hanseatic City of Bremen

5116. The culture and information *Nordwestradio* station airs the *Niederdeutsches Hörspiel* [Low German Radio Play] every other Saturday between 19.05 and 20.00 hours. Furthermore, Low German books, audiobooks and CDs are presented in the programme. In the programme series “*Gesprächszeit*” Low German speakers or persons engaged in Low German issues such as newly appointed theatre directors, University or Higher Education teachers or winners of prizes for Low German are invited along to talk. During the live radio broadcast “*Nordwestradio unterwegs*” on-site reports on Low German matters such as Low German teaching at schools are aired by *Nordwestradio*.

On weekdays, *Bremen Eins* broadcasts daily news in Low German. Popular stations *Bremen Eins* and *Bremen Vier* also present up-to-the-minute reports and features in or about Low German.

The *Bürgerrundfunk Bremen* [Bremen Open Channel] has been broadcasting a one-hour radio programme entitled “*De Plattsnuten*” once a month for the past nine years. Every now and then, a team of four to six editors creates special broadcasts such as “*Plattdütsch lewt doch!*” [Low German is still alive!], one example being the European Day of Languages on 26 April 2004. The producers work closely together with the Low German Institute (INS) in Bremen. The regular broadcasts have their own slot on *Bürgerrundfunk Bremerhaven* radio station.

No Low German broadcasts are currently being aired by the private radio station *Energy Bremen*.

The *Land Media Act* for Bremen was amended on 1 April 2005. Under section 13 (Vielfalt [Diversity]) the phrase “Sendungen in niederdeutscher Sprache sollen in angemessenem Umfang im Programm vertreten sein” [Broadcasts in Low German are to be incorporated into the programme to an adequate extent] was inserted.

5117. . / .

2. Mecklenburg-Western Pomerania

5118. Contrary to the view of the Committee, Low German is adequately represented in the broadcasting schemes of the public radio station *NDR 1 Radio MV* and the private radio broadcaster *Antenne Mecklenburg-Vorpommern*. *NDR 1 Radio MV* also has a dedicated contact person (editor) for Low German. Apart from the Low German horoscope in the morning, Low German interviews, radio plays and literary

reports, every last Saturday in the month the talk show “*De Plappermoehl*” is aired between 19.05 and 20.00 hours. It is repeated on the following Friday between 21.05 and 22.00 hours. When there are no reruns, *NDR 1 Radio MV* airs “*Dat Beste ut de Plappermoehl*” with highlights from the past years at this time. The programme is broadcast from various places in Mecklenburg-Western Pomerania and has been very popular since 1983.

3. Lower Saxony

5119. *NDR 1 Radio Niedersachsen* [Radio Lower Saxony] has regular daily thematic sections in Low German, including the religious programme “*Plattdutsche Ansprache*”. In addition, there are two one-hour thematic broadcasts in Low German where all Low German dialects of Lower Saxony are to be heard, as well as two Low German radio plays per month. The two-hour weekly magazine “*Düt un Dat op platt*” features presentations in Low German and music from the north of Germany.

The Lower Saxony *Land* Supervisory Authority for Private Broadcasters also supports non-commercial local broadcasters and the “open channels”. These programmes have a strong focus on regional and local settings with specific cultural features and linguistic minorities presented.

The multifarious programme structure of the open channels and local broadcasting stations provides for a number of Low German broadcasts, some of them on a regular basis. *Radio Ostfriesland* transmits the magazine “*Radio up Platt*” and the weekly two-hour programme “*Pottkieker*”. *Radio Jade* broadcasts the programme “*Een Stünn up Platt*” [One hour in Low German] four times a week. The private *Ems-Vechte-Welle* from Lingen features various programmes on a regular basis, including the Low German “*Starparade*” and the weekly magazine “*Grenzenlos*”. Every now and then *Oldenburg eins* transmits magazines and plays in Low German. Low German programmes can also be listened to every month on *Radio ZuSa* from Uelzen and *osradio* from Osnabrück.

4. Saxony-Anhalt

5120. To achieve an even greater compliance with the undertaking, an intensive exchange of ideas between the competent representative from the Ministry for Cultural Affairs and the head of department of radio *MDR 1 Sachsen-Anhalt Hörfunk*, who is responsible for Low German programmes, took place in February 2004 when discussions were held on how to raise the share of Low German in the *MDR*

programme in qualitative and quantitative terms. These ideas were then conveyed to the *AG Niederdeutsch* [Low German Working Group], so that further encouragement and enhancement in respect of the undertaking adopted by Saxony-Anhalt is to be expected.

5. Schleswig-Holstein

5121. Radio *NDR (NDR 1 Welle Nord)* broadcasts the following Low German programmes:

- *Hör mal'n beten to* (weekdays at 9.40 hours)
Low German comments on everyday life in Northern Germany
- *Das Niederdeutsche Hörspiel* (every other Friday at 21.05 hours)
Radio plays ranging from whodunnits to classics and comedy
- *Von Binnenland und Waterkant* (daily at 20.05 hours)
Reports, features and portraits in Low German and every Monday the Low German hour
- *De Week op Platt* (Friday at 17.40 hours)
A Low German review of the week
- *Gesegneter Abend* (Mondays at 19.04 hours)
Some thoughts on the day
- *Ünner't Strohdack* (October to April)
Low German readings

The *NDR* Low German radio programme "*Hör mal beten to*" celebrated its 50th anniversary in 2006. This makes it one of the oldest radio programmes in Germany. Since 1984, the programme has been produced by the *NDR* Low German central office in the *NDR Landesfunkhaus Schleswig-Holstein* [Schleswig-Holstein Land broadcasting centre]. In Schleswig-Holstein it is broadcast on *NDR 1 Welle Nord*. Celebrations on the occasion of the 50th anniversary took place on 15 October 2006 in the *Ohnsorg-Theater* in Hamburg in the presence of the Minister-President.

With the *Gesetz über die Errichtung einer Anstalt öffentlichen Rechts "Offener Kanal Schleswig-Holstein"* (*OK-Gesetz*) [Act on the establishment of a corporation under public law 'Offener Kanal Schleswig-Holstein' (OK act)] the successful *Offener Kanal* (open channel) became a legal entity on 1 October 2006. Under the act, the open channel is explicitly responsible for promoting regional and minority languages. In this way, the open channel is encouraged to broadcast Low German radio programmes on a regular basis.

The *Schleswig-Holsteinischer Heimatbund* [Schleswig-Holstein Union for Local and Regional Traditions], which in Schleswig-Holstein particularly represents the interests of Low German speakers, appoints a representative to the five-member consultative council of the open channel.

Art. 11, para. 1, sub-para. (c) (ii) - Broadcasting of Television Programmes -

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

5122. In paras. 1117-1132 of the Second State Report the *Länder* which have adopted the above undertaking, i.e. Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Saxony-Anhalt and Schleswig-Holstein, described the framework conditions for Low German radio broadcasting as well as the scale of such broadcasting by the public service corporations. Concerning earlier remonstrances from the Committee of Experts that the above undertaking - in contrast to the obligations in para. 11 sub-para. 1(a) for public broadcasting - could only be fulfilled by private service broadcasters, the aforementioned *Länder* answered that under the constitutional rule on governmental non-intervention in broadcasting the state was not allowed to exert influence on private broadcasters.

The Committee then stated in paras. 431-433 (relative to Bremen), paras. 509-512 (Hamburg), paras. 648-651 (Lower Saxony) and paras. 711-714 (Schleswig-Holstein) of its second Monitoring Report that the above undertaking had not been fulfilled. With regard to Mecklenburg-Western Pomerania, the undertaking was considered only partially fulfilled due to the programme of the *Offener Kanal Rostock* (cf. paras. 586-589).

A letter written to the directors of private broadcasters by the Minister-President of Schleswig-Holstein at the time, which is mentioned in para. 1132 of the Second State Report and could be considered an encouragement in terms of the above undertaking, was not taken into consideration here.

Compliance with the above undertaking - for the reasons laid down in Art. 11 para. 1 sub-para. (b)(ii) - will not be possible in future either.

The following new developments potentially contributing to the fulfilment of the above undertaking can be reported:

5123. Between 1 and 8 October 2006 the *Norddeutscher Rundfunk* broadcasting corporation presented a Low German week on television. During this time, various cultural and regional programmes as well as plays and features with a focus on Low

German were broadcast. This shows that the public broadcaster is aware of its responsibility for the regional language.

1. Free Hanseatic City of Bremen

5124. Since 1998, the non-commercial open channel *Bürgerrundfunk Bremen* has been recording and broadcasting one Low German play a year by the *Oberneulander Speeldiel*. On 31 March 2006 “*Denk di doch wat anners ut*” and on 29 March 2005 “*Rund um Cap Horn*” were recorded. These programmes are also transmitted by the *Bürgerrundfunk Bremerhaven* at a different time. Additionally, on 20 April 2005 the play “*De Prinzgemahl*” by the *Sahlenburger Speeldeel* was staged in Bremerhaven.

The commercial broadcasters *RTL* and *Sat.1* transmit reports on Low German or regions where Low German is spoken in regional television programmes as the occasion arises. These are also presented in Low German.

The *Land Media Act* for Bremen was amended on 1 April 2005. Under section 13 (Vielfalt [Diversity]) the phrase “Sendungen in niederdeutscher Sprache sollen in angemessenem Umfang im Programm vertreten sein” [Broadcasts in Low German are to be incorporated into the programme to an adequate extent] was inserted.

2. Mecklenburg-Western Pomerania

5125. The “*Plattdeutsche Woche*” [Low German week] which was hosted by the *NDR* around the beginning of October was very well received by the audience and led to further interesting Low German features in the *Nordmagazin* and on the programme “*Land und Leute*”.

3. Lower Saxony

5126. *Norddeutscher Rundfunk* - whose broadcasts are received in the Low German speech area of the *Land* of Lower Saxony - regularly airs the talk-show “*Talk op Platt*” [Talk in Low German]. Entertainment programmes such as “*Bi uns to Hus*” [At home, in our region] and “*Melodie der Meere*” [Melody of the Seas] often feature poems and songs in the Low German language. In addition, plays by the *Ohnsorg-Theater* in Hamburg and the serial “*Büttenwarder op Platt*” [Büttenwarder in Low German] are aired several times a year. The regional sports programme features short reports on the *Bundesliga* football league under the heading “*Ganz*

platt". This is complemented by various other programmes dubbed in Low German like "*Dinner for one – up Platt*" [Dinner for one in Low German] and the children's "*Geschichten von Ernie und Bert*" [Stories from Ernie and Bert] from *Sesame Street*.

Once a month, the *Landesfunkhaus Hannover* [Hannover Land broadcasting centre] televises an edition of the regional magazine "*Hallo Niedersachsen*" in Low German.

5127. . / .

4. Schleswig-Holstein

5128. Reference is made to the comments in para. 5121.

Art. 11, para. 1, sub-para. (d) - Audio and Audiovisual Works -

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

5129. After the measures undertaken to comply with the above obligation adopted by the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein were described in paras. 1133-1148 of the Second State Report, the Committee of Experts, in paras. 435-436 (relative to Bremen), 513-514 (relative to Hamburg), 652-655 (relative to Lower Saxony) and 715-718 (relative to Schleswig-Holstein) of its second Monitoring Report, considered the above undertaking not fulfilled mainly because the provisions for Low German in the general promotion measures satisfied the general ban on discrimination but not the above undertaking.

With regard to these statements of the Committee the following is to be reported:

5130. . / .

1. Free Hanseatic City of Bremen

5131. *Radio Bremen Online* makes Low German news available on its web pages every day. Furthermore, Low German features, talks and live discussions are documented online. A Low German learning course is available online, too.

In 2001, Bremen and Lower Saxony founded the media company *nordmedia*, whose main task is to promote audiovisual productions. Providing support for the Low German language is also an important aspect of the company's film and TV promotion work.

2. Free and Hanseatic City of Hamburg

5132. In Hamburg, the free-market private sector is also active, with an extensive range of Low German audio and audiovisual works on offer.

4. Mecklenburg-Western Pomerania

5133. The range of Low German audio and audiovisual works on offer is manifold and mainly dependent on commercial aspects. On the basis of the Cultural Promotion Directive, facets of Low German can be supported for which it is more difficult to attract an interested public, for instance a CD with Low German children's songs.

5. Lower Saxony

5134. The production and distribution of Low German audio and audiovisual works in Lower Saxony is promoted by the *Land* Supervisory Authority (corporation under public law) and *nordmedia* (corporation under private law with *Land* funds). Provided all conditions for funding and application have been fulfilled, Low German projects are looked upon favourably for support within this framework. For examples of successful promotions see para. 5151.

5135. – 5137. . / .

Art. 11, para. 1, sub-para. (e) (ii) - Newspaper Articles -

(ii) *to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;*

5138. The Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report where it is noted that the above undertaking has caused no problems in the *Länder* Lower Saxony and Schleswig-Holstein.

After the situation regarding local press releases in Low German was described in paras. 1149-1172 of the Second State Report with regard to the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Saxony-Anhalt and Schleswig-Holstein, which have adopted the above obligation, the Committee of Experts, in paras. 1149-1172 of its second Monitoring Report has emphasized that, in its view, the obligation can only be fulfilled by effective (as opposed to symbolic) measures balancing the economic disadvantages of Low German press releases and giving publishers the resources necessary to help publish such articles. Against this background, the Committee in paras. 438-440 of the above Report has not considered this undertaking fulfilled with regard to Bremen. As regards Hamburg (cf. paras. 516-519) and Mecklenburg-Western Pomerania (cf. paras. 590-592), the Committee has only considered the undertaking fulfilled due to the number of publications being considered sufficient by the Committee.

As far as the above compliance criterion is concerned it must be objected that it cannot be deducted from the above undertaking because - contrary to Art. 11 para. 1 sub-para. (f)(ii) - the undertaking makes no reference to financial assistance: the words "encourage" and "facilitate" only, are mentioned.

Irrespective of this, the following is reported with regard to Low German press releases:

5139. In order to provide the necessary financial means for the Low German Institute (INS) and its ongoing work, an administrative agreement has been entered into between the four North German *Länder* Bremen, Lower Saxony, Schleswig-Holstein and Hamburg. The Institute's overall budget, which includes additional financial means provided by the Westfalen-Lippe *Landschaftsverband* of North Rhine-Westphalia (cf. para. 44), also comprises publication-related expenses, for instance for the "*ins-presse*". Hence, the costs are covered by all *Länder* mentioned, directly or indirectly.

1. Free Hanseatic City of Bremen

5140. Low German newspaper articles are published in local press organs on a regular basis. Every now and then the *Weser-Kurier*, Bremen's major daily newspaper, publishes Low German articles in its Sunday edition and on its Lower Saxony page. The Bremerhaven-based *Nordsee-Zeitung* sporadically publishes Low German short stories in its local/regional section. Low German is considered a topic of central importance by the *Evangelischer Pressedienst (EPD)* [Protestant Press

Service]. Low German articles on various topics are published on a regular basis. These include reports on institutions and features. From time to time, the church newspaper *Bremer Kirchenzeitung* also publishes articles in Low German.

2. Free and Hanseatic City of Hamburg

5141. Hamburg subsidizes the quarterly Low German publication of the *Quickborn* e.V. association with an average of € 7,000. In a broader sense of the term “press release” this can be considered a measure in the spirit of the above undertaking. See para. 5139 for further information on the promotion of publications of the Low German Institute by the Free and Hanseatic City of Hamburg broken down by *Land*.

3. Mecklenburg-Western Pomerania

5142. An increasing number of Low German articles is being published in all daily newspapers of the *Land* (at least one page per week) as well as in regional, homeland, advertising and Sunday papers. Homeland and regional papers publish approximately half of their texts in Low German. In a new initiative of the *Fritz Reuter Landesmuseum* in Stavenhagen a new magazine has been published which is completely in Low German.

