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**EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES**

**APPLICATION OF THE CHARTER IN GERMANY**

**Fourth monitoring cycle**

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

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

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

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

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

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

adopted by the Committee of Experts on 2 December 2010  
and presented to the Committee of Ministers of the Council of Europe  
in accordance with Article 16 of the Charter

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

#### **1.1. The ratification of the Charter by Germany**

1. The Federal Republic of Germany signed the *European Charter for Regional or Minority Languages* (hereafter referred to as “the Charter”) on 5 November 1992 and ratified it on 16 September 1998. The Charter entered into force in Germany on 1 January 1999.
2. The instrument of ratification of Germany is set out in Appendix I of this report. Germany declared at the time of ratification the regional or minority languages protected under the Charter were Danish, Upper Sorbian, Lower Sorbian, North Frisian, Sater Frisian, Low German and Romani.
3. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers<sup>1</sup>. The German authorities presented their fourth periodical report to the Secretary General of the Council of Europe on 7 June 2010.

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

4. This fourth evaluation report is based on the information obtained by the Committee of Experts from the fourth periodical report of Germany as well as through interviews held with representatives of the regional or minority languages in Germany and the German authorities during the on-the-spot visit, which took place from 1 – 3 September 2010. The Committee of Experts received comments from bodies and associations legally established in Germany, submitted pursuant to Article 16, paragraph 2 of the Charter.
5. In the present fourth evaluation report the Committee of Experts will focus on the provisions and issues under both Part II and Part III which were singled out in the third evaluation report as raising particular problems. It will evaluate in particular how the German authorities have reacted to the issues detected by the Committee of Experts and, where relevant, to the recommendations made by the Committee of Ministers. The report will firstly recall the key elements of each issue. The Committee of Experts will also look at the new issues detected during the fourth monitoring round.
6. The present report contains detailed observations that the German authorities are urged to take into account when developing their policy on regional or minority languages. On the basis of these detailed observations, the Committee of Experts has also established a list of general proposals for the preparation of a fourth set of recommendations to be addressed to Germany by the Committee of Ministers, as provided in Article 16, paragraph 4 of the Charter.
7. This report is based on the political and legal situation prevailing at the time of the Committee of Experts’ on-the-spot visit to Germany (September 2010).
8. The present report was adopted by the Committee of Experts on 2 December 2010.

#### **1.3. General issues arising in the evaluation of the application of the Charter in Germany**

9. The German authorities have continued to inform the public at large about the Charter and the regional or minority languages used in Germany. For example, several brochures on the Charter were published (one in co-operation with the Council of Europe). In addition, the Federal Ministry of the Interior

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

continues to hold annual implementation conferences on the Charter. The Committee of Experts considers these measures as exemplary.

10. As in the previous monitoring cycles, the division of competences between the federal and *Land* governments remains an issue in relation to practical implementation of the Charter. In those cases where the *Land* government takes insufficient steps to implement the Charter, the federal government argues that it is powerless to intervene. The *Länder* should be reminded, however, that they are legally obliged, as part of the German state bound by the Charter, to take all the steps necessary to implement the Charter. The Committee of Ministers in its Recommendation no. 1 called upon Germany to “adopt specific legal provisions, where their absence hinders practical implementation of the undertakings which Germany has entered into under the Charter”.

11. The Committee of Experts is aware that some sort of cooperation exists between *Länder* authorities with regard to the protection and promotion of Low German. It encourages the authorities to give a presentation of this cooperation in the next periodical report.

## **Chapter 2. Conclusions of the Committee of Experts on how the German authorities reacted to the recommendations of the Committee of Ministers**

### **Recommendation no. 1:**

*“adopt specific legal provisions, where their absence hinders practical implementation of the undertakings which Germany has entered into under the Charter”*

12. No legal provisions to implement the Charter have been adopted. The German authorities maintain that the Charter is directly applicable and that emphasis should be put on practical application of the undertakings.

### **Recommendation no. 2:**

*“adopt and implement a structured policy for the promotion and preservation of North Frisian, Sater Frisian and Lower Sorbian, including in particular measures which ensure as a matter of urgency that primary and secondary education is available in these languages”*

13. In *Land* Schleswig-Holstein a decree concerning **North Frisian** language education was issued, which requires schools to inform parents that they may request that their children take part in North Frisian language education and offers the possibility to include Frisian as an optional subject in the normal curriculum from the seventh grade onwards. In practice, North Frisian education still meets with difficulties, due to the fact that teaching generally takes place outside regular hours, due to a lack of teachers and since there are no binding curricula. In addition there is a lack of continuity between school levels and programmes.

14. There is still no primary or secondary education in **Sater Frisian**. However, as of 2011 Sater Frisian will be taught bilingually in kindergartens and primary schools in Saterland. The Lower Saxony authorities also provided financial support to the association of Sater Frisian speakers thus enabling them to provide teaching materials, organize training courses and reimburse the travel expenses of volunteers teaching Sater Frisian in kindergartens.

15. No significant positive changes have been reported with respect to **Lower Sorbian**.

### **Recommendation no. 3:**

*“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;*
- *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 Romani in the field of education, in co-operation with the speakers”*

16. Two out of the four **Upper Sorbian** secondary schools in the core area of the Sorbian language have been closed in the Free State of Saxony, according to the authorities due to the declining number of children entering school in the villages concerned.

17. Since February 2009 the Framework Concept Plan for Primary Schools in Hamburg provides for the teaching of **Low German** as a separate subject at least in the rural areas of the city state of Hamburg which are part of the Low German linguistic landscape. Lessons for the acquisition of Low German were introduced at primary schools as of the 2010/2011 school year and Low German is currently taught at least two hours per week to a relatively high number of pupils in 10 primary schools, based on a flexible model.

18. Regarding **Romani**, no structured policy in the field of education has been adopted. The Romani speakers however mostly reject any use of the language outside the Roma and Sinti community.

#### **Recommendation no. 4:**

*“ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III”*

19. No measures have been taken to ensure an effective monitoring mechanism in the field of education for regional or minority languages. The German authorities maintain that the already existing regular reports fulfil this undertaking. They further claim that additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

#### **Recommendation no. 5:**

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

20. A structured policy concerning the use of regional and minority languages in dealings with the administration or, where relevant, in courts is still lacking. As long as the possibility exists *de jure* according to statutory law, the authorities do not see the necessity of any additional measures. The use of regional and minority languages in these fields remains very limited in practice.

21. With regard to Danish, a growing number of Danish-speakers are working in administration. However, it remains unclear whether it is always possible to validly submit documents in Danish or, when submitted, whether the costs for translating documents are covered by the authority concerned.

#### **Recommendation no. 6:**

*“take measures so that adequate radio and television broadcasting are available in Sater Frisian, North Frisian, Lower Sorbian and Danish.”*

22. The German authorities continue to consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media.

23. Regarding **North Frisian**, the Hamburg/Schleswig Holstein media authority (MA HSH) organized a call for bids especially aimed at providers that could contribute to the promotion of Frisian. A frequency on the Island of Föhr was awarded to the Open Channel Schleswig-Holstein for ten years. The Open Channel will broadcast one hour per day in North Frisian.

24. No television programmes in North Frisian or **Sater Frisian** are available.

25. For the **Danish** language, the radio station R.SH and the Open Channel broadcast news and ad hoc programmes in Danish. Also, a one-hour Danish television programme is broadcast monthly on the Open Channel Flensburg. The coverage via the Open Channel Kiel is planned to be extended. On the whole, however, the current provision is limited in terms of area covered, regularity and amount of broadcasting. This is partly due to a lack of systematic financial support by the authorities, which refer to the independence of the media, but also due to problems in mobilising people within the Danish minority to create Danish programmes on the Open Channel (citizens channel). As a result of an agreement initiated by the German authorities, television channels from Denmark can be received through the cable network. Furthermore, technical measures have been taken to ensure that Danish television programmes can be received in Schleswig-Holstein after digitalisation.