Print media coverage is not subsidized. This applies, of course, also to the de facto second official language Low German.

4. Lower Saxony

5143. About 40 newspapers regularly publish Low German articles in Lower Saxony, some of them even daily.

5. Saxony-Anhalt

5144. To achieve an even greater compliance with the undertaking, an intensive exchange of ideas between the competent representative from the Ministry for Cultural Affairs and the assistant chief editors of the daily newspaper *Volksstimme* [People’s Voice], which is of particular relevance in the Low German speech area, took place in February 2004 and discussions were held on how to raise the share of Low German in the *Volksstimme*. These ideas were then conveyed to the AG

Niederdeutsch [Low German Working Group], so that with respect to the undertaking adopted by Saxony-Anhalt an encouragement and enhancement may be expected and can already partly be found.

5145. . / .

Art. 11, para. 1, sub-para. (f) (ii) - Financial Assistance for Audiovisual Productions -

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

5146. As a result of the statements in paras. 1173-1182 of the Second State Report regarding the above undertaking adopted by the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein, the Committee of Experts considered the undertaking fulfilled with regard to Bremen (cf. paras. 442-444) and Lower Saxony (cf. para. 656) due to the planned promotion of the above productions by the *nordmedia* (*Mediengesellschaft Niedersachsen/Bremen mbH*). In the case of Schleswig-Holstein (cf. paras. 719-721), the undertaking was also considered fulfilled as a result of promotional/subsidizing possibilities through the *Gesellschaft zur Förderung audiovisueller Werke in Schleswig-Holstein mbH* (MSH) [Limited Liability Company for the Promotion of Audiovisual Works in Schleswig-Holstein]. As regards Hamburg (cf. paras. 520-522), however, the undertaking was not considered fulfilled because Hamburg - despite having adopted the obligation - generally objects to a promotion for constitutional reasons.

The following changes with respect to the above undertaking have occurred since the publication of the Second State Report:

5147. . / .

1. Free Hanseatic City of Bremen

5148. Applications for funds with respect to audiovisual productions through *nordmedia* can now be filed at any time (cf. para. 5151).

Funds for productions by Bürgerrundfunk Bremen and Bremerhaven open (radio and television) channels are being provided (cf. paras. 5116 and 5124).

2. Free and Hanseatic City of Hamburg

5149. No changes have occurred. No applications for funds have been filed.

3. Mecklenburg-Western Pomerania

5150. Financial assistance for audiovisual productions in Low German is still available but these have not been taken up by the Low German language community.

4. Lower Saxony

5151. Applications for funds with respect to audio and film productions through *nordmedia GmbH* can still be filed. In the past, for instance, both the Low German parody of Star Trek "*Apparatspott – Episode III*" and the Low German TV documentary on Ostfriesland's marshlands "*Land unter! Geschichten aus dem Moor*" have been subsidized.

Art. 11, para. 1, sub-para. (g) - Training of Journalists -

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

5152. As regards the above undertaking adopted by the Free Hanseatic City of Bremen and the Free and Hanseatic City of Hamburg the Committee of Experts, in para. 445 (relating to Bremen) and para. 523 (relating to Hamburg) of its second Monitoring Report was unable, due to lack of information, to verify whether the undertaking had been fulfilled.

The following information is transmitted in relation to the Free and Hanseatic City of Hamburg:

5153. . / .

5154. Hamburg University offers modules for Low German language and literature as part of the Bachelor's course "*Deutsche Sprache und Literatur*" [German language and literature], both as a major and as a minor subject (cf. para. 5033). As of the winter term 2006/2007 the university will offer the Master's course "*Journalistik und*

Kommunikationswissenschaft” [Journalism and Communication Studies]. That way, students who have completed the above Bachelor’s course and who then continue with the Master’s course can obtain a qualification in Low German language and literature and take up a journalistic profession.

Article 11, para. 2

Paragraph 2

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

5155. In connection with the above undertaking adopted by the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report makes explicit reference to the statement in its first Monitoring Report where it notes that this has not caused any problems in any of the *Länder* (except for North Rhine-Westphalia and Saxony-Anhalt which were not considered during the second monitoring cycle).

It was further reported in paras. 1183-1184 of the Second State Report that the undertaking is already fulfilled by German Basic Law which guarantees the free reception of radio and television broadcasts from neighbouring countries, and no additional measures are required.

Article 12 Cultural Activities and Facilities

Paragraph 1

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

Art. 12, para. 1, sub-para. (a) - Types of Expression, and Access to Works -

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

5156. In connection with the undertaking adopted by the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report makes explicit reference to the statement in its first Monitoring Report where it notes that this has not caused any problems in any of the *Länder* (except for Brandenburg, North Rhine-Westphalia and Saxony-Anhalt which were not considered during the second monitoring cycle).

Furthermore, concerning the fundamental role of the Low German Institute (INS), which is funded by Bremen, Hamburg, Lower Saxony, Schleswig-Holstein, and the Westphalen-Lippe *Landschaftsverband* in the fulfilment of the above undertaking, reference is made to paras. 1185-1188. For additional implementation measures with respect to the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein see paras. 1189-1245 of the Second State Report.

Concerning some of the *Länder* which have adopted the above undertaking for Low German the following changes since the publication of the Second State Report are made known:

5157., 5158 . / .

1. Mecklenburg-Western Pomerania

5159. In numerous associations, poets' societies, libraries and in the fields of music, theatre and literature the regional language of Low German is cultivated in the context of voluntary activities on a regional and supraregional level. Low German linguistic and cultural activities are equally accessible throughout *Mecklenburg-Western Pomerania* providing manifold opportunities for coming into contact with this regional language.

1. The association *Freunde und Förderer der Fritz-Reuter-Bühne Schwerin e.V.* [Friends and patrons of the Fritz-Reuter-Bühne Schwerin e.V.] has initiated a Low German writing contest for "*junge Schriewerslüüd ut Mäkelborg un Vörpommern*" [young writers from Mecklenburg and Western Pomerania] under the auspices of the Minister-President with the theme "*Wi maken di platt*". Those behind the competition believe it the best way of promoting Low German among young people. It is aimed at encouraging young people between 16 and 25 years of age from Mecklenburg-Western Pomerania to take part.
2. The *Zentrum für Niederdeutsche Sprache – Vorpommern e.V.* [Centre for Low German - Western Pomerania e.V.] in Wilhelmshagen took up its functions in 2004. Its aim is to enrich the cultural scene in general and the role of Low German language in Western Pomerania in particular. Very special emphasis is put on the relation to the cultural roots and traditions of Western Pomerania as well as the entire Pomeranian Euroregion. Other efforts of the Centre are directed at cooperation with partners in Poland who are based in the former region of Pomerania.

The *Zentrum für Niederdeutsche Sprache – Vorpommern e.V.* offers the following services:

- Performances by the Low German drama club *Plattdütsch späldäl to Stralsund e.V.* in nursery schools, primary schools and other public institutions such as museums
 - Preparation of a stage production entitled "*De Bernsteinhex*" [The Amber Witch] for *Gymnasien* and higher education classes
 - Low German courses for nursery-school teachers
 - An advanced training day for Low German
3. In 2005, the *Landesheimatverband Mecklenburg-Vorpommern e.V.* [Mecklenburg-Western Pomerania Land Union for Local and Regional Traditions], the city of Dömitz and the Ludwigslust *Landkreis* set up the Low German festival "*Die Norddeutschen Tage – Das Niederdeutsche Festival an der Elbe*". The festival

was presented by *NDR 1 Radio MV*. Funds for the project were provided by the Ministry for Education, Scientific and Cultural Affairs and the East German Savings Bank Association. The ambition of the organizers and their many partners is to use the *Norddeutsche Tage* [Low German Days] as a focus for the bringing together, across *Land* borders, of the ancestral vernacular of the North and the Low German way of life. The river *Elbe* is to act as a connecting element for the participation across *Land* borders of municipal authorities, citizens, associations and clubs in the above festival.

2. North Rhine-Westphalia

5160. Responsibility for the cultivation of cultural traditions in North Rhine-Westphalia essentially lies with the cities, towns, *Kreise* and *Landschaftsverbände*. Promotion of Low German in the cultural field in North Rhine-Westphalia is largely the responsibility of the regional local authority *Landschaftsverband Westfalen-Lippe*. The *Landschaftsverband* has six regional study commissions, whose sole task is the carrying out of research into the history and geography of Westphalia, publishing the findings, and holding conferences on their fields of activity. The task of the *Westfälische Kommission für Mundart- und Namenforschung* [Commission for Dialectology and Names Research of Westphalia] comprises research on historical aspects of the Westphalian language with a focus on archiving of Low German words and the registration of the Westphalian dialects, local field names and proverbs. For this purpose, the Commission publishes the journal "*Niederdeutsches Wort. Beiträge zur niederdeutschen Philologie*" [The Low German Word. Articles on Low German Philology] and two series, "*Niederdeutsche Studien*" [Low German Studies] and "*Westfälische Beiträge zur niederdeutschen Philologie*" [Westphalian Contributions to Low German Philology]. The research findings of the Commission for Dialectology and Names Research are published in the series' "*Westfälisches Wörterbuch*" [Dictionary of Westphalia] and the "*Westfälischer Flurnamenatlas*" [Local Field Names Atlas of Westphalia]. For further information see para. 1227 of the Second State Report.

Art. 12, para. 1, sub-para. (b) - Access to Works in the (Minority) Languages -

(b) *to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, post-synchronization and subtitling activities;*

5161. In connection with the above undertaking adopted by the Free Hanseatic City of Bremen, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-

Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report where it notes that this has not caused any problems in Bremen and Mecklenburg-Western Pomerania.

In contrast, the Committee - as a reaction to the statements on measures designed to fulfil the above undertaking (cf. paras. 1246-1253 of the Second State Report) - considered the undertaking only partially fulfilled with regard to Lower Saxony (cf. para. 657 of the second Monitoring Report) and Schleswig-Holstein (cf. paras. 722-723) because not enough information had been provided.

In addition to the information provided in the Second State Report, some of the *Länder* which have adopted the above undertaking report the following:

5162. This paragraph is obsolete.

1. Mecklenburg-Western Pomerania

5163. Within the framework of cultural promotion, funds for projects on the dubbing, post-synchronization and subtitling of works dealing with the relationship between Low German and High German are available. No applications for projects were submitted during the period under review, i.e. 2003-2006, by Low German institutions, associations or other applicants in this respect.

2. Lower Saxony

5164. For the promotion of Low German films and Low German literature, applications for funds with regard to the dubbing or translation of works from High German to Low German or vice versa are welcomed by Lower-Saxony at any time. It is incumbent on applicants to submit the required applications to the appropriate bodies. No applications have been submitted during the period in question. In 2004 and 2005, however, film productions with a focus on Low German were funded.

A recently completed Low German novel that has been translated into High German by the author himself has been published by a major German publishing house. To present the work the author will read from the novel in High German or Low German according to the circumstances.

3. Schleswig-Holstein

5165. While the fulfilment of the above obligation was noted as being without any problems as regards the *Länder* Free Hanseatic City of Bremen and Mecklenburg-Western Pomerania, the Committee of Experts considered the undertaking only partially fulfilled by Schleswig-Holstein because not enough information had been provided. For this reason, the *Land* has reemphasized its manifold efforts to promote/subsidize Low German institutions such as the Low German Institute in Bremen (INS), the *Schleswig-Holsteinischer Heimatbund* [Schleswig-Holstein Union for Local and Regional Traditions] and the Centres for Low German (ZfN) in Leck and Ratzeburg as well as individuals who can provide translations, dubbing or post-synchronization services as the need arises.

Art. 12, para. 1, sub-para. (c) - Access to Works Produced in Other Languages -

(c) to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronization and subtitling activities;

5166. Following the statements in paras. 1254-1265 of the Second State Report on measures for the fulfilment of this undertaking, the Committee of Experts - in its second Monitoring Report - considered that the undertaking had been only partially fulfilled with regard to Bremen (cf. paras. 446-448), Mecklenburg-Western Pomerania (cf. paras. 593-595), Lower Saxony (cf. para. 658) and Schleswig-Holstein (cf. para. 722-723) because not enough information had been provided.

In addition to the information provided in the Second State Report, some of the *Länder* which have adopted the above undertaking report the following:

5167. ./. .

1. Mecklenburg-Western Pomerania

5168. The translation, dubbing, post-synchronization and subtitling of works in other languages can be subsidized on the basis of the Cultural Promotion Directive. The subsidized projects cover the translation of texts in various other languages into Low German. The examples given in the Second State Report still reflect the scope for the translation of texts in other languages into Low German. Neither do dubbing, post-synchronization and subtitling activities occur in projects nor have requests in this respect been made by the language and cultural community.

2. Lower Saxony

5169. In this regard see para. 5164.

3. Schleswig-Holstein

5170. The Committee of Experts has concluded that this undertaking has been only partially fulfilled as the information received is still not considered sufficient. In response, Schleswig-Holstein has reemphasized its manifold efforts to promote/subsidize Low German institutions such as the Low German Institute in Bremen (INS), the *Schleswig-Holsteinischer Heimatbund* [Schleswig-Holstein Union for Local and Regional Traditions] and the Centres for Low German (ZfN) in Leck and Ratzeburg as well as individuals who can provide translations (minor dubbing or post-synchronization services) as the need arises.

Applications for funds can be submitted within the limits of the overall funds available.

Art. 12, para. 1, sub-para. (d) – Taking Account of the Regional or Minority Language in Cultural Activities -

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

5171. In connection with the above undertaking adopted by the Free Hanseatic City of Bremen, the Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report and notes that this has not caused any problems in Mecklenburg-Western Pomerania and Lower Saxony.

However, in its second Monitoring Report the Committee of Experts - responding to the statements in paras. 1266-1286 of the Second State Report concerning the measures designed to fulfil the above undertaking - considered the undertaking not fulfilled in the cases of Bremen (cf. para. 449-451) and Hamburg (cf. para. 524-527) because of insufficient measures. With regard to Schleswig-Holstein (cf. paras. 724-726), the undertaking was explicitly considered fulfilled due to the associations named who endeavour to promote the Low German language in compliance with the above undertaking.

Against this background and in addition to the Second State Report, the following is reported:

1. Free Hanseatic City of Bremen

5172. The Parliament of the Free Hanseatic City of Bremen, the Cultural Department and the parliaments of the city districts [*Beiräte*] take into consideration the needs of the Low German language group when allocating budgetary funds.

5173. . / .

2. Mecklenburg-Western Pomerania

5174. For the accomplishment of their language-related and cultural work, the associations, poetry/literary societies, publishing houses, theatres, media representatives etc., have the required linguistic expertise at their disposal (cf. the comments above on Article 12 para. 1 sub-para. (a) no. 4). Counselling is offered by the Low German Chair of Rostock University, the *Volkskulturinstitut* [Institute of the *Kulturbund* for Folk Culture, Mecklenburg and Western Pomerania] in Rostock, the *Institut für Volkskunde* [Institute of Folklore] of Rostock University (Wossidlo Archives), the *Landesheimatverband Mecklenburg-Vorpommern e.V.* [Mecklenburg-Western Pomerania *Land* Union for Local and Regional Traditions e.V.] and Low German writers and theatre experts. Nearly all of the members of the *Niederdeutsch-Beirat* [Low German Consultative Council] also have a command of Low German. The school working panel *Schule* and the inter-*Länder* education working group *Bildung* of the Low German consultative councils for Schleswig-Holstein and Mecklenburg-Western Pomerania are mainly composed of speakers with a command of Low German. The director of the *Zentrum für Niederdeutsche Sprache Vorpommern e.V.* [Centre for Low German - Western Pomerania e.V.] in Wilmshagen is also proficient in Low German.