## Chapter 3. The Committee of Experts' evaluation in respect of Part II and Part III of the Charter

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

26. The German authorities declared at the moment of ratification that, as a result of German law and administrative practice, the requirements of a number of Part III provisions were met with regard to Romani on the whole territory of the Federal Republic of Germany and with regard to Low German in the *Länder* of Brandenburg, North Rhine-Westphalia and Saxony-Anhalt. The Committee of Experts decided that Part II applied to these languages in these cases.

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

Article 7, paragraph 1.a

Article 7, paragraph 1.e

Article 7, paragraph 1.g

Article 7, paragraph 1.i

Article 7, paragraph 2

Article 7, paragraph 3

Article 7, paragraph 5.

#### Article 7

##### Paragraph 1

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

...

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

#### Lignite mining and the Sorbian languages

28. In the third evaluation report, the Committee of Experts encouraged the authorities to take active measures to compensate the difficulties in the protection and promotion of the Sorbian language caused by the lignite mining.

29. According to the fourth periodical report, there are plans under consideration to expand the mining area in Brandenburg. If realised, the expansion would also affect one village (Proschim/Prožym) belonging to the officially defined settlement area of the Sorbs. The Land authorities have commissioned a study on the situation of Sorbian culture in that village, including the use of Upper Sorbian. The findings of this study will be taken into account when taking a final decision about the future mining zone. In Saxony, several agreements have been concluded between the mining company Vattenfall and the population affected by earlier resettlements, ensuring the promotion of the Sorbian language and culture. In addition, the Sorbian umbrella association *Domowina* has issued a joint declaration with Vattenfall on this matter. The German authorities stress that lignite mining has on the whole a positive (economic) impact on the Sorbian minority as it limits outward migration from the Sorbian-speaking area. Nevertheless, the Committee of Experts encourages the German authorities to continue their efforts to compensate the difficulties in the protection and promotion of the Sorbian language caused by lignite mining.

### **Upper Sorbian**

30. In the third evaluation report, the Committee of Experts noted that the merger of almost the entire Upper Sorbian-speaking area into one administrative unit would in general have a positive effect on the Upper Sorbian language. However, it also referred to concerns of representatives of the Upper Sorbian speakers that the decreased percentage of Sorbian-speakers in the total population of the new district (from 10% to 5%) would have a negative effect on political participation. The Committee of Experts encouraged the authorities to ensure that the mergers into fewer and larger administrative districts do not have a negative effect on the protection and promotion of the Upper Sorbian [...] [language].

31. According to the fourth periodical report, the administrative change does not affect the legally defined settlement area of the Sorbian minority and its rights. Nevertheless, the German authorities have taken measures to ensure that the interests of the Sorbs are taken into account. For example, the District (Kreis) of Bautzen established a Committee on Sorbian Affairs and the District of Görlitz an Advisory Committee on Sorbian Affairs. Both districts also nominated commissioners for the Sorbian minority. The Committee of Experts welcomes these steps.

### **North Frisian**

32. In the third evaluation report, the Committee of Experts was made aware of plans to merge the district (Kreis) of Nordfriesland in 2013 into a bigger unit and considered that this may have a negative effect on the protection and promotion of North Frisian. The Committee of Experts encouraged the authorities to ensure that the mergers into fewer and larger administrative districts do not have a negative effect on the protection and promotion of the [...] North Frisian [language].

33. According to the fourth periodical report, the situation has changed as the plans to merge the district of Nordfriesland into a bigger unit are no longer pursued.

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

### **Upper and Lower Sorbian**

34. In the third evaluation report, the Committee of Experts urged the German authorities to reach an agreement that at least maintains the previous financial contribution of the federal authorities and the *Länder* to the Foundation of the Sorbian People.

35. According to the fourth periodical report, an agreement was reached between the federal and the Land authorities on the joint funding of the Foundation of the Sorbian People. The agreement specifies that the Foundation will receive an annual support of 16.8 million Euros compared to 15.6 million Euros hitherto. From this amount, 8.2 million Euros are covered by the federal authorities. The Committee of Experts acknowledges this generous support.

36. During the on-the-spot visit, the Committee of Experts was informed that the new Minister-President of Saxony, who is a Sorb, regularly uses Sorbian in public, for example when making speeches. After his election by the Land parliament, he also took his oath bilingually. In addition, the Committee of Experts learned that the authorities of Saxony have initiated a strategy to encourage the use of Sorbian in public life. The Committee of Experts commends this step and looks forward to receiving further information on it in the next periodical report.

### **Low German**

37. In the third evaluation report, the Committee of Experts requested information on the resolute action taken as a result of the annual consultation meetings held between the eight *Länder* where Low German is spoken.

38. According to the fourth periodical report, annual meetings of the federal and *Länder* authorities with the umbrella association of the speakers of Low German have been organised during the reporting period. These meetings looked into ways to increase the use of Low German in education, including universities. It is, however, not clear to the Committee of Experts which concrete measures have been taken as a result of the consultation meetings. The Committee of Experts requests the German authorities to provide such information in the next periodical report.

39. During the on-the-spot visit, the Committee of Experts was informed that the *Land* of Schleswig-Holstein is considering discontinuing its financial support to the *Institut für niederdeutsche Sprache* (Institute for the Low German Language) completely, as part of considerable budget cuts (see the chapter on Danish below). The institute is financed by several *Länder* where Low German is spoken and carries out numerous

scientific and advisory services relating to Low German. According to representatives of the speakers of Low German, a withdrawal of Schleswig-Holstein would prevent the institute from fulfilling its present tasks, which are of crucial importance for the promotion of Low German. The Committee of Experts encourages the authorities of Schleswig-Holstein to review the plans for a complete discontinuation of the support provided to the "Institut für niederdeutsche Sprache" in order not to jeopardize the activities of this institution.

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

40. In the third evaluation report, the Committee of Experts asked the German authorities to provide information on how the use of minority languages is secured in privatised services.

41. According to the fourth periodical report, the German authorities encourage privatised services (e.g. railway) to take minority languages into account. During the on-the-spot visit, the Committee of Experts was informed that the federal authorities had, for example, urged Deutsche Post not to omit Sorbian place and street names in the new edition of the postal code register. However, this intervention failed as Deutsche Post referred to its independence from the state as a privatised company.

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

42. The teaching and study of languages covered under Part III is examined in detail in the section dealing with Part III undertakings.

### **Low German**

43. Part II only applies to Low German in the following *Länder*: Brandenburg, Saxony-Anhalt and North Rhine-Westphalia. Low German is covered by Part III in Lower Saxony, but with regard to education the essential components of primary and secondary education are missing. The Committee of Experts underlines that there is a need for a structured policy to protect and promote Low German across all levels of education.

44. In the third evaluation report, the Committee of Experts requested the German authorities to provide information on the following issues:

- possible introduction of Low German in pre-schools in the *Land* of Saxony-Anhalt
- extra-curricular activities related to Low German in primary school education and statistical data about the extent to which Low German is taught at schools in Saxony-Anhalt
- teaching and study of Low German in the *Länder* of Brandenburg and North Rhine-Westphalia.

45. According to the fourth periodical report, schools in Saxony-Anhalt are offering Low German courses at all levels of education. In addition, Saxony-Anhalt has taken steps, in co-operation with cultural associations, to promote extracurricular activities in Low German. However, no concrete information was submitted regarding the possible introduction of Low German in pre-schools. The authorities were also unable to submit the requested statistical information. In Brandenburg, Low German is offered as a course in some primary schools. The *Land* authorities stress that they are not envisaging the teaching of Low German as a subject in its own right, which implies that neither the curricula will be developed, nor Low German be included in programmes for the further training of teachers. In North Rhine-Westphalia, projects for Low German are carried out sporadically in co-operation with cultural associations. Low German is not taught as such in this *Land*.