4. North Rhine-Westphalia

5175. Reference is made to paras. 1280-1282 of the Second State Report and, in addition, it is made clear that the circle of Low German writers *Schriewerkrink* is not an autonomous *Fachstelle* (specialist centre) but a subdivision of the *Fachstelle Niederdeutsche Sprachpflege* [Specialist centre for Low German language

cultivation] of the *Westfälischer Heimatbund (WHB)* [Westphalian Union for Local and Regional Traditions].

In addition, the following new developments are reported:

The biennial Low German reading competition for schools hosted by the *WHB* had to be suspended due to falling participant numbers and a lack of funds.

Since January 2006, the *Fachstelle für Niederdeutsche Sprachpflege* at the *WHB* has been publishing information in the journal "*Heimatspflege in Westfalen*" [Preservation of regional traditions in Westphalia] which is published six times a year. Information on the Low German community can be found on a regular basis via *Plattdeutsch.Netz*. Up-to-date news, tips and other texts can also be found online at www.plattdeutsch.net.

The Low German theatre in Haltern am See publishes an annual calendar of Low German stage performances for the Westphalian region with information being gathered from approx. 250 theatres in Westphalia. About 12-15% of the theatres provide feedback.

5. Schleswig-Holstein

5176. Notwithstanding the fact that, in its second Monitoring Report, the Committee of Experts considered the above undertaking fulfilled with regard to Schleswig-Holstein, the *Land* - in addition to para. 1286 of the Second State Report - gives account of the fact that the *Schleswig-Holsteinischer Heimatbund* [Schleswig-Holstein Union for Local and Regional Traditions] held its 8th Low German Day on the theme of "*Plattdeutsch und Literatur*" [Low German and Literature] in 2006.

Art. 12, para. 1, sub-para. (e) - Employment of Staff Proficient in the Language(s) Concerned

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

5177. In connection with the above undertaking adopted by the Free Hanseatic City of Bremen, Mecklenburg-Western Pomerania, Lower Saxony and North Rhine-Westphalia, the Committee of Experts, in para. 47 of its second Monitoring Report, makes explicit reference to the statement in its first Monitoring Report where it is noted that this has not caused any particular problems in Mecklenburg-Western Pomerania and Lower Saxony.

With regard to Bremen, however, the Committee of Experts - in their response to the account of the measures designed to fulfil the above undertaking in paras. 1287-

1293 of the Second State Report - considered that, due to a lack of “relevant information”, it had not been fulfilled (cf. para. 452 of the second Monitoring Report). (North Rhine-Westphalia was not considered during the second monitoring cycle so that no information in this respect is available.)

In addition to the information provided in the Second State Report the following is reported with regard to some of the *Länder* that have adopted the above undertaking:

1. Free Hanseatic City of Bremen

5178. Subsidized institutions such as the *Landesverband Bremer Amateurtheater e.V.* [*Land* association of Bremen amateur theatres e.V.], archives and libraries take care to ensure that they have staff who are proficient in the language.

2. Mecklenburg-Western Pomerania

5179. In this regard, see the comments in para. 5174 above.

3. Lower Saxony

5180. Since 2001, the public law corporation *Ostfriesische Landschaft* has been successfully organizing the “*Plattdütsk bi d Arbeit*” [Low German at work] project with different priority aspects ranging from the general work environment across work and adolescence to work and children to encourage the use of Low German.

5181. . / .

Art. 12, para. 1, sub-para. (f) – Participation of Representatives of the Group Speaking the Given Language in Cultural Activities -

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

5182. In response to the conditions set forth in paras. 1294-1307 of the Second State Report and - in the German view - to facilitate the fulfilment of the above undertaking by the *Länder* that adopted it, i.e. Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western-Pomerania,

Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein, the Committee of Experts, in its second Monitoring Report also considered that the undertaking had been fulfilled by Lower Saxony (cf. paras. 659-661) and Schleswig-Holstein (cf. paras. 726-729) in view of the involvement in cultural activities of Low German speakers' associations. In the case of Mecklenburg-Western Pomerania, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report recording that no problems with the undertaking have occurred in the *Land*.

The following is reported on the implementation of the above undertaking in addition to the comments in the Second State Report:

5183. – 5185. . / .

1. Mecklenburg-Western Pomerania

5186. From the comments in para. 5174 it can be deduced that representatives with a command of the regional language of Low German are involved in the provision of facilities and the planning of cultural activities of all sorts. Activities are planned and carried out by professional Low German speakers.

5187., 5188. . / .

2. Saxony-Anhalt

5189. The *AG Niederdeutsch* [Working group on Low German] (cf. para. 16) established in the Saxony-Anhalt Ministry for Cultural Affairs has proven an appropriate way to encourage participation. The working group not only provides the speakers' representatives with an opportunity to discuss particular ideas and projects, but also gives them the chance to agitate for - and achieve - *Land* support and funds for individual projects in the school and cultural sector as well as for programmes (e.g. *Kultur in Schule und Verein* [Cultural activities pursued by schools and clubs] and competitions (e.g. the competition for the "*Jugend-Kultur-Preis*" [Young Artists' Prize]).

5190. . / .

Art. 12, para. 1, sub-para. (g) - Creation of Archive Bodies -

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

5191. In connection with the undertaking adopted by the *Länder* Brandenburg, Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Lower Saxony, North Rhine-Westphalia, Saxony-Anhalt and Schleswig-Holstein, the Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the statement in its first Monitoring Report where it notes that this has not caused any problems in any of the *Länder* (except for Brandenburg, North Rhine-Westphalia and Saxony-Anhalt, which were not considered during the second monitoring cycle).

In paras. 1311-1330 of the Second State Report, the German authorities make reference to the dealing with Low German texts in general institutions and in particular in institutions subsidized by individual *Länder*. As regards the current situation, the Free Hanseatic City of Bremen has opted to confine itself to the general statement that various amateur groups are subsidized in Bremen.

5192. ./. .

Art. 12, para. 1, sub-para. (h) - Translation and Terminological Research Services -

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

5193. As regards the above undertaking adopted by Mecklenburg-Western Pomerania, North Rhine-Westphalia and Saxony-Anhalt, the Committee of Experts - with respect to the *Land* Mecklenburg-Western Pomerania considered during the second Monitoring Cycle - has made reference to its first Monitoring Report recording that no problems were noted in this respect.

The German authorities make reference to the institutions described in paras. 1331-1336 of the Second State Report which, *inter alia*, carry out terminological research services.

5194. Since the publication of the Second State Report, the following changes have occurred:

Art. 12, para. 2*Paragraph 2*

In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.

5195. After pointing out that cultural activities - including those related to Low German - are generally permitted within the legal framework, and after citing some Low German language activities that take place outside the related speech areas referred to in paras. 1337-1339 of the Second State Report for Lower Saxony and North Rhine-Westphalia, both of which have adopted the above obligation, the Committee of Experts, in paras. 662-664 of its second Monitoring Report, requested more detailed information on such activities from Lower Saxony.

5196. Against this background, the information in the Second State Report is amended as follows with regard to **Lower Saxony**:

In the course of restructuring the *Land's* support of culture in 2005, the regions were strengthened and the task of promoting regional culture transferred to the *Landschaftsverbände* [regional local authorities]. A target agreement, for instance, was concluded with the *Landschaftsverband Südniedersachsen* which explicitly makes reference to Low German theatre, literature and art among other things. As in any other region, funds are granted upon submission of applications. For this reason, commitment and initiative on the part of the population are required.

The *Landschaftsverband* organizes the annual "*Regionales Plattdeuschtreffen*" [Regional Low German Meeting] which takes place in a different *Landkreis* each year and offers a multifarious amateur programme with talks, songs, short plays etc. Moreover, funds were provided for a book published by the *Arbeitsgemeinschaft für Südniedersächsische Heimatforschung e. V.* [Working Group for Local History Research in Southern Lower Saxony e.V.]: Wilfried Baller, "*Plattdeutsche Redewendungen in ihrer Anwendung*" [Low German Phrases as used in Everyday Life] (<http://dabakus.de/home/ash/sonderpub/sp17.html>).

At the local level, particular mention must be made of the appointment of Low German Commissioners to the Göttingen *Landkreis* (2001) and the Northeim *Landkreis* (2005). Currently, their activities are being performed on an informal basis as the official appointment by the *Kreistage* is still pending. The Osterode *Landkreis* also has a Low German Commissioner. The *Landschaftsverband* organizes the above regional meetings in cooperation with the Low German Commissioners. Many people continue to be actively involved on a voluntary basis in Lower Saxony. In the Osterode *Landkreis*, primary school pupils are involved in a Low German reading competition organized by the savings banks.

The *Land North Rhine-Westphalia* provides the additional information that research findings by the *Kommission für Mundart- und Namenforschung* [Commission for Dialectology and Names Research] are published in the journal *Niederdeutsches Wort. Beiträge zur niederdeutschen Philologie* [The Low German Word. Articles on Low German Philology], the series of booklets *Niederdeutsche Studien* [Low German Studies] and *Westfälische Beiträge zur niederdeutschen Philologie* [Westphalian Contributions to Low German Philology] as well as in the series *Westfälisches Wörterbuch* [Dictionary of Westphalia] and *Westfälischer Flurnamenatlas* [Local Field Names Atlas of Westphalia].

The Commission's new project is a web portal on the geography of family names. It has been online since August 2006 and serves as a resource for exploring the regional distribution of family names in Westphalia. Users will be able to check the number of occurrences of a surname in a single municipality as well as its distribution pattern in the Federal Republic of Germany.

Art. 12, para. 3

Paragraph 3

The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.

5197. Following the comments in paras. 1342-1355 and 505 of the Second State Report relative to the consideration of minority languages and particularly the regional language of Low German through the federal authorities and the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein in their cultural policy abroad, the Committee of Experts, in its second Monitoring Report, considered the above undertaking not fulfilled through the federal authorities and the *Länder* Bremen (cf. paras. 456-459), Hamburg (cf. paras. 531-535), Mecklenburg-Western Pomerania (cf. paras. 596-599) and Lower Saxony (cf. paras. 669-671). As regards Schleswig-Holstein, however, the undertaking was considered to be fulfilled (cf. paras. 730-733).

5198. With regard to the statements of the Committee of Experts, it should be noted - as in para. 2055 above - that if the undertaking is fulfilled by the *Länder* the same holds true for the federal authorities, as in a federal state responsibility for regional aspects of the cultural policy abroad, including the regional or minority languages of certain settlement or language areas, is predominantly assumed by the *Länder* in coordination with the federal authorities while bearing in mind the division of responsibilities.

Article 13

Economic and Social Life

Paragraph 1

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

- a) to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- b) to prohibit the insertion - in internal regulations of companies and private documents - of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;*
- (c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

5199. As regards the fulfilment of the undertakings adopted by Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein relative to the sub-paras. (a) and (c) see paras. 1356-1357 and para. 248 of the Second State Report.

Concerning the undertaking relative to sub-para. (a), the Committee of Experts, in para. 47, makes reference to its first Monitoring Report in which no problems were noted in this respect.

In the absence of information to the contrary, the undertaking relative to sub-para. (c) was explicitly considered as fulfilled by the Committee of Experts with respect to Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein.

Art. 13, para. 1, sub-para. (d) - Facilitating the Use of the Regional or Minority Language -

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

5200. In response to the comments in paras. 1358-1367 of the Second State Report regarding the fulfilment of the above undertaking adopted by Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, North Rhine-Westphalia and Schleswig-Holstein, the Committee of Experts considered the undertaking in relation to (d) not fulfilled by Hamburg (cf. paras. 539-542 of the second Monitoring Report). As regards Mecklenburg-Western Pomerania (cf. paras. 603-605) and Lower Saxony (cf. paras. 672-674), however, the undertaking was considered fulfilled. With respect to Schleswig-Holstein (cf. paras. 737-739) and the manifold possibilities to fulfil the undertaking the Committee has requested additional information.

5201. ./. .

Art. 13, para. 2*Paragraph 2*

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

Art. 13, para. 2, sub-para. (c) – Use of the Regional or Minority Language in Social Care Facilities -

- (c) *to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;*

5202. As a reaction to the statements in paras. 1368-1378 and 352-353 of the Second State Report on the fulfilment of the above undertaking adopted by the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania and Schleswig-Holstein, the Committee of Experts, in its second Monitoring Report, considered the undertaking only partially fulfilled by Bremen (cf. paras. 463-466), Hamburg (cf. paras. 543-546), Mecklenburg-Western Pomerania (cf. paras. 606-609) and Schleswig-Holstein (cf. paras. 740-743).

In this regard, reference is made again to the fundamental statements in para. 250 of the Second State Report. Ideally, it should be possible to consider an undertaking fulfilled even if the requirements are not fulfilled down to the last detail.

5203. The above statements in the Second State Report are updated and amended as follows:

Social care facilities such as hospitals, retirement homes and nursing homes in Mecklenburg-Western Pomerania, which are mainly run by private institutions, try to make use of Low German in verbal communication to the greatest extent possible. Low German is a regular element within the scope of cultural activities.

Within the framework of a federal model project, the Ministry for Social Affairs and Health supported the training of senior citizens as *SeniorTrainerin* and *SeniorTrainer*. *SeniorTrainers*, for instance, organized the radio project *Hörmax* for residents of a nursing home run by the SOZIUS GmbH in Schwerin. Within this project, Low German broadcasts are integrated into the programming.

The open channel *Offener Kanal Neubrandenburg* has adopted and advanced this idea.

At present, all citizens of Neubrandenburg, including the nursing home residents, can listen regularly to the programme which is now called “*Seniorengammophon Neubrandenburg*” through the *Offener Kanal*. This radio programme is tailored to elder citizens and also features programmes on Low German.

Article 14

Transfrontier Exchanges

The Parties undertake:

- (a) *to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;*
- (b) *for the benefit of regional or minority languages, to facilitate and/or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.*

5204. As regards the compliance with the undertakings relative to sub-paras. (a) and (b) by the *Land* Lower Saxony, which has adopted the undertaking, reference is made to paras. 1379-1384. With regard to Schleswig-Holstein, reference is made to paras. 1351-1355 despite the fact that the *Land* has not adopted the undertaking. The Committee of Experts, in para. 47 of its second Monitoring Report, makes reference to the fact that already in its first Monitoring Report no problems were noted as regards the compliance with the undertaking in Lower Saxony.

Part E Comments by the Minorities/Language Groups

(The referenced paragraph numbers are those of the Third State Report (2006))

Comments by the Danish Minority

on the Third State Report submitted by Germany on the implementation of the European Charter for Regional or Minority Languages

1.) General comments on the Report

The Danish Minority - represented by *Sydslesvigsk Forening* (SSF - South Schleswig Association, reg'd), *Südschleswigscher Wählerverband* (SSW - South Schleswig Voters' Association) and *Dansk Skoleforening for Sydslesvig* (Danish Schools Association for South Schleswig) - comments on the draft of the Third State Report as follows:

On the basis of pertinent recommendations and advice, the Report has been newly designed in various respects. With the aim of rendering the text more concise and easier to follow, repetition of known information, descriptions and requirements has been omitted. The essential feature of the Report now is to describe new developments, to point out emerging problems and to take account of the conclusions and recommendations provided by the expert commissions by including pertinent comments. This is a sensible and commendable approach.

Nevertheless, it must be pointed out that the Report must remain "readable" in terms of both its contents and structure, i.e. it must be intelligible also for outsiders and those interested in the subject-matter. When studying the draft Report, we got the impression that the many references to the Second State Report and to the related Monitoring Report might risk to render reading of this report, in its present form, difficult and to make the reader lose track as regards the overall structure. It is even quite conceivable that the present report might be understood only by insiders and experts.

2.) Equal status to be granted to the Danish Minority in terms of funding

a.) General remarks

Equal status in terms of funding continues to be one of the major problems facing the Danish Minority. This is, in fact, generally recognized. This problem arises with regard to financial support provided at the local authority, *Kreis* and *Land* levels and, in particular, in respect of schools (cf. the comments below).

The Danish Minority acknowledges that positive developments have actually taken place. Moreover, Schleswig-Holstein *Land* announced that under the 2007/2008 two-year budget, equal treatment regarding financial equality in terms of cost-per-pupil rates would be ensured in the 2008 fiscal year. At the same time, the 2007/2008 two-year budget does not include any reductions of the amounts budgeted for promoting the general cultural activities of the Danish Minority, with the exception of the support provided to the Union of Agricultural Associations in South Schleswig (*Fælleslandboforeningen for Sydslesvig e.V.*). In view of the dramatic situation regarding the

strained budgets of public authorities, the Danish Minority regards this development as very positive indeed.

As part of the promotion of cultural activities, the Federal Government has since 2001 supported specific cultural projects of the Danish Minority. For example, the Danish Minority was granted 350,000 *deutschmark* by the Federal Government for alterations to the Danevirkegården Museum and, in the period 2003 - 2005, received a subsidy amounting to € 460,000 for the complete modernization of the theatre and concert hall in Flensburg. Also, it is envisaged to grant a subsidy amounting to € 732,000 for a cultural centre in Flensburg-Weiche for the period 2006 - 2009. The Danish Minority hopes that the Federal Government will continue to be committed to promoting the Danish Minority's cultural activities and will provide a permanent basis for such support so that the Danish Minority will have a reliable planning base in this regard.

Regarding Part A.1, No. 1, and Part A.6, No. 20

The Danish Minority cannot quite follow the comment under A.1 No. 1: "Regarding requests made by the language groups or minorities for an increase in budget allocations, it has to be noted that despite the tight budget situation at the federal, *Land* and local levels, considerable efforts are being made to maintain the *status quo* of state-provided funding for the languages protected under the Charter". The requests made by the Danish Minority, particularly with regard to schools, always referred, and still do, to financial equality but *not* to any increase in funding. This also applies to times when allocations are reduced on the basis of savings measures; in this context, the Danish Minority has always expressed the view that when the *Land* must cut expenses, we must economize accordingly. It is pointed out that the above - rather negative - comment under A.1 No. 1 is inconsistent with the positive comment under A.6 No. 6. The Danish Minority cannot see how "promotion of the ... Danish Minority" could be "outstanding" if financial equality cannot even be achieved. To say nothing of any increase in funds.

A statement like that under No. 1 makes it difficult for the Danish Minority to succeed in its own political efforts to achieve, at last, financial equality recognized by all parties concerned.

3.) A.4.3.1. The Danish language No. 8

As of 30 June 2006, *Sydslesvigsk Forening* (SSF) had a membership of 13,550. In addition, the 25 organizations affiliated with the SSF have 12,500 members.

4.) Equal status to be granted to the Danish schools No. 1003

At the start (always on 1 September) of the 2006/2007 school year, it [Danish Schools Association for South Schleswig] operated 55 children's day-care centres (57 in 2004/2005) which were attended by 1882 children (1932 in 2004/2005).

Nos. 1006 or 1007

As the providing body for the schools of the Danish Minority, *Dansk Skoleforening for Sydslesvig* (Danish Schools Association for South Schleswig) operated the following

schools: At the start (always on 1 September) of the 2006/2007 school year, it operated 48 children's day-care centres (49 in 2004/2005) which were attended by 5714 pupils (5756 in 2004/2005). A total of 480 pupils (344 in 2004/2005) at 20 primary schools (19 in 2004/2005) attended courses offered by the Association.

No. 1007

Dansk Skoleforening for Sydslesvig (Danish Schools Association for South Schleswig) welcomes the fact that the Final Communiqué regarding the negotiations conducted by the working group for many years has by now found general recognition and has thus become a basis for the formulation of statements of intent. Thus, the Final Communiqué of 24 November 2004 constitutes a milestone on the road to equal treatment of the Danish schools in Schleswig-Holstein.

It would be erroneous, however to conclude that the *Land* in this way had fulfilled all of the undertakings accepted under Article 8. The mere fact that the *Land* Government decided to postpone implementation until 2008 implies that the Danish Schools Association will by then have been affected, for a total of ten years, by budget cuts to a greater extent than the schools of the majority population.

Additional information regarding the costs of transportation of non-local pupils

Transportation of non-local pupils to Danish schools is an important problematic issue that has been left out of consideration in the Final Communiqué. The lack of a legal basis regarding funding of the costs of transportation of these pupils constitutes a significant inequality that might amount to a restraint being imposed on the Danish schools system. Payment of the voluntary subsidies granted by the *Kreise* can, at their discretion, be stopped at any time, as is shown by the example of Rendsburg-Eckernförde *Kreis* which in 2005 discontinued its subsidies altogether. In anticipation of pertinent legislation, Schleswig-Flensburg *Kreis* adopted transitional regulations until 2008, which resulted in considerable loss of income for the Danish Schools Association; only Nordfriesland *Kreis* continues to apply the scheme practised until now. Moreover, as a result of the transitional regulations adopted by Schleswig-Flensburg *Kreis*, pupils attending Danish schools have been placed at a considerable disadvantage as compared with the pupils attending publicly maintained schools. With a so-called *60-Euro-Ticket*, pupils of publicly maintained schools can use buses not only on the way to their school but may go by bus to any destination in the *Kreis* area. Pupils attending Danish schools, however, can only use such a ticket if they live at a distance of 2 km (1st to 4th grades) and 4 km (5th and 10th grades), respectively, from their school. As a result, different regulations - which can be called discrimination - apply to children living in the same neighbourhood and attending schools in the same place. Therefore, formal legal provisions are absolutely essential in this respect and should be taken account of in the new Schools Act.

¹ The new Schools Act entered into force on 24 January 2007.

5.) Media - Article 11

Nos. 1026 - 1028

The need for providing minorities with the possibility to have access to electronic media is generally recognized, but there are still problems in this respect. The Danish Minority therefore continues to push for inclusion, to a practicable and appropriate extent, of the Danish language and culture in the media.

In view of the evolving process of digitization of the media, we consider it very important to draw attention to the following problems, including the need for keeping track of the developments in this field: The technical development, the precise definitions in copyright contracts/agreements and the increasing liberalization of the media sector involve a number of risks for the transmission of Danish TV programmes in the region of South Schleswig. So far, TV coverage of South Schleswig was mainly by analogue terrestrial broadcasting. By 2009, Denmark will replace analogue terrestrial transmission by digital transmission (DVB-T, Digital Video Broadcasting - Terrestrial), which is expected to reduce the transmission range to a maximum of 30 km south of the border. While the minority living in the northern part will receive an additional channel (DR2) thanks to digitization, the southern part might be excluded from reception by aerial.

The other modes of transmission do not offer any reliable alternative. Currently, it is possible to receive two Danish programmes via the cable network. However, given the increasing demand for free frequencies in the cable network it seems doubtful whether a private cable TV operator would also in future be willing to reserve the relevant frequencies for Danish programmes, which hardly generate any commercial profits. The supervisory body ULR [Independent Land Supervisory Authority for Broadcasting and New Media] does not see any legal possibility to compel an operator to reserve channels for Danish programmes, and refers to the property rights of the private companies involved. Another problem is that many viewers in rural areas and on the west coast are not yet connected to the cable network.

Satellite broadcasting is not a satisfactory alternative, either, since Danish broadcasting stations encrypt their signals for copyright reasons. A decoding card can be obtained by the viewer only against payment of the total amount of the Danish broadcasting licence fees. For the members of the minority this would be a considerable twofold burden since they already pay German licence fees.

As a next step, it must be ensured that after the introduction and development of digital television in Denmark and Germany, the present number of television programmes that can be received in the German-Danish border region will continue to be available.

After its discussion of these problems at its annual meeting in 2005, a working group of the SSW [South Schleswig Voters' Association] and the SSF [South Schleswig Association] had talks both in Denmark and with the Schleswig-Holstein State Chancellery and the Independent *Land* Supervisory Authority for Broadcasting and New Media (ULR) in Kiel. In agreement with the State Chancellery, the URL commissioned Flensburg University to prepare an expert opinion describing the situation of, and the problems facing, the media and their users in the German-Danish border area.

6.) Article 12 - Cultural Activities and Facilities

No. 1035: SSF activities relating to museums

With reference to Article 12, para. 1 - Cultural Activities and Facilities - we draw attention, in particular, to the SSF's activities related to the *Danevirke* Museum. Although this museum is an active and recognized actor within Schleswig-Holstein's museum community, Germany does not provide financial support for the operation of the museum.

Over the past five years, the Schleswig-Holstein Voters' Association (SSW) repeatedly drew the attention of the Schleswig-Holstein *Land* Government to the fact that institution-based promotion is needed for *Danevirke* Museum. Such a gesture would also be in agreement with Germany's otherwise very positive political stance regarding the work carried out by and for *Danevirke* Museum, and would go a long way towards supporting the efforts aimed at including *Danevirke* and the *Haithabu* Museum in the project "Nordic Viking Civilization" and in UNESCO's tentative list of World Cultural Heritage.

7.) Sustaining general promotion of the Danish language in the *Land*

No. 1005

With good reason, the previous State Reports described the many and various institutions promoting the Danish language outside the Danish minority community. The present Report followed this practice in Nos. 1005, 1008, 1013, 1014 and 1016 referring to Article 8 of the Charter.

These offers, of course, are all very commendable. Nevertheless, the effectiveness and sustainability of these instruments should be reviewed, - especially against the background that Denmark's labour market is desperately trying to recruit manpower also in Schleswig-Holstein. Knowledge of the Danish language is an essential prerequisite for recruitment, for employment in Denmark, of manpower from the border region which has an above-average unemployment rate (around 15 per cent for Flensburg) while north of the border, the unemployment rate amounts to about 4 per cent. Thus, provision of more intensive and comprehensive Danish language courses is one of the most important measures to provide job-seekers with adequate qualifications.

Also, the question arises in this context as to the importance of learning the Danish language through play in children's day-care centres in institutions other than those of the Danish Minority, if such language promotion cannot be continued in publicly maintained schools.

In conclusion, the Danish Minority declares its willingness to help, constructively and in the spirit of the Charter, with the fulfilment of the undertakings accepted by the *Land* under the European Charter for Regional or Minority Languages.

**Comments by *Frasche Rädj* [Frisian Council]
on the Third State Report submitted by Germany
on the Regional/Minority Language Charter**

Re: Nos. 67 – 68 (and 3018): General Remarks

First of all, *Frasche Rädj* (Frisian Council) points out that the traditional settlement area of Schleswig-Holstein's Frisian ethnic group covers nearly all of Nordfriesland *Kreis*, including the island of Heligoland. The central speech area covers the northern part of Nordfriesland *Kreis* extending to a line south of the town of Bredstedt, including the islands of Sylt, Föhr and Amrum and the holms [*Halligen* islets].

Generally, nothing can be said against the focusing of measures taken under the Regional/Minority Language Charter on the central speech area with a view to effective use of the funds allocated. However, *Frasche Rädj* objects to having these measures strictly and exclusively confined to the core area of Frisian language use since such an approach would leave the traditional settlement area and its language planning measures out of consideration and would conflict or be in contradiction with the requirements regarding freedom of movement and mobility of labour.

Modern policies regarding minorities should, in the view of *Frasche Rädj*, not consist of exemptions for a small area (establishment of a "population reservation") but, instead, should provide a sound basis for, and ensure, functional development in terms of the minority language on a scale equivalent to that of the official language or majority language. Some of these measures can be confined to a small area while, on the other hand, such restriction would be neither necessary nor expedient for other measures. For instance, use of modern electronics and communications allows translation of documents drafted in minority languages, without any major delay, regardless of the place where such documents are submitted, the place where they are translated and the place where a request to this effect is granted. Also, the new media make it possible to produce, transmit and receive items regardless of the respective place.

Also, as a result of functional reforms and territorial reorganization of local government, discharge of governmental functions is increasingly concentrated in central places which often are outside the settlement and language area. Any relocation of public authorities in the course of such reforms must not result in deterioration of the situation of linguistic minorities, which would occur if granting of the right to use the minority language was based on the location of the public authority and not on the area served by the latter.

Federal subsidizing of the costs incurred for minority schools

For safeguarding of their cultural reproduction, national minorities depend - just like the majority population - on the support provided by elementary education institutions (schools, etc.) in the form of imparting knowledge and values. The 'starting position' of the four national minorities varies significantly in this respect. The minority-related additional expenses (an additional classroom subject, production of teaching materials in a given minority language, long distances to schools, etc.) incurred for ensuring equal opportunities in education raise major or even very considerable problems for the *Länder* which are responsible for education. Therefore, in the context of the reform of Germany's federal form of government, the national minorities' associations declared themselves for an extension of federal subsidies to minority schools. However, the reform of the federal structure, as adopted by the German *Bundestag*, aggravated this problem even more, instead of solving it: under the new provisions, no federal subsidies can be granted any longer even for construction of schools. The perspectives regarding further development of schools have definitely become worse.

Article 13 – Economic and social life

No. 74 (and 3049): Use of the own language

Prejudices and stereotypes among the population are extremely long-lived. While there are indeed positive responses to the use of minority languages, there also is disapproval of the autochthonous minority languages which are perceived by the majority population as something that is foreign or 'pre-modern'. In instances, the minority languages used in our country are seen by the population as inferior and therefore not acceptable for use in public.

The fact that the broadcasting schedule of *Norddeutscher Rundfunk* (NDR) has been reduced to only occasional inclusion of larger programmes and to a mere 3-minute airtime per week would, in the last analysis, seem to be due also to the fear that such programmes might be rejected by the majority of listeners on the grounds of their - imagined - cultural superiority. But programmes in the minority's mother tongue to a particularly high degree promote development of identity and therefore are expressly included in the provisions of the Regional/ Minority Language Charter.

While *Frasche Rädj* expressly welcomes a number of NDR initiatives, e.g. the Frisian-language writing competition or the inclusion of the Frisian language on the station's website, it sees the inclusion of Frisian in television programmes as a *desideratum* of continued urgency.

The erroneous idea - disseminated by official bodies even until the 1970s - that parents using a non-German mother tongue would considerably jeopardize their children's school career is deeply ingrained in people's mind. In this respect, efforts must be made, including provision of funds, to enforce a change in behavioural patterns and attitudes in the long term. Once destroyed, structures can only be restored at a very slow pace.

No. 76 Anti-discrimination legislation

The enactment of the European anti-discrimination directives in German national law was delayed until mid-2006. However, under the adopted General Equal Treatment Act, the recognized representations of the national minorities (*qua* anti-discrimination associations) are - contrary to the provisions of Directive 2000/43/EC - not afforded the right to bring an action on behalf of a victim. This is a unsatisfactory situation that lags behind the European standards. For effective implementation of anti-discrimination measures, the associations must be granted a right of action so as to enable them to give efficient assistance to discrimination victims.