46. In general, it appears to the Committee of Experts that efforts towards education in Low German in the three *Länder* concerned are rather limited. The Committee of Experts underlines that this provision puts a legal obligation on the German authorities to provide appropriate forms and means for the teaching and study of Low German at all appropriate stages. Consequently, this implies that Saxony-Anhalt, Brandenburg and North Rhine-Westphalia should offer Low German on a voluntary basis in pre-school and as a regular elective subject in its own right at primary and secondary levels. In order to guarantee that such an educational offer is sustainable, the authorities need to organise the basic and further training of teachers. During the on-the-spot visit, however, representatives of the Low German-speakers stated that those university chairs which deal with Low German focus on research on Low German rather than on language teaching.

47. Low German is covered by Part III in Lower Saxony in principle, but the menu of ratification omitted any undertakings for primary and secondary education. Lower Saxony accordingly is bound only under the minimum standard of Article 7 paragraph 1 f concerning the provision of appropriate forms and means for the teaching and study of Low German. The 2006 curricula for German as a school subject made Low German language lessons in primary and secondary schools compulsory, although only in the form of an integrated teaching within the framework of German classes. The degree to which Low German is in practice taught in the framework of that model seems to be rather limited, although it varies to a certain degree. There exists also an option for schools to offer separate Low German classes in the form of an activity group (outside regular school hours) or in the form of a compulsory optional subject, but the choice is completely left to the discretion of schools. A number of schools seem to have made use of these options, but in an overall perspective there exists only a very patchy provision of teaching of Low German as a second or third language. The additional option of “immersion” education in Low German in practice never seems to be used. In light of the radically declining numbers of children entering school with a knowledge of Low German, the existing structures of teaching Low German are evidently not sufficient to guarantee the maintenance of Low German as a regional language in Lower Saxony. The Committee of Experts therefore calls upon the Lower Saxony authorities to develop a structured policy intended to improve the state of Low German education in primary and secondary schools and to grant a secure place for Low German in the educational system.

### **Sater Frisian**

48. In the third evaluation report, the Committee of Experts strongly urged the German authorities to take the necessary measures to develop teaching of Sater Frisian at primary and secondary levels of education.

49. According to the fourth periodical report, language encounter (“Sprachbegegnung”) is part of the general curricula at primary and secondary level and therefore obligatory for all pupils in Saterland. In addition, there exists the possibility of offering Sater Frisian as an optional class where the language is taught one hour per week. This model is offered at the four primary schools and the secondary school in Saterland. Contrary to the previous monitoring cycle, teaching of Sater Frisian is now carried out by trained teachers rather than volunteers, although specific training of teachers still represents a problem. The Committee of Experts welcomes this improvement. During the on-the-spot visit, the Committee of Experts was informed that as of 2011, Sater Frisian will be taught bilingually at kindergartens and primary schools in Saterland. This means that some subjects at primary school will be taught in Sater Frisian. This project has been initiated by the authorities with a view to implementing the Charter. The Committee of Experts commends the German authorities on this initiative and encourages them to also take the necessary structural measures, in particular in the field of teacher training, to ensure the sustainability of these educational provisions.

### **Romani**

50. The situation of Romani in Hesse is dealt with in Part III of this report.

51. In the third evaluation report, the Committee of Experts requested information on the teaching of Romani in the Land of Rheinland-Pfalz and the provision of homework assistance and extra tuition in Romani in Bavaria.

52. According to the fourth periodical report, the *Land* authorities of Rheinland-Pfalz and representatives of the Romani-speakers are currently looking into possibilities of organising workshops on Roma culture and history in the Romani language. In the context of these consultations, representatives of the Romani-speakers have, however, reiterated that some of them do not want their language to be taught in state institutions or to spread knowledge of, and information about, Romani to people outside the community. Notwithstanding these obstacles, Romani is taught in the framework of homework assistance to pupils and cultural activities of various kinds. Furthermore, the Free State of Bavaria confirms its financial support to homework assistance and extra tuition in Romani. As was already mentioned in the third evaluation report, Romani is taught in Hamburg in optional courses, if a number of five pupils demand it.

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

53. In the third evaluation report, the Committee of Experts requested the German authorities to provide concrete information on the promotion of study and research of Low German at the universities in Brandenburg and Saxony-Anhalt.

54. The fourth periodical report states that the universities of Potsdam and Frankfurt/Oder cover the topic of Low German in linguistic, cultural and historical seminars although no seminars are organised on Low German as such. In Saxony-Anhalt, the University of Magdeburg treats the promotion of, and research on, Low German as a priority in Bachelor of Arts seminars. In addition, Low German was offered as one of several compulsory options (Wahlpflichtmodul) in the 2009/2010 semester. During the on-the-spot visit, representatives of the Low German-speakers stated that the continuing decline of study and research opportunities on Low German that had been detected during the previous monitoring rounds has been halted. A new chair on Low German has been established at the University of Oldenburg. In addition, the University of Münster has created a new chair with a specialisation in Low German.

#### **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.*

#### **Upper Sorbian**

55. During the fourth monitoring cycle, the Committee of Experts has been informed that, pursuant to a decision of the Saxon Parliament in November 2009, the representative of *Domowina* is no longer a member of the MDR Broadcasting Board.

#### **Romani**

56. In the third evaluation report, the Committee of Experts requested the German authorities to provide information on the outcome of the regular meetings held between the *Land* of Rheinland-Pfalz and the Sinti and Roma.

57. The fourth periodical report provides a detailed overview of the issues discussed during the regular meetings. However, they did not concern the promotion of the Romani language.

58. In a statement submitted in accordance with Article 16.2 of the Charter, the "*Sinti-Allianz Deutschland*", which is one of the two umbrella NGOs of the German Sinti and Roma, regrets as in previous monitoring cycles that the German authorities co-operate only with the other NGO, the "*Zentralrat deutscher Sinti und Roma*". In particular, the "*Sinti-Allianz*" would have no possibility to contribute to the work of the "Documentation and Cultural Centre of the German Sinti and Roma" in Heidelberg, which is financed by the German state. When the "*Sinti-Allianz*" submits applications for support for cultural projects, including the promotion of Romani, to the German federal or Land authorities, they are usually not approved because of the existing support for the "*Zentralrat*". The Committee of Experts encourages the German authorities to take into consideration, in the promotion of Romani, the needs and wishes expressed by all relevant groups which use Romani in Germany.

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

### 3.2.1. Danish in the Land of Schleswig-Holstein

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

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

60. For these provisions, the Committee of Experts refers to the conclusions reached in its previous reports but reserves the right to evaluate the situation again at a later stage. Finally, the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### *Subsidies to Danish schools*

61. In the third evaluation report, the Committee of Experts urged the *Land* government to maintain the provision of the School Act (*Schulgesetz*, Article 124) pursuant to which the running costs of Danish private schools as far as personnel are concerned are subsidised on an equal footing with publicly funded schools.

62. According to the fourth periodical report, the legal framework (i.e. Article 124) for the provision of subsidies to Danish-language schools has not been changed during the reporting period. After receipt of the state report, however, the Committee of Experts was informed of general budgetary cuts in Schleswig-Holstein also affecting Danish-language education. Constitutional amendments now oblige the Land of Schleswig-Holstein to reduce public debts. The *Land* accordingly has to save, until 2020, an annual amount of 125 million Euros. As part of the budgetary cuts, among other measures, the Land authorities are considering reducing the pupils' expense allowance (*Schülerkostensatz*) for the schools of the Danish minority, which are run by the Danish School Association for Southern Schleswig, from 100% of the average cost of a pupil to 85%, or from 31.7 million Euros (2010) to 27 million Euros (2012).

63. According to the Land authorities, the allowance paid to the (formally private) Danish schools would in that scenario still be 5% higher than the allowance for ordinary private schools in Schleswig-Holstein (80%). Furthermore, representatives of the Land authorities stated during the on-the-spot visit that the present educational offer of the Danish schools goes much beyond the offer of public schools. Against this background, the authorities have calculated the proposed cuts in such a way that the Danish School Association would still be in a position to provide the same quality in education as public schools.

64. However, representatives of the Danish-speakers were of the view that the Danish School Association would provide Danish-language education on behalf of the Land and therefore perform a public function. Consequently, the Danish schools would need to be compared to public schools whose allowances are envisaged to remain at 100%. In the view of the Danish-speakers, the proposed cuts would not give their schools equal treatment to that of public schools and would lead to the closure of about 22 smaller Danish schools.

65. Further to its meetings with both the Land and the federal authorities, the Committee of Experts notes the openness of the Land authorities to discuss this issue further with the Danish minority. On the

initiative of the Minister-President of Schleswig-Holstein, a special working group comprising representatives of the Danish minority, the Land of Schleswig-Holstein, the Kingdom of Denmark and (as an observer) the Federal Government has been established to look into this matter. The Committee of Experts is not in a position to come to a final conclusion before the working group has completed its work. Nevertheless, it underlines that the German authorities must provide Danish-language education in accordance with their obligations under the Charter. This may take the form of a private education model (provision of education by the Danish School Association on behalf of the Land) or be carried out as part of public education (Danish-language education provided by ordinary public schools).

***The Committee of Experts encourages the German authorities to ensure that the foreseen budgetary cuts of the Land of Schleswig-Holstein do not jeopardize the current level of provision of Danish-language education.***

*Transport costs for pupils attending Danish schools*

66. In the third evaluation report, the Committee of Experts encouraged the German authorities to find a solution to the problem of transport costs for pupils attending Danish schools as a district had decided to cancel its subsidies for school transport.

67. The fourth periodical report states that one third of the transport costs is so far covered by the Land and two-thirds by the districts (Kreise). Furthermore, it is stated that the district of Rendsburg-Eckernförde, which had discontinued its subsidies during the previous monitoring cycle, resumed its support in 2008. After receiving the state report, however, the Committee of Experts was informed that in the framework of the aforementioned budgetary cuts the Land authorities were envisaging discontinuing their transport cost subsidies to the districts, which would affect all schools in Schleswig-Holstein (Danish and ordinary schools). During the on-the-spot visit, representatives of the Danish-speakers stated that it was unclear whether the districts would continue their subsidies in such a situation. The Committee of Experts encourages the German authorities to find a sustainable solution to the problem of transport costs for pupils attending Danish schools.

### **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:***

...

- c.i. to make available secondary education in the relevant regional or minority languages; or*
- c.ii. to make available a substantial part of secondary education in the relevant regional or minority languages; or*
- c.iii. to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or*
- c.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.*

68. In the previous monitoring cycles, the Committee of Experts considered this undertaking fulfilled. As it had been informed of plans to set up a second Danish grammar school (*Gymnasium*) in the town of Schleswig, the Committee of Experts requested further information on this project.

69. According to the fourth periodical report, a second (private) secondary school with Danish as the language of instruction was set up in Schleswig in September 2009, due to a private donation from Denmark. The Committee of Experts welcomes this development.

- 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.*

70. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled as the contents and frequency of the reports issued by the *Land* Government did not meet the requirements needed to fulfil this undertaking. The Committee of Ministers recommended that the German authorities **“ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III.”**

71. According to the fourth periodical report, the German authorities consider that the already existing regular reports, for example the report by the Land government to the Land parliament on minority policy, fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

72. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Danish language education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public. In light of the above, the Committee of Experts considers that the contents and frequency of the reports issued by the *Land* Government do not meet the requirements needed to fulfil this undertaking.

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

## Article 10 – Administrative authorities and public services

### Paragraph 1

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

a ...

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

74. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled. It urged the German authorities to ensure that documents in Danish can be submitted to administrative authorities in practice. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]**”.

75. According to the fourth periodical report, translation costs for documents submitted in Danish would not be incurred where Danish-speaking staff are available. The Committee of Experts is aware that a growing number of Danish-speakers are working in administration. However, as regards administrative authorities where this is not the case, the Committee of Experts did not receive any clear information on whether it is always possible to validly submit documents in Danish or, when submitted, whether the costs for translating documents (e.g. labour contracts and documents dealing with pension, health insurance and financial matters) are covered by the authority concerned.

76. The Committee of Experts considers this undertaking not fulfilled. It strongly urges the German authorities to ensure that documents in Danish can be submitted to administrative authorities in practice.

## 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:*

...

b ...

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

77. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled. It noted that programmes in Danish were broadcast only sporadically on the Open Channel *Westküste* but were lacking in those areas where the Danish language is strong. Consequently, the Committee of Experts urged the German authorities to take measures to encourage and/or facilitate the broadcasting of radio programmes in Danish on a regular basis. Furthermore, the Committee of Ministers recommended that the German authorities “take measures so that adequate radio and television broadcasting are available in [...] Danish”.

78. According to the fourth periodical report, the radio station R.SH broadcasts news programmes in Danish up to three times per day, seven days a week, which can be received throughout Schleswig-Holstein. In addition, ad hoc programmes are broadcast on special occasions (e.g. elections). As regards the Open Channel, the German authorities point out that this model gives citizens the possibility to broadcast their own radio programmes, including programmes in minority languages. However, this model requires those concerned to take initiatives. This has so far not been the case in all parts of Schleswig-Holstein. During the on-the-spot visit, representatives of the Danish-speakers confirmed that there are problems in mobilising people to create Danish programmes. As regards the more general issue of providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages, the German authorities continue to consider such intervention as incompatible with the independence of the media.

79. The Committee of Experts confirms its view that the Open Channel model could serve as a basis for fulfilling this undertaking as the promotion of minority languages is part of the broadcaster’s duties and a representative of the Danish minority is a member of the advisory board. Without systematic financial support that enables speakers to broadcast radio programmes on a regular basis, however, the Open Channel alone cannot fulfil the undertaking. Furthermore, the Committee of Experts considers that promoting minority language broadcasting in the private media sector through financial incentives, as is currently carried out for example for cultural programmes, would not infringe the independence of the media.

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

***The Committee of Experts strongly urges the German authorities to take measures to encourage and/or facilitate a sufficient level of broadcasting of radio programmes in Danish on a regular basis.***

c ...

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

81. In the third evaluation report, the Committee of Experts urged the German authorities to take measures to encourage and/or facilitate the broadcasting of television programmes in Danish on a regular basis. Furthermore, the Committee of Ministers recommended that the German authorities “take measures so that adequate radio and television broadcasting are available in [...] Danish”.

82. According to the fourth periodical report, the Danish minority uses the Open Channel sporadically to broadcast programmes in Danish. At present, a one-hour Danish television programme is broadcast monthly on the Open Channel Flensburg. The coverage via the Open Channel Kiel is planned to be extended. Also, there is another fortnightly programme. While welcoming the developments on the Open Channel, the Committee of Experts observes that the current provision is too limited in terms of area covered, regularity and amount of broadcasting to lead to a fulfilment of this undertaking.

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

***The Committee of Experts strongly urges the German authorities to take measures to encourage and/or facilitate the broadcasting of television programmes in Danish on a regular basis.***

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

84. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled.