Article 8 – Education

Nos. 3001 - 3002: Pre-School Education

The commendable initiatives pursued on a voluntary basis to ensure Frisian-language offers at the pre-school stage cannot, in the medium and long term, ensure the continuity and pedagogical professionalism that are required for language cultivation and preservation. With good reason, the Committee [of Experts] noted deficits as regards pre-school education. In the view of *Frasche Rädj*, such deficits in respect of language education provided for infants can only be remedied by establishing a suitable association as the providing body (e.g. a separate Frisian providing body). The prerequisite for successful commitment and active participation and for attractive offers with regard to pre-school education is to ensure, for the benefit of both the parents and the staff, continuity and reliability which can only be achieved by a specialized institution. In this context, *Frasche Rädj* envisions a construct under which a Frisian providing body would have the employer function (e.g. employment contracts) and be responsible for didactic support (advanced and continued training regarding immersion language teaching, development and distribution of educational materials). This providing association would provide its own pre-school and non-school institutions or conclude agreements with other providing bodies on their support for Frisian nursery-school groups and provide the

staff for the latter. *Frasch Rädj* does not yet have any information on how Schleswig-Holstein *Land* intends to remedy the deficits, as noted by the Committee [of Experts], in any other way.

Nos. 3003 – 3006: Schools of general education

Frasche Rädj notes that sustained promotion, as envisaged by the Regional/Minority Language Charter, of Frisian instruction calls for a consistent concept and systematic implementation by the school's providing body. *Frasche Rädj* recognizes the present practice that, depending on the respective requirements, additional class hours for Frisian lessons are allotted to primary schools and are financed by the *Land*. However, the present model is very dependent on the commitment and interest of the respective school's director given his/her presence on the ground. A reliable and well-focused concept for Frisian lessons in the primary and secondary stages can only be achieved by amending the Schools Act. The SSW submitted a motion to this effect to the *Landtag*. It turned out that, in the last analysis, the approaches taken in this regard were unmethodical, intricate and inconsistent and thus are not fit to ensure sustained Frisian classroom instruction in Nordfriesland.

Teacher training: Over the past few years, examination regulations and the requirements to be met with regard to specific courses of study have been modified quite frequently, and this resulted in additional uncertainty on the part of students and has a much greater impact on 'minor' subjects than on 'major' subjects.

A steady and sufficient demand for Frisian instruction - both in schools and universities/colleges - is dependent on reliable and continuous offers, and not *vice versa*. Otherwise, there will be a risk that the decreasing numbers of students might result in further reduction, 'through the back door', of the Frisian instruction offers. Basic provision of education for pupils speaking Frisian as their mother tongue will be in jeopardy.

It is not yet foreseeable what consequences the new Schools Act - which at present is being considered by Parliament² - will have as regards the further development of Frisian instruction and imparting of Frisian culture and history. According to the amendment tabled by the SSW, a firm legal basis is to be provided for Frisian instruction.

It is with great concern that *Frasche Rädj* takes note of possible plans of the school's providing body to close down the Föhr West primary school in Sööleranj/Süderende. This school is located in the centre of the speech area and is attended mostly by pupils speaking Frisian as their mother tongue.

No. 3016: Supervisory bodies

In the view of *Frasche Rädj*, the disagreement mentioned under No. 3016 is due to a "translation problem" between the Committee [of Experts] and Schleswig-Holstein, which arises from different administrative approaches and practices. By monitoring and "supervision by a supervisory body", the Committee [of Experts] understands guiding intervention in an ongoing process whenever it emerges that this process does not pursue the desired objectives. On the basis of German administrative tradition, Schleswig-Holstein interprets "monitoring" as the mere recording of pertinent data. While the performance of administrations in Western Europa is gauged primarily on the basis of the effects/effectiveness of their action, public administration in Germany focuses on greatest compliance possible with the established rules.

Against this background, it is also understandable that only very little account is taken, in administrative action, of sub-optimum conditions as regards successful implementation of Frisian education (see also the comments above on Nos. 3003 - 3006). For instance, actual

² The new Schools Act entered into force on 24 January 2007.

implementation of the Frisian-language project on the island of Sylt fell short of the original targets in terms of scope and resources.

The original plans envisaged the following:

- *Hauptschule* and *Realschule* 5th-graders would be familiarized with the Frisian language under a Frisian-language cultural project.
- Two teachers would provide four continuous hours of team teaching so as to be able to carry out varied project-related activities, including excursions. On account of the high enrolment rate (30 pupils), the group was divided with the result that each teacher only had two class hours instead of four as originally planned. Moreover, the original plan to schedule the project classes at a time that would allow the participating pupils to take part in excursions failed to be implemented.
- The fact that excursions were carried out to a very limited extent only and that pupils were to pay a fee for taking part in such excursions caused irritation on the part of some of the parents.

Article 9 - Judicial Authorities

No. 3021

The Frisian registered association *Rökefloose* ["flock of ravens"] submitted its new statute in the Frisian and German languages to the local court [*Amtsgericht*] with the proviso that in case of doubt [divergent interpretation] the Frisian text should prevail. This cannot be done under the current legal situation. *Frasche Rädj* therefore suggests that, by analogy to the regulation introduced in the Sorbian speech area, an exemption from Section 184 of the Organization of the Courts Act should be provided.

Article 10 - Administrative authorities

No. 3023

In addition to the comments made by Schleswig-Holstein *Land*, it must be pointed out that all administrative authorities in Nordfriesland belong (some of them not exclusively) to the Frisian settlement area.

No. 3027

In addition to the comments provided, *Frasche Rädj* points out that the Frisian-language part of the railway station signs in some cases is significantly smaller than the German-language part. This practice clearly differs from that existing in Sorbian-speaking Lusatia.

Article 11 - Media

No. 3030

The Frisian ethnic group in Schleswig-Holstein is the linguistic minority in Europe that has the poorest access to radio and television broadcasts. Therefore, *Frasche Rädj* expressly shares the Committee's finding that the undertaking is not fulfilled in this respect. *Frasche Rädj* once more stresses the fact that the Frisian ethnic group (paying broadcasting licence fees like the rest of the population) are not provided with basic media services. The reference to so-called governmental non-intervention in public service broadcasting [in German: "*Staatsferne*", literally translated "distance (of broadcasters) from government"] misses the point since broadcast reports and items in the Frisian language are not automatically 'closer to government' [*"staatsnäher"*] than reports and items in the German language. In this context it should be noted that Frisian organizations or institutions have never posed a threat to the principle of governmental non-intervention in public service broadcasting.

In order to transform the cultural plurality of public service broadcasting, which hitherto is purely theoretic, into actually practised plurality, the first step required in this regard would be to grant the Frisian minority the right to designate one member of the supervisory body, i.e. the *Land* Broadcasting Board (*Landesrundfunkrat*).

No. 3030a

The project referred to under this paragraph is a purely private initiative and its scope is limited accordingly. It is an initiative launched by the ethnic group itself and is not an initiative encouraged or facilitated by the *Land* Government.

No. 3030b

In this respect it must be pointed out that the Open Channel can be received only in parts of the Frisian settlement area and practically not at all in the Frisian speech area. Consequently, such a measure only has a very limited effect.

No. 3033: Newspaper articles

Frasche Rädj agrees with the conclusion reached by the Committee [of Experts] in paras. 303 - 305. In addition, the Frisian Council points out that the facts reported under No. 590 of the second State Report have changed in several respects or were even incorrect to begin with: The daily newspapers published by *shz-Verlag* in Nordfriesland do not carry journalistic texts in the Frisian language (only half a page) regularly once per month. By the way, the journalistic costs incurred for editorial items are borne exclusively by *Nordfriisk Instituut*. The editorial department of the leading newspaper *Husumer Nachrichten* ["Husum News"] decides on the time of publication and on the articles to be actually published. As a result, it occasionally happens that, due to pressuring by the editorial department, prepared texts are not allowed to be published in the Frisian language, but only in the German language. Also, the information is incorrect that *Flensburg Avis* would publish Frisian articles at irregular intervals; on the contrary, the newspaper's editorial department categorically refuses to publish Frisian-language items. On the other hand, *KONTAKT*, the journal published by *Syd-slesvigsk Forening* (SSF) for its members, carries Frisian-language items at irregular intervals.

As in the case of radio and television, the Frisian ethnic group does not have any [printed] media of its own to take part in the opinion-forming process as well as to provide for language cultivation and preservation. *Frasche Rädj* draws attention to the fact that the Federal Republic of Germany provides funding for newspapers of German minorities abroad and that the number of members of those minorities is not larger than the number of Frisian speakers in Germany.

No. 3035: Financial assistance for audiovisual productions

Frasche Rädj agrees with the conclusion reached by the Committee [of Experts]. Effective implementation, as envisaged by the Regional/Minority Language Charter, requires allocation of separate funds for Frisian productions. The generalized reference to existing measures for providing support does not take account of the fact that a small group of speakers cannot, without fair pre-established conditions, compete for funding with the group speaking the majority language.

Article 12 - Cultural activities and facilities**No. 3039: Post-synchronization**

Frasch Rädj suggests that government-funded film and video projects should be exempted from the payment of royalties for post-synchronization in languages (not having the status of official languages) spoken by small and very small linguistic groups in Europe. While this would cause no, or hardly any, loss of income to the producer, the small groups of speakers could as a result significantly increase and improve the range of media products available in their language/s.

Nos. 3040 – 3041: Cultural activities

Schleswig-Holstein's comments refer to the cultural activities of Frisian organizations and institutions. It remains to be seen what the *Land* Government will do in order to ensure that organizations and institutions of the majority population will be knowledgeable about the Frisian languages and Frisian culture and use these languages.

The same goes for encouragement of the employment of Frisian-speaking staff for events and supporting cultural activities in institutions of the majority population.

Nos. 3043 – 3044: Archives and translation/terminology

With reference to Schleswig-Holstein's comments, it is to be noted that the lump-sum subsidy granted by the *Land* to the fixed maximum amount of about € 209,600 *per annum* (medium-term budgeting) will not enable *Nordfriisk Instituut* on a long-term basis to ensure, to the required extent, fulfilment of its task to collect, keep copies of, and present or publish works produced in the Frisian language (Article 12, para. 1, sub-para. g) and to provide translation and terminological research services (Article 12, para. 1, subpara. h). Moreover, performance of tasks as defined in Article 12, para. 1 (h), of the Regional/Minority Language Charter was not included in the agreement on targets and services concluded by the *Land* with *Nordfriisk Instituut* for the period 2004 - 2005.

Over the past few years, dropping of the task-performance standard to a level below a critical line has only been prevented thanks to federal project-related subsidies. Since these are permanent tasks, it is absolutely essential that promotional measures required for proper task performance be adopted in the short or medium term.

No. 3047: Bonn-Copenhagen Declarations

Frasche Rådj draws attention to the fact that the Bonn-Copenhagen Declarations do not contain any provisions regarding the Frisian ethnic group. In historical terms, the Bonn-Copenhagen Declarations superseded the Kiel Declaration which still covered the Frisian ethnic group as well. At the instigation of Schleswig-Holstein, a similar provision was not included in the Bonn-Copenhagen Declarations.

**Comments by *Seelter Buund* on behalf of the Sater Frisians
on the Third State Report submitted by the Federal Republic of Germany on the
implementation of the Regional/Minority Language Charter**

No. 3552: Article 12, para. 1, sub-para. (d)

Seelter Buund [association for the preservation of Saterland local/regional traditions] uses the culture centre (established in a former railway station) for the following purposes, among others:

- as a place of public assembly and meetings; at least another five associations or organizations use the cultural centre for these purposes (around 3 to 4 meetings per month);
- as archives, as a library and as a media library; and
- as a local radio studio of *Ems-Vechte-Welle* (1 hour/week of airtime, and more if required; 2 hours preparatory work and post-transmission editing).

No. 3556: Article 12, para. 1, sub-para. (g)

Available Sater Frisian books and other publications are collected and archived. This includes literature both in and about the Sater Frisian language and related publications in Low German.

In recent activities in this field, special attention was focused on the production, archiving and distribution of Sater Frisian audio media (primarily recordings of *Ems-Vechte-Welle* broadcasts).

No. 3559: Article 12, para. 3

Seelter Buund suggests that the first sentence of No. 3047 should be included in the section dealing with Sater Frisian since the activities of the Inter-Frisian Council, as described in that paragraph, also cover the Saterland and *Seelter Bund*.

"3559 (new) Also, reference is made to No. 615 of the Second State Report on transfrontier activities of the *Interfräsche Rädj* (Inter-Frisian Council) for Frisian cultural exchanges ..."

**Comments by the Central Council of German Sinti and Roma
on the Third Report submitted by Germany on the implementation of the
European Charter for Regional or Minority Languages**

re: Nos. 13, 51, 54 - 56:

Racist attitudes and acts directed at Sinti and Roma are not only an assumption based on the Central Council's perception of the situation, but are reality. During talks held on 9 May 2006 on the outrages committed in stadiums, including chanted slogans such as "*Zick Zack Zigeunerpack*" ["Gypsy rabble"], "*Zigeuner*" ["Gypsies"] and "*Juden*" ["Jews"], and on hate propaganda disseminated over right-wing extremist Internet forums, the Parliamentary State Secretaries Peter Altmaier (Federal Ministry of the Interior) and Alfred Hartenbach (Federal Ministry of Justice) confirmed the seriousness of the Central Council's assessment. In his letter of 15 June 2006, State Secretary Altmaier announced a package of measures to be developed in collaboration with the police authorities of the *Länder* and with sports federations.

re: No. 57:

The historical background regarding the demand - made by the Central Council for many years already - for a so-called "protection zones" regulation for concentration camp (KZ) memorial sites is not described correctly. Already after the incidents at the Buchenwald KZ memorial site on 23 July 1994, where a group of 22 right-wing extremists, who had come there by bus, kicked up a systematic racket and used violence on the premises of the memorial, the Central Council requested a regulation on protection zones [i.e. zones where demonstrations etc. are banned]. Moreover, the urgency of enacting a "protection zones" regulation was set forth in the 2003 reports of the Offices for the Protection of the Constitution. According to these reports, the leading right-wing extremist Mahler planned to "organise a Holocaust denial demonstration" at one of the KZ memorial sites. On the grounds that there were "no legal powers under police law", the Ministries could only refer to the "domiciliary right" of memorial sites [i.e. the right to determine who shall be allowed or denied access] (letters of the Brandenburg Ministry of the Interior and the Baden-Wurttemberg Ministry of the Interior of 29 July 2003 and 31 July 2003, respectively).

re: No. 61, para. 3:

An internal police information system of this type, with ethnicity-based identification of categories of offenders as "Roma" or "Sinti" is anti-constitutional and violates the rule-of-law principle. Ethnicity or being a member of a minority must not be made a criterion as regards crime categorization or search for wanted persons, as happened under the National-Socialist regime with regard to Sinti and Roma and to Jews. Also, there is no such thing as specific "Gypsy" or "Sinti/Roma crime" as claimed in discriminating police communications.

re: No. 62:

The facts are not rendered correctly in several respects: On 31 July 2006, the Central Council submitted, to the chairman of the Standing Conference of Ministers and Senators of the Interior, Dr. Günther Beckstein, a documentation on 553 press and news agency reports for the period from 1995 until July 2006, showing that in 531 cases reference to the ethnicity of accused persons was made - in violation of the rule-of-law principle - at the instance of public authorities. Therefore, the Central Council calls for a legal ban on discrimination by public authorities to be included in the Administrative Procedure Act (*Verwaltungsverfahrensgesetz - VwVfG*) since this Act lays down the "procedural principles" (Part II, Chapter 1) for administrative action

taken, under public law, by public authorities (Section 1). Such administrative action also includes "statements released by public authorities to the press" (Federal Administrative Court decision, quoted in *Neue Juristische Wochenschrift* (NJW), 1989, p. 412; Neustadt Administrative Court, file ref. 7 K 2511/96; and others).

Comments provided by the Documentation Centre on No. 55
on Germany's third state report on the implementation of the Charter

The Central Council and the Documentation Centre of German Sinti and Roma speak out in favour of complete deletion of No. 55 for the following reasons:

No. 55 of the Report emphasizes that the Documentation Centre's work is almost exclusively confined to the description and study/reappraisal of the Holocaust and that this provided the basis for its claim to funding. We cannot, however, quite understand what might have prompted this impression at the "federal level". Also, the motive and need for this statement as well as the entire text of No. 55 are not comprehensible. Already in Nos. 87 and 88 of the second State Report, the description of the Central Council and the Documentation Centre includes examples contradicting this monolithic assessment - irrespective of the focus on the crime of genocide, which is of relevance not only for the population's civic education and the collective memory in the Federal Republic, but also for the legal successor state of the "Third Reich", which must bear responsibility for these matters.

Especially with the aim of presenting the minority as a population group with its own culture that enriches society, the Centre has organized many events and issued a large number of articles in the Centre's publication series. In part, these are based on seminars of several days' duration attended by international participants. The Central Council already commented on this matter (No. 13). It is misleading - as done in No. 55 - to interpret this comment only as a willingness to pursue activities in future.

In the field of education, the Documentation Centre pursues a variety of activities not confined exclusively to the description of the Holocaust. The following examples give an idea of the scope of these activities:

- (1) Advanced training is offered to teachers on a regular basis; the Centre has already become a recognized place of out-of-school learning and, in collaboration with many schools in the vicinity, carries out pertinent projects.
- (2) An extended version of the newly developed travelling exhibition on subjects related to events after 1945 was presented for the first time at the headquarters of the European Parliament in Strasbourg. In other places, e.g. in Budapest, our co-operation partners complemented the exhibition by a broad-range pedagogical accompanying programme and invited school classes; this clearly shows the international importance of this exhibition for the field of education. In 2007, the exhibition will be presented at UN headquarters in New York on the occasion of the international Holocaust Remembrance Day.
- (3) Also, in co-operation with other institutions, the Centre organized follow-up teacher-training courses where Rom and Sinto music and poetry were presented - e.g. at a three-days' event in Halberstadt [Saxony-Anhalt] organized jointly with *Moses-Mendelssohn-Akademie*.
- (4) Documentation on issues of civic education: currently, a project on the Holocaust as perceived in the [former] German Democratic Republic (GDR) is carried out in collaboration with the *Stiftung Aufarbeitung der SED-Diktatur* [Foundation for the Study of the SED Dictatorship].

(5) Evaluation of the social climate in schools and classrooms in Germany regarding children of minorities, and Sinti and Roma children in particular, as perceived by teachers.

(6) Together with *Stiftung Lesen* [Foundation "Reading"], the Documentation Centre plans a nationwide school-based campaign regarding anti-racist education with particular reference to Sinti and Roma.

Also the comment under No. 56 appears erroneous - namely that the *Land* Associations, in accordance with the assessment made under No. 55, again launched initiatives aimed at educational promotion and developed materials for schools and educational institutions. In this regard, it should be noted that the *Land* Associations - which are members of, and constitute, the Central Council - in fact pursue their activities independently and have their own education counselling centres which are fully acquainted with the respective circumstances prevailing in the given locality. On this point, a number of *Land* Associations provided the following information:

Bavaria:

"Beginning in the 2003/2004 school year, the vice-chairman of our *Land* Association, Mr. Franz Rosenbach, has provided homework assistance and extra tuition for a group of Sinti children attending primary schools. The intention is to afford these children an opportunity to study, in the Romany language, classroom subjects after regular lessons with the help of an instructor who is a member of the minority. This approach is aimed at counteracting the discrimination, as practised by the Nazi regime and thereafter, against the Romany language used by the German Sinti and Roma. At the same time, the aim is to ensure enhanced achievement on the part of school-children as regards regular classroom instruction.

As of the 2004/2005 school year, this project is subsidized by the Free State of Bavaria, to the amount of € 3,300 per year, as part of the so-called 'lunchtime care' scheme. The project is planned to be extended to other Bavarian towns and cities."

Hesse:

"... on the basis of a relevant concept, the Hessian *Land* Association in 2001 launched educational activities for young Sinti and Roma. Neither the *Land* Government nor the Hessian local authorities/municipalities - with the exception of Darmstadt, Bad Hersfeld and Hanau - are prepared to allocate the funds required for - school-based - educational projects. The three aforementioned municipalities offer education outside regular classes.

In addition, the *Land* Association published a book on the accounts given by contemporary witnesses to the events - "*Flucht, Internierung, Deportation, Vernichtung*" ["Flight - Internment - Deportation - Extermination"] - in order to bring individual survivors' accounts to the knowledge of the younger members of the minority."

Rhineland-Palatinate:

As stated by the Rhineland-Palatinate *Land* Association, the Framework Agreement meets with much approval by the members of the minority. In view of the great interest in preserving the language and culture, preparations are being made by the *Land* Association for offering basic and advanced courses, for adolescents and children, regarding the minority language, the minority's culture and traditions, the Holocaust and present-day racist attitudes. Attendance of the courses, offered exclusively to Sinti families, is voluntary.

At present, there are no specific projects planned by the Rhineland-Palatinate *Land* Association for promoting education of underprivileged Sinti and Roma. In individual cases, e.g. when parents or adolescents turn to the Association for help, the latter

provides assistance on a case-by-case basis. Provision of special instruction in the German language for members of the minority is not considered to be one of the Association's tasks. Instead, the mandate given by its members to the Rhineland-Palatinate *Land* Association is to preserve and to promote the minority's own language and culture in the field of education.

The Documentation Centre will, if desired, take care of co-ordination and provide advice regarding the initiation and implementation of educational projects. A brief description is included in the comments provided by the Documentation Centre on para. 747 of the 2005 report of the Council of Europe Committee of Experts (cf. Federal Ministry of the Interior, "Comments by the Federal Republic Germany on the report submitted by the Committee of Experts to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the European Charter for Regional or Minority Languages", pp. 27 *seq.*).

Against this background, also the claim made by the group introduced under No. 14 - that the Central Council wilfully neglected educational promotion for underprivileged Sinti - is utterly unfounded and should be emphatically rejected.

Comments by the Central Council of German Sinti and Roma on No. 4127
of Germany's third report on the implementation of the Charter

In the past, the Documentation Centre held a number of seminars and expert meetings on the cultural contributions made by the minority over the many centuries of its history in the fields of music and poetry, and published the proceedings of these events in its publication series. The events organized by the Centre regularly include the music and literature of the Sinti and Roma, for instance a stage performance by the well-known *Pralipe* Theatre in the Romany language. The Documentation Centre prepared and produced the programme entitled "*Rom Som: Lyrik und Lieder der Sinti und Roma*" ["Rom Som: Poetry and Songs of the Sinti and Roma"]. This programme has been presented throughout the Federal Republic on various occasions, e.g. at the *Parlamentarischer Abend der nationalen Minderheiten* in Berlin. Priority is given in the collection activities of the Documentation Centre to a large number of music recordings, including those of DuoZett, Häns'chen Weiß and Schnuckenack Reinhardt, Romeo Franz Ensemble, Vera Bila, and Ida Kellarova - all of whom also included Romany-language productions in their recordings.

Comments by *Sinti Allianz Deutschland*
on the Third Report submitted by Germany on the implementation of the
European Charter for Regional or Minority Languages

re: No. 7

The *Sinti Allianz Deutschland* wishes to state expressly that it would welcome the establishment of a consultative committee for the German Sinti and Roma and/or the speakers of the respective variety of Romany, and is willing to co-operate with the other umbrella organization of its ethnic group.

re: No. 15a

Already in 1999, the *Sinti Allianz* drew the Federal Government's attention to the problem of the gap between the undertakings accepted for the Romany language, on the one hand, and the impracticability of fulfilling them, on the other. We therefore can only stress once more that the Sinti represented in the *Sinti Allianz* and, to our knowledge, also the non-organized Sinti are against creating a written form of their language and using that language within the state-run school system. Moreover, there is the possibility that newly arriving Roma and other gypsies might invoke certain protection provisions and lay claim, for their own group, to the protection afforded by certain measures specifically designed for autochthonous groups. As shown by No. 14 of the Report, this might risk to allow also immigrants to make themselves heard in the discussion regarding the protection of traditionally spoken languages and to influence the policies pursued by the Federal Government and the *Länder* with regard to the *Rommenes* of the German Sinti (*Sintetickes*) and the Romany of the German Romm. Therefore, the federal authorities and the *Länder* are faced with the question as to whether it would not be better to adapt the protective provisions to the canon of measures that are practicable and desired by the speakers concerned.

re: No. 54

In this context, the *Sinti Allianz* wishes to stress that - in its view - its position that the language and culture of the German Sinti should be treated as an internal matter is not based primarily on historical experience, but that this position is a cultural law of this ethnic minority, that forms part of a millennia-old taboo system of the Sinti community.

re: No. 55

With reference to the description of the state-provided funding of the Documentation Centre of German Sinti and Roma, the *Sinti Allianz* stresses that it deplores the fact that neither the Alliance, as an umbrella organization, nor any of its *Land* Associations or members have so far been provided the possibility to take part in the work of the Documentation and Cultural Centre. The Alliance finds it regrettable that, despite full state-provided funding of this institution, the Federal Government allows the Centre to confine participation exclusively to organizations and members affiliated to the Central Council of German Sinti and Roma.

**Comments by the Low German Speakers' Group
on the Third Report submitted by Germany on the implementation of the
European Charter for Regional or Minority Languages**

The Third State Report of the Federal Republic of Germany on the European Charter for Regional or Minority Languages gives a quite accurate account of how the public authorities deal, in terms of quantity and quality, with the promotion of the Low German language and culture. Accordingly, a very guarded assessment has been made of the developments and specific measures during the period under review, i.e. 2003 to 2006. The monitors register little activity, if not even stagnation. Also, apart from a few cases where noticeable progress has been made (e.g. inclusion of Low German in the curricula of Hamburg *Land*, or taking account of Low German language skills under the staff recruitment concept of the *Land* of Mecklenburg-Western Pomerania), there has been marked regression as well (for instance in Lower Saxony where the only professorship for Low German and consequently inclusion of the subject Low German in the Göttingen University curricula were discontinued, or in Bremen where the most important Low German theatre went bankrupt). These developments give good cause for general scepticism as regards actual implementation of the Regional/Minority Language Charter.

The Low German speakers' group generally calls upon the governments responsible for the Low German language to take a more offensive approach to the fulfilment and follow-up of the Regional/Minority Language Charter. After years of non-compliance with a number of undertakings it now emerges that implementation of some undertakings is even undermined on purpose, and in addition, a general funding reservation has been formulated -- by acting in this way, government authorities basically jeopardize the import and purpose of the Regional/Minority Language Charter. In the last analysis, the Charter's effectiveness can only be gauged on the basis of the number of active speakers of the regional language. The *Bundesrat für Niederdeutsch* [Federal Council for Low German] urges the *Länder* to play a more active role as regards the follow-up of the Regional/Minority Language Charter. This more active role not only refers to resolute further development, on a continuing basis, of the existing measures and standards, but explicitly also to the readiness to accept additional undertakings. Moreover, in view of the practice followed so far, there is an urgent need to regulate governmental administrative action by laying down clear implementing rules. Such regulations were demanded last in the 2005 report of the Committee of Experts of the Committee of Ministers of the Council of Europe; in their comments on the State Report, the Low German speakers' group endorsed this requirement. A look at the current practice very clearly shows that the extension of the Low German speech area to eight *Länder* entails additional difficulties in implementing concepts having a lasting effect as regards language promotion. It is absolutely essential that measures, to be effective, should be co-ordinated on a cross-*Land* basis. Especially in the field of education it is evident that adaption of both the standards and the declared objectives, at least at the school and university levels, is absolutely essential.

During the period under review, the *Bundesrat für Niederdeutsch* was involved in the monitoring process of the Council of Europe and in all measures taken by the Federal Ministry of the Interior with regard to the Regional/Minority Language Charter. The outstanding competence and commitment of the Committee of Experts, with its international membership, have strengthened the representatives of the speakers' group in their appraisal that the nature and scope of the measures taken so far for the protection of the regional language must be consistently and persistently developed further. The *Bundesrat für Niederdeutsch*, as the representative of the speak-

ers' group, has won recognition on the part of both federal and *Land* authorities. This is evidenced, for instance, by the fact that the invitation extended by the *Bundesrat für Niederdeutsch* to attend a first co-ordination meeting in Oldenburg on 8 June 2006 was accepted by representatives from six *Länder*.

Generally, a point of criticism is the respective timeline set for the submission of the comments of the speakers' group. As a democratic institution observing the principles governing the country's federal structure, the *Bundesrat für Niederdeutsch* is required to pursue co-ordination in eight *Länder* in consultation with the relevant bodies in those *Länder*. For serious and co-ordinated fulfilment of this task, more generously set deadlines are essential.

In the present case, fulfilment of this task was rendered difficult or even, in many instances, impossible by the fact that a number of *Länder* did not observe the stated time limits. But how can constructive comments be drafted if half of the texts for the report to be commented on is not yet available or still incomplete. Against this background, our comments can only refer to parts of the State Report while other parts have to be left out of consideration (e.g. the additional information regarding No. 5202 - hospitals, retirement homes, etc. - had not yet been provided in September; at least, Mecklenburg-Western Pomerania already provided the information to be included in the final report). A dialogue-based study and discussion of the text, as was practised in connection with the second State Report, was out of the question in 2006. The *Bundesrat für Niederdeutsch* regrets this development, but assumes that all agencies/actors concerned continue to be interested in constructive co-operation and that the latter will be achieved under improved circumstances. We would have liked very much to obtain more specific and up-dated information on many points; we would have liked very much to find out whether specific activities were measures either provided directly by public authorities or involving any governmental intervention.

After the intensive discussions on language-related policies during the 1990s, the Low German speech community has become very interested in the follow-up of the State Report. In this light, in particular, it is regrettable that the structure of the third State Report, with its numerous references to the second State Report, is difficult to reconcile with the general need for information.

The comments under Part A - General Situation and General Framework - evidence a defensive approach taken by government authorities to the tasks/obligations to be fulfilled under the provisions of the Regional/Minority Language Charter. It must be noted that the government funds provided for Low German language activities were extremely modest from the very beginning; so far, the federal authorities have, on the basis of policy considerations, ruled out federal funding altogether. Against this background, especially the explicit reference made under No. 1 to the tight budget situation facing public authorities does not open up any prospects - particularly as regards Low German. Yet, the budgetary situation does not obviate the need to set political priorities and to make decisions aimed at eliminating the unequal treatment of Low German as compared to the minority languages. The Regional/Minority Language Charter explicitly calls for resolute action. The greatly relativizing statements under No. 1 can almost be said to contravene this stipulation.

As regards its basic financial provision, the *Bundesrat für Niederdeutsch* is in a critical position. To put it bluntly: this body does not have any resources of its own. The delegates work in an honorary capacity; their travel expenses are paid by their parent *Land* Unions for Local and Regional Traditions; the *Institut für niederdeutsche Sprache*, despite its insufficient structural funding base, acts as the Council's executive secretariat. The *Bundesrat für Niederdeutsch* was established as an umbrella organization for a geographic area that extends beyond the territory of the entities

providing funding for the *Institut für niederdeutsche Sprache*. Also, the Council's activities relate to subjects that are not central to the terms of reference of the Bremen-based institute. Without reliable basic funding, continuation of the *Bundesrat's* work is definitely jeopardized. Against this background, the comments under No. 44, in particular, appear extremely questionable. Thus, in view of the Regional/Minority Language Charter, the principle of equality is blatantly violated by the assertion that funding could not be provided to the Low German speakers' group on the grounds that these funds would then have to be deducted from the financial support provided to other linguistic groups. It is a known fact that federal funding enables the minority language groups to fulfil their tasks concerning language-related policies. Since the Low German speakers are denied such funding, an existing imbalance is being unduly perpetuated.