85. According to the fourth periodical report, the umbrella association of the Danish minority receives

financial support from the Land authorities, including for the production and distribution of audio and audiovisual works in Danish. During the on-the-spot visit, however, the Committee of Experts was informed that, in the framework of the budgetary cuts, the Land of Schleswig-Holstein is considering a reduction of its subsidies to the umbrella association. Furthermore, the Committee of Experts did not receive any information on the extent to which funding is specifically given to encourage the production and distribution of audio and audiovisual works in Danish. The Committee of Experts has not been made aware of examples of such works.

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

f ...

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

87. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled.

88. According to the fourth periodical report, the existing measures for financial assistance to audiovisual productions, for example those provided by the promotion institution "*Filmförderung Hamburg Schleswig-Holstein*", are designed in such a way that productions in Danish can qualify for them in practice.

89. The Committee of Experts requests the German authorities to provide, in the next periodical report, information about audiovisual productions in Danish that have been supported by the "*Filmförderung Hamburg Schleswig-Holstein*".

## **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.*

90. In the third evaluation report, the Committee of Experts considered this undertaking fulfilled. However, it drew the attention of the German authorities to the fact that this undertaking may require some positive action on their part in the future if the digitalisation process makes it impossible for the Danish-speakers to receive Danish television programmes.

91. According to the fourth periodical report, the *Land* authorities have, in close co-operation with the Danish authorities and the Danish minority, initiated an agreement between the Danish broadcasters and German cable providers to guarantee a continued reception of two Danish television channels through the cable network. Furthermore, technical measures have been taken to ensure that Danish television programmes can be received in Schleswig-Holstein after digitalisation. The Committee of Experts commends the authorities for this step.

92. The Committee of Experts considers this undertaking fulfilled.

## **Article 12 – Cultural Activities and Facilities**

### **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.*

93. In the third evaluation report, the Committee of Experts considered this undertaking not fulfilled at federal level.

94. According to the fourth periodical report, the German authorities are planning to consider the regional or minority languages and the cultures they reflect in the future programming of Germany's global radio station *Deutsche Welle*. Furthermore, the German authorities emphasize that the Danish-speakers have so far shown no interest in presenting their language and culture through the regular structures of cultural policy abroad. If such interest was expressed, funding would be available.

95. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

96. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Danish language in Germany's cultural policy abroad.

### 3.2.2. Upper Sorbian in the Free State of Saxony

97. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Upper Sorbian. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

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

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

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

## Article 8 – Education

### Paragraph 1

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

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

100. In its third evaluation report, the Committee of Experts considered this undertaking fulfilled. It nevertheless encouraged the authorities to take measures to ensure that the growing demand for pre-school education in Upper Sorbian was met with the supply of appropriate resources, especially with regard to pre-school teachers.

101. According to the fourth periodical report, currently there are 23 Upper Sorbian or bilingual day-care centres, attended by 1150 children. Pre-school teachers are trained at the Sorbian School for Social Welfare, part of the vocational training centre in Bautzen/Budyšin. Upper Sorbian as a native language is taught as a compulsory, integral part of the curriculum and additionally, as an optional subject, for two hours per week. In order to meet the increasing demand of the day-care centres, the institution introduced in-service training in Upper Sorbian as of the 2008/2009 school year.

102. The significant problem, according to the authorities, is the lack of qualified applicants, as only few of those who wish to attend either of the two types of training are sufficiently proficient in Upper Sorbian. Currently, only 10 of the 80 full time students intending to become pre-school teachers are native speakers or have attended Upper Sorbian classes at the intermediate secondary school. The institution is trying to attract more Sorbian-speaking applicants, through presentations by its students and teachers in intermediate secondary schools and information in the Sorbian and German media.

103. However, the representatives of the Sorbian-speakers informed the Committee of Experts that after merging the Sorbian School for Social Welfare into the vocational training centre in Bautzen/Budyšin,

sufficient training of nursery and pre-school teachers is no longer guaranteed, because of the *numerus clausus* regulation and the ongoing structural changes which may lead to a lower language competence among the Sorbian nursery and pre-school teachers.

104. The Committee of Experts considers the undertaking still fulfilled at present. However, in view of the potential problems which may be raised by the lack of qualified teachers, it encourages the competent authorities to take measures to ensure that the demand for pre-school education in Upper Sorbian is met with a sufficient number of adequately trained pre-school teachers.

- b** *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;**

105. In its third evaluation report, the Committee of Experts was concerned that replacing Sorbian-medium education with a variety of the “2 plus” model further weakened the provision of education in Upper Sorbian. The Committee of Experts maintained its conclusion that the undertaking was only partly fulfilled.

106. According to the fourth periodical report, Upper Sorbian is offered in the framework of the “2 plus” model as a second language and alternatively as a foreign language. In the framework of the “2 plus” model, the subject hours for schools offering education in Upper Sorbian include a language block, which varies from 11 hours per week in the first two grades to 13 in the third grade and 14 hours in the fourth grade. Schools are encouraged to provide bilingual teaching also for other subjects. Within the foreign language model, Sorbian is taught for one hour per week in the first grade and three hours in the second, third and fourth grade.

107. In the framework of a new language strategy, a new curriculum for Upper Sorbian at primary schools, as well as a new set of teaching and learning materials have been developed.

108. According to the authorities, the “2 plus” strategy has widened the possibility to receive education in Sorbian. As a result more pupils now are using this opportunity. Furthermore, new full-day offers in Upper Sorbian and on Sorbian issues, which include in particular cultural activities, have been introduced.

109. Small groups providing Sorbian education have been created at the primary schools in Hochkirch/ Bukecy and Baruth/Bart.

110. However, the representatives of the Sorbian-speakers are still concerned about the consequences of the “2 plus” model on the language competence of pupils (see also paragraph 117 below ).

111. The Committee of Experts maintains its view that the “2 plus” model can be enough to fulfil the undertaking, provided that the number of teaching hours in and of Sorbian is sufficient to ensure language maintenance and/or acquisition<sup>2</sup>. Based on the information available during the fourth monitoring cycle, this does not seem to be the case for Upper Sorbian. It remains unclear to the Committee of Experts how many hours in the language block are in practice dedicated to Upper Sorbian.

112. The Committee of Experts therefore maintains its previous conclusion that the undertaking is still only partly fulfilled. It encourages the authorities to take the necessary measures so that the practical implementation of the “2 plus” model ensures adequate language proficiency of the Upper Sorbian-speaking pupils.

- c** *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

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<sup>2</sup> 3<sup>rd</sup> evaluation report, paragraph 117

- 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;*

113. In its third evaluation report, the Committee of Experts was informed that the number of Upper Sorbian *Mittelschulen* schools in Saxony had been reduced to four (Räckelwitz/Worklecy, Ralbitz/ Ralbicy, Radibor/Radwor, Bautzen/Budyšin). There were also a Sorbian grammar school in Bautzen/Budyšin and two *Mittelschulen* that offered the model “2 plus”. In spite of the negative developments, the Committee of Experts concluded that the undertaking remained partly fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities “**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 [...]**”.

114. According to the fourth periodical report, the authorities have established a new strategy for language education and have developed new curricula for Upper Sorbian at primary schools, intermediate secondary schools and general grammar schools, as well as framework requirements for optional Sorbian courses at intermediate and grammar schools. A new set of teaching and learning materials has also been made available.

115. Special subject hours apply to schools in the Sorbian settlement area. These indicate the total number of hours per week for Upper Sorbian and German. The “2 plus” model foresees a division between the two subjects, but allows for a variable distribution, upon decision of the schools in consultation with the Saxon Education Agency, while respecting a required minimum number of classes taught in German. In addition, at least three specialized subjects are taught in Upper Sorbian. The schools determine the actual number of subjects in consultation with the Saxon Education Agency. Overall, more than five hours per week of instruction in Upper Sorbian are provided.