In its comments on the second State Report, the *Bundesrat für Niederdeutsch* attached particular importance to the field of education. In this regard, the *Länder* had been requested to take account of the following priority criteria in their reports and - more importantly - in their activities: (1) proof of regional application, (2) proof of quantities, (3) proof of quality, (4) proof of the mandatory character, (5) proof of provision on a permanent basis. These criteria continue to be of fundamental relevance, particularly since there are only isolated cases where tentative efforts are in evidence to suggest that this catalogue is being complied with. At a time of drastic changes in the educational landscape - due to the fact that the government, as the central institution, increasingly withdraws from an active role - the question arises as to how preservation of the language can be effectively organized and implemented with the support of the educational institutions.

The State Report takes only insufficient account of the current challenges facing the schools of general education, e.g. in connection with the concepts for all-day schools, or development of subject-related standards. Thus, in No. 5060, Lower Saxony *Land* stated that it would describe the manner in which the Working Group mentioned under Nos. 994 - 996 of the second State Report performs its tasks as an independent supervisory body. However, no such description is furnished in the following text. As far as we know, the aforementioned working group does not pursue its activities on account of the current restructuring process in schools and is not in a position to monitor, or comment on, these important developments. Against this background, it clearly emerges that the mentioned working group is not suited to act as a supervisory body. For example, no details are provided on the prospective date at which the decree on "*Die Region im Unterricht*" which was repealed in 2005 would be replaced by an amended version.

This is just one example clearly showing that the efforts made so far to include Low German modules in the pro-active design of schools, by no means suffice, and that therefore appropriate measures should be urgently intensified. This also includes clear identification of the teaching hours planned for each type of school and age-group. In practice, it has proved problematic to link Low German offers with instruction in the subject 'German' or to provide them, for the major part, outside the mandatory lessons. The State Report does not provide any information giving a clear idea of whether or not measures as suggested by the Committee of Experts have been taken with the aim of establishing Low German as a subject in its own right.

The State Report does not reflect the fact that in addition to state-run educational institutions, attention is increasingly directed also at private institutions. The important action required in this context is development of plans providing for inclusion of the regional language, at the nursery-school level, and aiming at acquisition of multi-lingual skills at an early stage of life. Another conspicuous omission is that the State

Report does not mention any pro-active adult-education measures regarding life-long learning.

It may well be that, in the context of adapting the Regional/Minority Language Charter to the current conditions in the educational sector, the actors involved will come to an arrangement (modularization of the courses of study; granting schools an autonomous status). To give an example: changes regarding university and higher education or modification of the internal structures of university departments might entail consequences for the subject 'Low German'. However, such matters would on a case-by-case basis have to be settled by way of negotiation with the university concerned; but such negotiations have not yet taken place. Also, there is an urgent need for co-ordination between the various *Länder*; so far, however, all decisions were made at the individual *Land's* level. There are no jointly established cross-state plans for instituting Low German as a university subject, nor have any concepts been developed that would ensure training of junior scholars or qualified teacher training. So far, not even the intention to develop such plans has been declared.

In view of these dynamics and the generally unsatisfactory present state of affairs, statements such as that under No. 5031a are intrinsically unacceptable. This statement opens up the possibility that *Länder* may not be required to fulfil, on their own responsibility, the undertakings accepted by them but may relegate this task to other *Länder* for cumulative implementation. In practice, such a procedure implies reductions in teaching and research resources and is not compatible with the Regional/Minority Language Charter. Rather, in view of the present urgency of the need to integrate Low German elements in teacher training, the *Länder* can be expected to extend their university offers in the field of Low German philology to all institutions of higher education providing teacher training. In the context of the Bologna Process the need emerges for all actors concerned to give thought to equivalents to replace obsolete structures and notions as regards the organization of university education. The *Bundesrat für Niederdeutsch* offers to take up a constructive dialogue with the *Länder* in order to identify up-to-date modalities regarding university studies; there is an urgent need for defining, in the course of the years to come, equivalent courses of study in respect of M.A., B.A. and teacher training programmes. Irrespective of the foregoing and in accordance with the accepted undertakings, university education in the form of an independent course of study 'Low German' is absolutely necessary because this is the only means to ensure, on a continuous basis, availability of qualified junior scholars for the field of Low German philology. It would be disastrous if some of the *Länder* would use the envisaged cumulation of responsibility for implementing the undertakings, which they accepted individually, for a *posteriori* legitimization of their reduced activities. It would be in blatant contradiction with the spirit of the Regional/Minority Language Charter if such cumulation would not result in qualitative improvements regarding the state of affairs but would be used to justify reductions.

The *Bundesrat für Niederdeutsch* considers the emerging conflict in this respect so grave and dangerous that it requests the European Commission to initiate a mediation process so that a dispute related to the rule-of-law principle can be avoided.

The third State Report does not take account of the particular situation of the speakers of the *Plautdietsch* language. These are a group of some 200,000 ethnic Germans from Russia who settle in all parts of the Federal Republic and speak a Low German, or *Plattdeutsch*, variant having its linguistic roots in the area of the Vistula estuary and thus, in strictly historical terms, on German territory. On account of the dispersed settlement within the Federal Republic and in view of the general integration and acculturation pressure, preservation of the Low German language of these groups is severely jeopardized. The *Bundesrat für Niederdeutsch* calls upon

the government authorities concerned to take part in the development of effective protective mechanisms that will help to ensure the survival of this autochthonous variant.

The European Charter for Regional or Minority Languages is one of the few legally relevant instruments available to the Low German speakers' group. The measures taken by those *Länder* that signed Part II of the Charter (North-Rhine/Westphalia, Saxony-Anhalt and Brandenburg) only in limited instances let it become clear that the provisions are binding under international law. The Charter explicitly calls for "resolute action to promote regional or minority languages" (Article 7, para. 1 c). The very restrained reporting by Brandenburg *Land* which provides no information on new developments and progress made, and focuses on the elimination of discriminatory practices goes to show that at present insufficient notice is taken of the aforementioned objectives. As regards Low German, only such governmental action can be considered "resolute" as is based on a comprehensive language-policy and language-planning strategy for the respective language and implements this strategy on an overarching scale and not just in a number of instances. To this end, provision of pertinent legal bases, of specialized institutions responsible for promotion measures and of adequate funding is absolutely essential. This governmental task entails the obligation to take positive - not just reactive and defensive - action aimed at promoting the regional language and ensuring positive 'discrimination', in the literal sense of the word, in respect of this language.

Bremen, 21. Juli 2006

Dr. Reinhard Goltz, Bundesrat für Niederdeutsch

Annex**Legislation and agreements of recent date**

- not contained in Germany's previous periodical reports -
that are of relevance to the implementation of the
European Charter for Regional or Minority Languages

**Gesetz zur Förderung des Friesischen im öffentlichen Raum
(Friesisch-Gesetz - FriesischG)**
Act to promote Frisian in the Public Sphere (Frisian Act)
of 13 December 2004

Frisian Act

GS Schl.-H. II, Gl.Nr. 188-1
[Schleswig-Holstein Gazette of Laws and Ordinances, 2004, p. 481]

The *Landtag* adopted the following Act:

Preamble

ACKNOWLEDGING the Frisians' will to preserve their language and thus retain their identity also in future; BEARING IN MIND that everybody is free to declare his or her affiliation with the Frisian ethnic group; TAKING INTO ACCOUNT that outside the borders of Federal Republic of Germany, the Frisians do not have any other mother country that would feel committed to their concerns and would take care of the preservation of their language; HAVING IN MIND that protection and fostering of the Frisian language are in the interest of the *Land* of Schleswig-Holstein; IN CONSIDERATION OF the Council of Europe Framework Convention for the Protection of National Minorities and of the European Charter for Regional or Minority Languages; INVOKING Article 3 of the Basic Law and Article 5 of the Constitution of the *Land* of Schleswig-Holstein;

the Schleswig-Holstein *Landtag* adopts the following Act:

Section 1

The Frisian language used by, and in relations with, public authorities

(1) Schleswig-Holstein *Land* recognizes the variants of the Frisian language spoken in Schleswig-Holstein as an expression of the *Land*'s intellectual and cultural wealth. Use of this language shall be left to the discretion of its speakers. Its use, in spoken and written form, in public life and encouragement to use it in this way shall be protected and promoted.

(2) Citizens shall have the right to address administrative authorities in Nordfriesland *Kreis* and on the Island of Heligoland in Frisian and to submit applications, records, deeds or other documents in this language; Section 82a, paras. 2 to 4 ["Official Language" (translation and interpretation)] of the *Land* Administration Act applies *mutatis mutandis* whenever the staff of the given public authority have no command of the Frisian language. If a person, in his/her dealings with the public authorities of Nordfriesland *Kreis* or on Heligoland, uses the Frisian language, these authorities may also use the Frisian language in their communications with that person provided that the respective administrative action does not infringe upon the rights of third parties or impair the ability to act of other actors in public administration.

(3) The public authorities in Nordfriesland *Kreis* and on the island of Heligoland may draft bilingual official forms and public notices in the German and Frisian languages.

Section 2

Criterion for the recruitment of public service staff

Schleswig-Holstein *Land*, Nordfriesland *Kreis* and its local authorities as well as the local authorities of Heligoland shall take Frisian language skills into account when recruiting personnel for the public service if and where this is considered necessary for performing a specific function.

Section 3

Signs indicating public buildings

(1) In Nordfriesland *Kreis* and on the island of Heligoland, signs marking buildings of *Land* authorities and buildings of public-law corporations, institutions and foundations that are subject to supervision by the *Land* shall bear bilingual inscriptions in the German and Frisian languages. Where monolingual signs are provided, these may be supplemented by Frisian-language inscriptions.

(2) Nordfriesland *Kreis* and its local authorities and the local authorities of Heligoland may provide bilingual signs in the German and Frisian languages to mark their public buildings and buildings of public-law corporations, institutions and foundations that are subject to their supervision in Nordfriesland *Kreis* and on the island of Heligoland.

(3) The *Land* of Schleswig-Holstein will strive to ensure that signs marking other public buildings and topographical markings in Nordfriesland *Kreis* and on the island of Heligoland will also bear bilingual inscriptions in the German and Frisian languages.

Section 4

Seals and letterheads

The provisions under Section 3 above may be applied *mutatis mutandis* to seals and letterheads used by public authorities and public-law corporations in Nordfriesland *Kreis* and on the island of Heligoland.

Section 5

Colours of the Frisian flag, and the Frisian coat of arms

In Nordfriesland *Kreis*, the colours and the coat of arms of the Frisians may be used together with the colours and the coat of arms of the *Land*. The Frisian colours are gold-red-blue.

Section 6

Place-name signs

In Nordfriesland *Kreis*, pursuant to Section 46, para. 2, of the German Road Traffic Regulations, place-name signs (Sign 310 of the Road Traffic Regulations) may bear bilingual front-side inscriptions in the German and Frisian languages. The public authorities of the *Land* shall take account of, and promote this objective; to this end, they may specify requirements with regard to the design and posting of such signs.

Section 7

Promulgation

This Act shall be promulgated in the German language and in a Frisian translation.

Section 8
Entry into Force

This Act shall enter into force on the day following its promulgation.

The above law is hereby enacted and shall be promulgated.

Kiel, 13 December 2004

Heide Simonis
Minister-President

Klaus Buß
Minister of the Interior

Dr. Bernd Rohwer
Minister of Economics, Labour and Transport

Frisian Translation

Gesäts fort stipen foont friisk önj e öfentlikhäid
(Friisk-Gesäts - FriiskG)
Foon e 13. önj e jülmoune 2004

Präambel

Önj önjerkåning, dät da friiske jare spräke än deerma jare identitäät uk önj e tukamst bewååre wan, aw grün foon et rucht, dät följik ham fri tu e friiske följkefloose bekåne mäjt, aw grün foon et waasen, dät da friiske bütefor da gränse foon e Bundesrepubliik Tjüschlönj nån äinen stoot häåwe, wat ham ferplächtet fäilt än stip da friiske bait bewååren foon jare spräke, önjt bewustweesen, dät dät schöölen än dät stipen foon e friiske spräke önjt inträse foont lönj Slaswik-Holstiinj läit, aw grün foon e „Rååme-oueriinjskamst foon e Eurooparädj fort schöölen foon natsjonaale manerhäide“ än e „Europääisch charta foon e regionaal- unti manerhäidespräke“, aw grün foon artiikel 3 foont grüngesäts än artiikel 5 foon e ferfooting foont lönj Slaswik-Holstiinj beslüt di Slaswik-Holstiinjsche Loondäi dâtheer gesäts:

§ 1

Friiske spräke önj e öfentlik ferwåltung

(1) Dät lönj Slaswik-Holstiinj schucht da friiske spräkeforme, wat önj Slaswik-Holstiinj brükd wårde, as en diilj foon e gaistie än kulturåle rikduum foont lönj önj. Följik mötj da änkelt friiske spräkeforme fri brüke. Dät brüken foon da änkelt friiske spräkeforme önj e öfentlike ferwåltunge önj uurd än schraft än e motiwatsjoon deertu wårt schööld än stiped.

(2) Da bürgerine än bürgerere koone ouerfor e ferwåltunge önj e kris Nordfraschlönj än awt ailönj Håililönj di friiske spräke brüke än insäkne, dokumänte, urkunde än ouder schraftlik materiool önj e friiske spräke forleede. Wan deer niimen önj e ferwåltung as, wat friisk koon, jült § 82 a oufsnit 2 bit 4 foont loonsferwåltungsgesäts sūdånji uk fort friisk. Brükt en bürgerin unti en bürger ouerfor e ferwåltunge önj e kris Nordfraschlönj unti awt ailönj Håililönj di friiske spräke, sü koone e ferwåltunge uk di friiske spräke ouerfor jüdeer bürgerin unti dideere bürger brüke, wan oudere niinj noodiile deerdöör häåwe unti dät årbe foon oudere ferwåltunge deerdöör ai behanerd wårt.

(3) Ofisjåle formulaare än öfentlike bekåndmååginge koone foon e ferwåltunge önj e kris Nordfraschlönj än awt ailönj Håililönj twäärspråket aw tjüsch än aw friisk ütånj wårde.

§ 2

Kriteerium fort instalen önj e öfentlike tiinjst

Wan huum friisk koon än wan jüdeer kwalifikatsjoon önj e änkelt fål än önjt konkret årbefålj nüsi as, wårt jüdeer kwalifikatsjoon foont lönj Slaswik-Holstiinj än di kris Nordfraschlönj än da komuune önj e kris Nordfraschlönj än awt ailönj Håililönj bait instalen önj e öfentlike tiinjst önjråågend.

§ 3

Schilde bai gebüude

(1) Bai gebüude önj e kris Nordfraschlönj än awt ailönj Håililönj schan twäärspråkede schilde aw tjüsch än friisk önjbroocht wårde, wan et ham am ferwåltunge foont lönj

unti am organisatsjoone, instituutsjoone än stiftinge eeffert öfentlik rucht hoonelt, wat et lönj tuhiire. Bai üülje iinspräkede schilde koone schilde aw friisk tufäiged wårde.

(2) Di kris Nordfraschlönj än da komuune önj e kris Nordfraschlönj än awt ailönj Håililönj häåwe et rucht än bräng bai gebüüde önj e kris Nordfraschlönj än awt ailönj Håililönj twäärspräkede schilde aw tjüsch än friisk önj, wan et ham am ferwåltinge unti am organisatsjoone, instituutsjoone än stiftinge eeffert öfentlik rucht hoonelt, wat e kris unti e komuune tuhiire.