116. The authorities emphasize that the “2 plus” strategy has led to an improvement in the offer of Upper Sorbian language classes. New full-day offers in Upper Sorbian and on Sorbian issues have also been introduced at the level of secondary education. Pupils with Upper Sorbian as mother tongue also meet regularly for different activities or during breaks.

117. However, the representatives of the Sorbian-speakers have informed the Committee of Experts of their concern regarding the closure of Upper Sorbian schools in the core area, as two Upper Sorbian secondary schools have been closed down over the past years. As to the non-Sorbian schools, the representatives of the Sorbian-speakers state that the less intensive five hours per week model is applied. They are still concerned that the “2 plus” model would harm the language competence of the mother tongue pupils, especially in cases where they make up an absolute minority in a group of non-mother tongue pupils. One reason is that in these schools Upper Sorbian is no longer the common language of communication.

118. The Committee of Experts is aware that schools try to offer specific activities in a Sorbian language environment to pupils whose mother tongue is Upper Sorbian and welcomes these initiatives.

119. The Committee of Experts considers this undertaking partly fulfilled. It encourages the authorities to take the necessary measures so that the practical implementation of the “2 plus” model ensures adequate language proficiency of the Upper Sorbian-speaking pupils.

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

120. In its third evaluation report, the Committee of Experts considered the undertaking fulfilled at the time of the report and encouraged the authorities to continue identifying other areas where vocational training in Upper Sorbian might be offered.

121. According to the fourth periodical report, the Federal Government is responsible for identifying possible areas and professions where vocational training could be offered and for creating the legal

framework, while the *Land* authorities would be responsible for providing vocational training in Upper Sorbian. Currently, no training regulation provides for vocational training in Upper Sorbian.

122. The Committee of Experts has also been informed that the project involving the Sorbian umbrella organisation *Domowina* aimed at providing Sorbian language skills related to vocational training has not been carried out.

123. Upper Sorbian is currently taught at the Sorbian School for Social Welfare in Bautzen/Budyšin (see also paragraph 99 above).

124. The Committee of Experts considers the undertaking partly fulfilled. It urges the competent authorities to take proactive measures to identify areas where vocational training in Upper Sorbian might be offered.

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

125. In its third evaluation report, the Committee of Experts considered that the undertaking remained fulfilled.

126. During the fourth monitoring cycle, the representatives of the Sorbian-speakers informed the Committee of Experts that the implementation of the recruitment agreement guaranteeing a teaching position to Sorbian-speaking graduates (see paragraph 135 of the 3<sup>rd</sup> evaluation report) meets with difficulties in practice, as no sufficient vacancies exist for the second practical phase of teacher training and Sorbian-speaking students therefore have to interrupt or continue their studies in other *Länder*. The Committee of Experts would welcome more information in this respect in the next periodical report.

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

127. In its third evaluation report, the Committee of Experts concluded that, in the absence of periodic reports, the undertaking remained not fulfilled. The Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

128. According to the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

129. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Upper Sorbian education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

130. The representatives of the Sorbian-speakers informed the Committee of Experts of their wish to have a representative of the speakers at ministerial level to perform supervisory functions.

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

## **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.**

132. In its third evaluation report, the Committee of Experts encouraged the authorities to take measures to make available Upper Sorbian education in a pro-active manner in those places where the number of users would justify such an offer.

133. According to the fourth periodical report, the authorities maintain the view that the undertaking would already be fulfilled by allowing teaching in or of the regional or minority language and that no further action is required.

134. No measures have been taken to inform speakers about the possibility of following courses in Upper Sorbian or learning the language outside the Sorbian settlement area.

135. The Committee of Experts considers the undertaking not fulfilled. It urges the authorities to take measures to make available Upper Sorbian education in a pro-active manner in those places where the number of users would justify such an offer.

## Article 9 – Judicial authorities

### Paragraph 1

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

*a in criminal proceedings:*

...

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

*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; and/or*

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

*b in civil proceedings:*

...

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

*if necessary by the use of interpreters and translations;*

*c in proceedings before courts concerning administrative matters:*

...

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

*if necessary by the use of interpreters and translations;*

136. In its third evaluation report, the Committee of Experts, maintained its previous conclusion that the undertaking was only formally fulfilled. It urged the German authorities to take the necessary measures to ensure that the possibility to use Upper Sorbian in court proceedings is guaranteed in practice. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional and minority languages [...] in the courts**”.

137. According to the fourth periodical report, Upper Sorbian has been used in court proceedings in only four cases, in particular under family law. Some local courts in the Sorbian settlement area have Sorbian-speaking staff, although, according to the authorities, this does not seem to have an impact on the use of the Sorbian language.

138. The Committee of Experts recalls<sup>3</sup> that in fulfilling these undertakings “the inherent disadvantage of regional or minority languages should be counterbalanced with positive measures, in the sense of organisational measures enabling the judicial authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities”.

139. The Committee of Experts considers these undertakings partly fulfilled. It encourages the authorities to take measures to improve the implementation of these undertakings in practice.

## Article 10 – Administrative authorities and public services

### Paragraph 1

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

a ...

iv *to ensure that users of regional or minority languages may submit oral or written applications in these languages;*

140. In its third evaluation report, the Committee of Experts had been informed that state administrative bodies accepted written applications in Sorbian and replies were given in German. There were however problems with *Land* administrative bodies physically situated outside the Sorbian language areas and which had responsibilities within those areas, but which would not accept documents in Upper Sorbian. The Committee of Experts stated it would welcome more information in this respect in the next report. The Committee of Experts nevertheless considered the undertaking fulfilled.

141. In the fourth periodical report, the authorities refer to the possibility to submit applications in Upper Sorbian to local and regional authorities in other parts of the Upper Sorbian language area outside the core area. However, no information is provided with respect to the *Land* administrative bodies physically situated outside the Upper Sorbian language areas. The Committee of Experts encourages the authorities to provide specific information on this issue in the next periodical report.

### Paragraph 2

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

...

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

142. In its third evaluation report, the Committee of Experts had not received any further information and therefore maintained its previous conclusion that the undertaking was fulfilled in the core area, and only formally fulfilled in other parts of the Upper Sorbian language area. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional and minority languages in dealings with the administration [...]**”.

143. According to the fourth periodical report, it is possible to submit applications in Upper Sorbian to local and regional authorities in other parts of the Upper Sorbian language area outside the core area, but this possibility has not been used.

144. The Committee of Experts recalls<sup>4</sup> that “the inherent disadvantage of Upper Sorbian in these areas should be counterbalanced with positive measures, in the sense of organisational measures enabling the administrative authorities to deal with communications in regional or minority languages and making the potentially interested parties aware of these facilities”.

<sup>3</sup> See paragraph 119 of the 2<sup>nd</sup> evaluation report

<sup>4</sup> Paragraph 130 of the 2<sup>nd</sup> evaluation report

145. The Committee of Experts maintains its previous conclusion that the undertaking is fulfilled in the core area, and only formally fulfilled in other parts of the Upper Sorbian language area. It encourages the German authorities to take measures in order to encourage the practical use of this possibility by the Upper Sorbian speakers.

### **Paragraph 3**

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

...

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

146. In its third evaluation report, the Committee of Experts considered the undertaking partly fulfilled and encouraged the authorities to achieve complete fulfilment by ensuring that replies from public bodies were given in Upper Sorbian. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional and minority languages in dealings with the administration [...]**”.

147. No further information is provided in the fourth periodical report.

148. The Committee of Experts therefore maintains its previous conclusion that the undertaking is partly fulfilled.

***The Committee of Experts urges the authorities to take measures in order to ensure that replies from public bodies are given in Upper Sorbian.***

### **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:*

...

*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.*

149. In its third evaluation report, the Committee of Experts concluded that the undertaking was not fulfilled and encouraged the authorities to provide information on this undertaking in the next periodical report.

150. According to the fourth periodical report, it is possible for public service employees with a knowledge of a regional or minority language to be appointed in the territory where the language is used, but the authorities do not see the necessity to adopt specific measures encouraging these employees to use this possibility. There are no reports on any applications by Upper Sorbian-speaking staff being rejected. However, no information is available as to how many Upper Sorbian-speaking staff have asked to be appointed in the territory where the language is used.

151. In view of the lack of legal provisions or information on the practical implementation of this undertaking, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled. It urges the authorities to take measures to ensure compliance as far as possible with requests from public service employees having a knowledge of Upper Sorbian to be appointed in the territory in which that language is used.

## **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:***

**b** ...

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

152. In its third evaluation report, the Committee of Experts noted the continuing good coverage of radio programmes in Upper Sorbian on public channels and concluded, in the light of the general approach taken by the Committee of Experts concerning Article 11.1.b, that the undertaking was fulfilled.

153. However, with respect to private radio broadcasting, it encouraged the authorities to promote regional or minority broadcasting through financial incentives. The Committee of Experts expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities.

154. According to the fourth periodical report, the German authorities consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media.

155. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

156. The Committee of Experts maintains its previous conclusion that the undertaking is fulfilled. However, it still encourages the authorities to promote the broadcasting of Upper Sorbian programmes by private radio broadcasters.

**c** ...

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

157. In its third evaluation report, the Committee of Experts noted the continuing coverage of television programmes in Upper Sorbian on public channels. In the light of the general approach taken by the Committee of Experts concerning Article 11.1.c, the Committee of Experts concluded that the undertaking was partly fulfilled.

158. According to the fourth periodical report, in addition to the traditional coverage on public service television, the monthly TV programme *Wuhladko* is now also available on the internet for seven days after the first broadcast.

159. With respect to private broadcasters, the Committee of Experts encouraged the authorities to promote regional or minority broadcasting through financial incentives (see also paragraph 153 above).

160. Regarding private broadcasters, the German authorities consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media.

161. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

162. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled. It encourages the authorities to promote the broadcasting of Upper Sorbian television programmes on a regular basis.

**f** ...

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

163. In its third evaluation report, the Committee of Experts asked the authorities to provide information on audiovisual productions in Upper Sorbian financed by the Supervisory Authority for Private Broadcasters or other competent bodies in their next periodical report.

164. No information is provided in the fourth periodical report.

165. In the view of the repeated lack of information, the Committee of Experts considers the undertaking not fulfilled. It encourages the authorities to apply existing measures for financial assistance also to audiovisual productions in Upper Sorbian and to inform the Committee of Experts in the next periodical 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;*

166. In its third evaluation report, the Committee of Experts considered the undertaking still fulfilled at the time of the report. However, it also observed that there was a risk of this undertaking not being fulfilled unless steps were taken to ensure the level of funding of the foundation and the continuity of the Sorbian National Ensemble, given its particularly significant position in Sorbian culture.

167. According to the fourth periodical report, in July 2009, the Federal Government Commissioner for Culture and Media and the *Länder* Brandenburg and the Free State of Saxony signed an agreement for the joint funding for the Foundation for the Sorbian People. Pursuant to its provisions, the Foundation will receive annual subsidies of 16.8 million Euros (8.2 million Euros from the Federal authorities, 5.85 million Euros from the Free State of Saxony, and 2.77 million Euros from Brandenburg). In November 2009, the Foundation decided to grant the Sorbian National Ensemble a loan and a consolidation strategy was to be prepared by spring 2010.

168. The representatives of *Domowina* have informed the Committee of Experts that the available resources are not enough to ensure the future of institutional structures, particular the Sorbian National Ensemble and the financial situation remains precarious.

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

### **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.*

170. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled as regards the federal level.

171. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

172. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

173. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Upper Sorbian language in Germany's cultural policy abroad.

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

### **Paragraph 1**

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

...

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

174. In its third evaluation report, the Committee of Experts was still not in a position to conclude on this undertaking pending information on the outcome of the case of the prohibition of the use of Sorbian in a private ecclesiastical establishment and about measures taken to oppose any practices discouraging the use of Upper Sorbian in connection with economic or social activities.

175. According to the fourth periodical report, in April 2007 a new letter was sent by the authorities to the above-mentioned establishment. The establishment explained that it had already amended its instruction on language use in December 2005, in line with the wording proposed by the authorities. The instruction provides that common speech during working hours “must not exclude people from direct or indirect communication”. According to the authorities, this satisfies both the people in the care of the establishment and the Sorbian-speaking staff. In the view of the Committee of Experts the development does not seem to have changed the situation. This observation is also confirmed by the representatives of the Sorbian-speakers, who informed the Committee of Experts during the on-the-spot visit that in practice the instruction has not had any effect on the possibility for Sorbian-speaking employees to use Sorbian at work.

176. Based on this information, the Committee of Experts considers the undertaking only partly fulfilled. It encourages the authorities to strengthen their efforts to oppose practices designed to discourage the use of Upper Sorbian in connection with economic or social activities.

### **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:*

...

- 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;*

177. In its third evaluation report the Committee of Experts revised its previous conclusion and considered the undertaking not fulfilled. It urged the authorities to take measures to ensure that social care facilities can receive and treat the persons concerned in Upper Sorbian.

178. According to the fourth periodical report, some hospitals currently have Upper Sorbian-speaking employees.

179. However, the authorities did not provide any information on measures taken to ensure that social care facilities can receive and treat patients in Upper Sorbian. They are of the view that public authorities are not competent in this area and that privately-run social facilities are free to select their own staff, the only legal requirements being those concerning professional aptitudes. Although subject to supervision, these facilities could not be obliged to employ Sorbian-speaking staff.

180. The Committee of Experts recalls<sup>5</sup> that the current undertaking requires authorities to *ensure* that Upper Sorbian is used in these establishments, which can only be achieved by a bilingual human resources policy.

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<sup>5</sup> Paragraph 184 of the 3<sup>rd</sup> evaluation report

181. It is of the view that it is possible for the authorities to take measures in this field, that could include regulations governing the relevant qualifications which take account of a person's knowledge of Upper Sorbian, or facilities and incentives for the existing social care personnel to improve their Upper Sorbian skills<sup>6</sup>.

182. The Committee of Experts considers the undertaking partly fulfilled.

***The Committee of Experts strongly urges the authorities to take measures to ensure that social care facilities can receive and treat the persons concerned in Upper Sorbian.***

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<sup>6</sup> See also paragraph 465 of the 2nd evaluation report

### 3.2.3. Lower Sorbian in the Land of Brandenburg

183. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Lower Sorbian. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

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

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

185. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

186. In its third evaluation report, the Committee of Experts concluded that the undertaking remains partly fulfilled. It urged the authorities to adopt a more structured policy and to allocate the necessary resources for the provision of pre-school education in Lower Sorbian.

187. According to the fourth periodical report, the authorities find the information on the educational policy and priorities of the day-care centres available to the parents to be sufficient and no change in this respect is envisaged. They recall that the number of children attending Witaj centres is growing, despite an overall decrease in the number of children in the region; currently 200 children attend 14 Witaj groups in eight day-care centres, while Witaj groups also provide after-school day care.

188. The authorities also consider the funding procedure transparent and report that the measures taken to inform about the establishment, operation and funding of day-care centres include a brochure (*Unternehmen Kindertagesstätte*), consultation offered by a specially funded day-care centre and Internet forums.