(3) Dåt lönj Slaswik-Holstiinj seet ham deerfor in, dåt da schilde bai oudere öfentlike gebüüde än topograafische betiikninge önj e kris Nordfraschlönj än awt ailönj Håililönj twäärspräket aw tjüsch än friisk önjbroocht wårde.

§ 4

Siigele än bräifhoode

Da bestiminge önj e § 3 mätj huum sūdānji uk for siigele än bräifhoode önjwiinje, wat döör ferwåltinge än organisatsjoone önj e kris Nordfraschlönj än awt ailönj Håililönj brükd wårde.

§ 5

Friiske blaie än woopen

Da blaie än et woopen foon da friiske koone önj e kris Nordfraschlönj tubai da blaie än et woopen foont lönj brükd wårde. Da friiske blaie san gölj-rüüdj-ween.

§ 6

Toorpsschilde

Jü fordernid foon toorpsschilde (ferkiirstiiken 310 önj e strooteferkiirsordning) koon önj e kris Nordfraschlönj eeffter § 46 oufsnit 2 strooteferkiirsordning twäärspräket aw tjüsch än friisk weese. Da ferwåltinge foont lönj schan deeraw åchte än jam deerfor inseete, dåt dåtdeer müülj långd wårde koon - want nüsi deet, schal deerbai en rååme seet wårde, hüdānji da schilde ütsiinj än apstald wårde schan.

§ 7

Bekānd måågen

Dåtheer gesāts wårt aw tjüsch än önj en friisk ouerseeting bekānd mååged.

§ 8

Termin

Dåtheer gesāts jült ouf ån dāi eeffert bekānd måågen.

Extract from:

[Schleswig-Holstein Gazette of Laws and Ordinances, 2006, p. 204]

***Gesetz über die Errichtung einer Anstalt öffentlichen Rechts
„Offener Kanal Schleswig-Holstein“
(OK-Gesetz)***

**Act establishing the public-law institution "Open Channel Schleswig-Holstein"
(Open Channel Act)**

of 18 September 2006

The *Landtag* adopted the following Act:

Table of Contents

Part I

Offener Kanal Schleswig-Holstein

Chapter I

Establishment and Principles

Section 1 Establishment

Section 2 Tasks and Principles

Section 3 Eligibility for Access

Section 4 Principles governing Non-Profit Operation of the Open Channel

Chapter II

Organization and Funding

Section 5 Bodies of the Institution

Section 6 Advisory Board

Section 7 Responsibilities of the Advisory Board

Section 8 Director of the Institution

Section 9 Funding

Section 10 Accounting

Section 11 Data Protection

Section 12 Inadmissibility of Insolvency

Section 13 Legality Oversight

Part II

Amendment of the *Land* Broadcasting Act

Section 14 Amendment of the *Land* Broadcasting Act

Part III

Transitional and Final Provisions

Section 15 Transitional Provisions

Section 17 Entry into Force

Part I

Offener Kanal Schleswig-Holstein [Open Channel Schleswig-Holstein]

Chapter I Establishment and Principles

Section 1 Establishment

(1) *Offener Kanal Schleswig-Holstein* (Open Channel) is established as a public-law institution having legal capacity. It shall have the right to manage its affairs by way of self-administration.

(2) The institution shall have its registered office in Kiel.

Section 2 Tasks and Principles

(1) The institution shall provide groups and individuals who are not broadcasters themselves ("users") with an opportunity to put their own contributions regionally on air as sound radio or television broadcasts (citizens' broadcasting programmes). The institution also shall perform functions as regards promotion and imparting of media-related skills. In performing these tasks, it shall also contribute towards the promotion of minority languages.

(2) The Open Channel will be operated

1. as an independent sound radio programme over short-range coverage stations; and
2. as a television programme over a cable TV system

primarily in Schleswig-Holstein's agglomeration areas. The institution shall make the necessary arrangements to provide a working basis for the parties responsible for technical implementation. Permanent offices of the Open Channel are located in Flensburg, Heide, Husum, Kiel and Lübeck.

(3) Broadcasts aired over the Open Channel shall comply with the provisions of the general laws and with the legal provisions aimed at protecting the family, youth and equal treatment of men and women as well as the right to inviolability of personal honour.

(4) The programmes of the Open Channel shall respect human dignity as well as the population's ethical, religious and ideological convictions.

Section 6 Advisory Board

(1) The Advisory Board has five members. Its term of office is five years.

(2) The Advisory Board is constituted by

1. two representatives of the Schleswig-Holstein members of the Media Council of the *Land* Supervisory Authority for Private Broadcasters;
2. one representative of the Schleswig-Holstein Union for Local and Regional Traditions [*Schleswig-Holsteinischer Heimatbund e.V.*];
3. one representative of *Interdisziplinäres Zentrum Multimedia* [Interdisciplinary Centre 'Multimedia'] of the Kiel *Christian-Albrechts-Universität*; and
4. one representative designated by the Minister-President's Commissioner responsible for Minority and Cultural Issues.

(3) The representatives mentioned under para. 2 above shall be delegated, for the respective term of office, by the designated bodies or organizations. They may be redelegated once for another term of office. The chairperson of the Advisory Board shall decide on the date by which the respective representative is to be appointed for the new term of office. If, and for the time during which, no use is made of the right to delegate a representative, the number of the Board's members is reduced accordingly. The members of the Advisory Board may only for good cause be recalled from their post by the bodies/organizations entitled to delegate representatives. If a member retires, a successor shall be appointed, for the remaining term of office, in accordance with the provisions governing the appointment of the retired member.

(4) The Advisory Board constitutes a quorum when at least three members are present. The Board shall make its decisions by a simple majority unless otherwise provided by the present Act. In case of equality of votes, a request/application shall be deemed denied.

(5) From among its members, the Advisory Board shall elect, by secret ballot, the chairperson and the vice-chairperson.

(6) The institution's director shall attend the meetings of the Advisory Board. The director shall be informed in good time of the date of a meeting. Upon the director's request, he/she shall be heard.

The authority responsible for legality oversight shall have the right to delegate a representative to attend the Board's meetings. This representative shall be heard at any time.

Section 17 Entry into Force

This Act shall enter into force on 1 October 2006.

The above law is hereby enacted and shall be promulgated.

Kiel, September 2006

Peter Harry Carstensen
Minister-President

Framework Agreement
between
the Rhineland-Palatinate *Land* Government
and
the *Verband Deutscher Sinti und Roma* [Union of German Sinti and Roma]
- Rhineland-Palatinate *Land* Association (reg'd)

Preamble

- I. On 18 May 2000, Article 17, para. 4, of the Constitution of Rhineland-Palatinate entered into force, stating that "The State shall respect ethnic and linguistic minorities." On 18 January 1996, the *Landtag* agreed to the *Land's* declaration of consent to the Council of Europe Framework Convention for the Protection of National Minorities with regard to German Sinti and Roma living in Rhineland-Palatinate. On this basis, the *Land* Government - in a framework agreement concluded between the Rhineland-Palatinate *Land* Government and the *Verband Deutscher Sinti und Roma* [Union of German Sinti and Roma], represented by its Rhineland-Palatinate *Land* Association - reaffirms its will, also with reference to the Council of Europe Framework Convention for the Protection of National Minorities, to provide for appropriate measures that will create the prerequisites for active participation of the Sinti and Roma in Rhineland-Palatinate in all areas of cultural, social, economic and political life.
- II. IN VIEW OF the Sinti and Roma genocide committed under the National-Socialist regime, the *Land* Government is aware of its special historical responsibility, in particular towards the members of this minority.

DESIROUS of supporting and promoting peaceful living together of the entire population of Rhineland-Palatinate;

RESPECTING the ethnic, cultural, linguistic and religious identity of the members of a minority;

IN RECOGNITION and MINDFUL OF the more than 600 years of the German Sinti's and Roma's history;

RESOLVED to join efforts in order to create adequate conditions making it easier for Sinti and Roma in Rhineland-Palatinate to express, preserve and further develop their identity; -

the Rhineland-Palatinate *Land* Government

and

the *Verband Deutscher Sinti und Roma* [Union of German Sinti and Roma]
 - Rhineland-Palatinate *Land* Association

conclude the following Framework Agreement:

Article 1

The *Land* Government expressly acknowledges that the German Sinti and Roma, as a recognized minority traditionally settled in Germany, are afforded special protection under the Council of Europe Framework Convention for the Protection of National Minorities.

The *Land* Government confirms its resolve to implement, in co-operation with the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association, the principles laid down in the aforementioned Framework Convention.

Any differences of opinion concerning the interpretation of any provision of the Council of Europe Framework Convention for the Protection of National Minorities shall be settled amicably between the *Land* Government of Rhineland-Palatinate and the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association.

Article 2

The *Land* Government also reaffirms its commitment to the undertakings accepted under the European Charter for Regional or Minority Languages, which concern many and various spheres of life.

Aware that the Romany used by the German Sinti and Roma is recognized as a minority language within the meaning of the European Charter for Regional or Minority Languages, the *Land* Government confirms its commitment to the undertakings accepted under this Charter. Considering that the minority language Romany is an expression of cultural wealth, the *Land* Government protects and promotes preservation of the minority language Romany on the basis of these undertakings. In addition to the undertakings accepted by the *Land* Government, the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association will continue to strive for complete legally binding recognition of this minority language (with a quorum) under Part III of the Charter. This matter will be the subject of further discussion between the *Land* Government and the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association.

Any differences of opinion concerning the interpretation of any undertaking accepted under the European Charter for Regional or Minority Languages shall be settled amicably between the *Land* Government of Rhineland-Palatinate and the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association.

Aware of the consequences entailed for this minority by the genocide committed by the National-Socialist regime and of the resultant discrimination also after 1945, the *Land* Government confirms its willingness to take promotional measures also in the field of education in order to ensure equal opportunities for the members of this minority in all stages of education.

For the preservation of the culture and language of the Sinti and Roma, the *Land* Government supports initiatives of the *Land* Association aimed at providing self-orga-

nized additional offers in child care institutions (children's day-care centres) and educational institutions (schools, colleges/universities). These offers are developed by, and implemented under the responsibility of, the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association. The *Land* Government welcomes such additional measures (which in schools are implemented in the form of activity groups) offered by the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association to Sinti and Roma children, and appeals to the responsible bodies/ agencies to support these measures and urges the schools to co-operate with the Union's tutors.

The *Land* Government agrees - within the limits of the availability of budgetary funds - to support applications for project funding filed by the *Land* Association, e.g. in the fields of further vocational training and of promotion of artistic skills and the special features of the music of Sinti and Roma in Rhineland-Palatinate.

Article 3

The *Land* Government fosters remembrance of the Sinti's and Roma's history, and especially of their persecution and of the systematic genocide committed by the National-Socialists.

To this end, schools include the Sinti's and Roma's history as an integral part of classroom instruction and learning and their respective curricula take account of subjects concerning the fate suffered by the Sinti and Roma, especially under the National-Socialist regime.

In this context, the *Land* Government strives to ensure that the pertinent educational materials used by the *Land's* schools and universities/colleges allow for the Sinti's and Roma's history to be taught in such a way that any prejudices held in this respect will be removed.

The existing close co-operation between the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association and the *Landeszentrale für politische Bildung* [*Land* Agency for Civic Education] is to be continued with particular reference to history-related awareness-raising, public information and fostering tolerant attitudes towards minorities.

In connection with the study and reappraisal of the Sinti's and Roma's history, the involvement and active participation of the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association in committees and other bodies planning memorial sites and commemoration events in Rhineland-Palatinate is being continued.

As the body representing the Sinti and Roma in Rhineland-Palatinate, the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association is a member of the advisory board for the *Härtefonds des Landes Rheinland-Pfalz zur Unterstützung von Opfern des Nationalsozialismus* [Hardship Fund of Rhineland-Palatinate *Land* for Assisting Victims of National Socialism] which was established as of 30 September 1996. The *Land*

Government also promotes the Association's involvement and active participation in bodies dealing with the immediate concerns and interests of Holocaust survivors. Against the background of the fate suffered by this minority under the National-Socialist regime, the *Land* Government recommends to local authorities that these should, in the context of their administrative action, show reasonable consideration for the fact that relatives of Sinti and Roma were murdered in the concentration and extermination camps and that therefore after 1945 the survivors were faced with particular difficulties and hardships, the sequels of which are felt until this day.

Considering that there are no burial places, or - at most - only anonymous mass graves, for the victims of the concentration camps, the *Land* Government points out in recommendations addressed to the *Kommunaler Rat* ["Council of Municipalities", an advisory body to the Rhineland-Palatinate *Land* legislature] that the Government sees good cause for making particular allowances also in the context of granting permission for adequate and permanent family graves and takes the view that, on a case-by-case basis, consideration should be given to granting exceptional permission in derogation from the regular provisions of the bye-law regulating the design and management of cemeteries ["*Friedhofsordnung*"] of the given local authority.

Article 4

The *Land* Government and the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association will work towards counteracting any discrimination against members of this minority.

This obligation applies particularly to members of ethnic groups such as the Sinti and Roma, who suffered grave wrongs inflicted by state bodies during the National-Socialist regime. Out of respect for the victims alone, the police must not discriminate against Sinti and Roma, nor promote or prompt any prejudices against them. This includes, in particular, the designation of accused persons as members of a minority in police reports and in information provided to third parties, including the press.

The *Land* Media Act, which includes a provision providing for the appointment [to the Assembly of the *Land* Centre for Media and Communications] of a representative of the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association, entered into force on 1 April 2005. This enables the German Sinti and Roma to make their interests known, and any possible discrimination can be counteracted.

In the *Land* Government's view, production of programmes and their transmission over the Open Channels in Rhineland-Palatinate is one of the possible ways to inform the general public of the concerns and issues that are of importance to the German Sinti and Roma. The *Land* Government will support initiatives pursuing such objectives.

Article 5

Subject to the necessary budget authorizations by the *Land* Parliament *qua* budget legislator, the *Land* Government pledges to grant institution-based support to the Secretariat and the Counselling Bureau of the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association in order to provide a sustained sound basis for the *Land* Association's activities in accordance with the requirements identified in the 2005 Budget and Economic Plan. Apart from such institution-based support, the *Land* Government agrees in continuation of the current practice and with particular reference to the study and reappraisal of the Sinti's and Roma's history, to support applications for project-related funding for the preservation of the minority language Romany and for activities in the cultural and social fields, to the extent allowed by the availability of budgetary funds.

Article 6

Prior to issuing regulations on matters of particular relevance for the Sinti and Roma living in Rhineland-Palatinate, the *Land* Government will inform the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association accordingly and will give the Union the opportunity to comment on any such regulations.

Article 7

In order to maintain and develop their contacts, the *Land* Government and the Union of German Sinti and Roma - Rhineland-Palatinate *Land* Association will seek to hold regular meetings.

Article 8

This Framework Agreement shall enter into force on the date of its signature and is concluded for an indefinite period of time. The *Land* Government and the Union of German Sinti and Roma – Rhineland-Palatinate *Land* Association are aware of the fact that the present Agreement is concluded on the basis of the conditions and circumstances prevailing at this time. They agree to review the Framework Agreement after a lapse of five years in the light of the experience gained until that time and, if and where required, to adapt it to the changed conditions. Any amendment of the Framework Agreement should be demanded unilaterally by either Party to the Agreement only if the legal requirements under Section 60 of the Administrative Procedure Act are met.

Mainz, 25 July 2005

Kurt Beck
Minister-President of
the *Land* of Rhineland-Palatinate

Jacques Delfeld
Chairman
Verband Deutscher Sinti und Roma -
Rhineland-Palatinate *Land* Association