189. With respect to pre-school teachers, the authorities are not aware of any problems exceeding local shortages. They explain that the lack of specific Sorbian language training in professional training courses for pre-school teachers should instead be covered by the wider training in social pedagogy, including the

practical phases of education. Institutions may teach elements of Lower Sorbian culture but the authorities admit that there is no structured policy for creating incentives for the institutions to provide Sorbian education.

190. The representatives of the Sorbian-speakers informed the Committee of Experts that the authorities' approach is insufficient, as the current structure of professional training does not provide an opportunity to acquire solid language skills or to prepare for a job in Sorbian and Witaj nursery schools. In their view, the future of the project depends on adequate training of the educators.

191. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled.

- b 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;*

192. In its third evaluation report, the Committee of Experts, in the light of the apparent shift of Lower Sorbian to teaching outside core school hours, was concerned that this undertaking may not even be partly fulfilled. It asked the authorities to clarify in the next periodical report the extent of this trend. The Committee of Experts urged the authorities to take immediate efforts to ensure that Lower Sorbian is taught as an integral part of the curriculum throughout primary education in all areas where there is a sufficient demand. Furthermore, the Committee of Ministers recommended that the German authorities “**adopt and implement a structured policy for the promotion and preservation of [...] Lower Sorbian, including in particular measures which ensure as a matter of urgency that primary and secondary education is available in [this language]**”.

193. According to the fourth periodical report, Lower Sorbian teaching has for a long time taken place outside core school hours, in the afternoon, for organizational reasons, as it is not attended by all pupils. The introduction of English in the third grade did not have any influence on this system. Lower Sorbian may be taught from the first grade onwards. The State Education Office in Cottbus/Chóšebuz has employed a new teacher as of the 2009/2010 school year and there is no lack of teachers for the planned classes. The working hours can also be extended, as all teachers work part-time.

194. Currently, in the framework of the Witaj project, six primary schools offer bilingual Lower Sorbian subject instruction to 232 pupils, in addition to classes of Lower Sorbian as a second language. According to the authorities, Lower Sorbian education is offered to all interested pupils. Furthermore, the school authorities are trying to encourage new pupils to attend bilingual Lower Sorbian education, and new schools to offer this kind of education.

195. The representatives of the Sorbian-speakers are still concerned about the deterioration in the knowledge of Lower Sorbian, confirmed by the results of the language competitions and competitions between schools in Lower Sorbian organized by the Witaj centre.

196. The Committee of Experts considers the undertaking partly fulfilled.

- c 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;*

197. In its third evaluation report, the Committee of Experts considers this undertaking still only partly fulfilled and urged the authorities to take immediate efforts to ensure that Lower Sorbian is taught as an integral part of the curriculum throughout secondary education in all areas where there is a sufficient demand. Furthermore, the Committee of Ministers recommended that the German authorities “**adopt and implement a structured policy for the promotion and preservation of [...] Lower Sorbian, including in**

**particular measures which ensure as a matter of urgency that primary and secondary education is available in [this language]”.**

198. According to the fourth periodical report, the Oberschule Burg/ Bórk and the Lower Sorbian grammar school in Cottbus/ Chóšebuz offer Lower Sorbian education, although in different formats. At Oberschule Burg/ Bórk, Lower Sorbian is taught by two trained Sorbian teachers as follows: four hours in the 7<sup>th</sup> and 8<sup>th</sup> grades; three hours in the 9<sup>th</sup> and 10<sup>th</sup> grades (a required optional subject as a second foreign language); and a basic course of three hours in the 13<sup>th</sup> grade.

199. At the Lower Sorbian grammar school, a bilingual model of education is provided, using Lower Sorbian also as a means of instruction for subjects. Approximately one third of the teachers have Lower Sorbian training, while one quarter have no command of the language.

200. Teachers are offered intensive advanced training courses for bilingual teaching. Also, in 2009/2010 and 2010/2011 four teachers (three from the Lower Sorbian grammar school and one from the Paul-Werner-Oberschule) will attend the Lower Sorbian course of study at Leipzig University, which will, after graduation, also allow them to teach Lower Sorbian. The State Education Office released these teachers from five teaching hours per week. The Committee of Experts welcomes this information.

201. According to the authorities, in the Cottbus/ Chóšebuz school district the existing demand of teachers for secondary schools is met. As a rule, teachers without training in Sorbian do not teach Sorbian at secondary schools. Bilingual teaching of other subjects is provided by teachers who graduated from a two-year intensive advanced training course with Sorbian as a working language.

202. The Committee of Experts notes that there is only one grammar school offering bilingual Lower Sorbian education, which means that most pupils taught in Lower Sorbian at pre-school and primary education will not be able to continue bilingual education in Lower Sorbian. In addition, throughout the whole Sorbian language area, only one ordinary secondary school is offering Lower Sorbian as a second language. In light of the geographical dispersion of language speakers, this offer on the whole is not sufficient for language maintenance.

203. The Committee of Experts considers the undertaking partly fulfilled.

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

204. The Committee of Experts considered that the undertaking remained fulfilled in its third report. It welcomed the amended Brandenburg Teacher Training Act of May 2007, stating that the history and culture of the Sorbs should be adequately considered during teacher training at university level.

205. During the fourth monitoring cycle, the representatives of the Sorbian-speakers informed the Committee of Experts that this provision is insufficiently implemented, since it is applied only on an ad-hoc basis by one academic assistant, which is far from being appropriate.

206. While considering the undertaking still fulfilled, the Committee of Experts would welcome more information about the teaching of the history and culture of the Sorbs at university level in the next periodical report.

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

207. In its third evaluation report, the Committee of Experts observed that in spite of some positive developments, there was still a lack of Lower Sorbian teachers at all levels of education and there were no specific dedicated efforts to increase the training of teachers qualified in Sorbian. It therefore considered that the undertaking remained only partly fulfilled. It urged the authorities to adopt a structured policy to tackle the present shortage of Lower Sorbian teachers at all levels of education.

208. According to the fourth periodical report, the Ministry of Education, Youth and Sport and the State Education Office in Cottbus/Chóšebuz expressed their willingness to support the information days at the Lower Sorbian grammar school again, in order to attract pupils to teaching.

209. Cooperation of *Land* Brandenburg with Leipzig University (Saxony) continues with respect to teacher training. A new master course in Lower Sorbian, intended as an advanced training for teachers, is offered at Leipzig University, based on an agreement with Brandenburg. Six teachers are currently enrolled and the training is partly offered in Cottbus/ Chóšebuz.

210. In addition to the courses referred to in paragraph 198 above, further training courses are offered to teachers with few or no Lower Sorbian language skills. The authorities argue that a higher number of training courses, which would imply that even more teachers would be on leave, would have negative consequences for the educational process at the Lower Sorbian Grammar School. Teachers may also attend Lower Sorbian courses at the School for Lower Sorbian language and culture in Cottbus/Chóšebuz.

211. The Committee of Experts welcomes these initiatives. However, it still appears that teacher training remains one of the significant problems for Lower Sorbian education, including at pre-school level. It therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

***The Committee of Experts strongly urges the German authorities to adopt a more structured policy with regard to teacher training, in close cooperation with the speakers.***

- 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.*

212. In its third evaluation report, the Committee of Experts concluded that, in the absence of periodic reports, the undertaking remained not fulfilled. The Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

213. According to the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

214. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Lower Sorbian education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

215. The representatives of the Sorbian-speakers informed the Committee of Experts of their wish to have a representative of the speakers at ministerial level to perform supervisory functions.

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

## **Article 9 – Judicial authorities**

### **Paragraph 1**

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

- a in criminal proceedings:*

...

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

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

217. In its third evaluation report, the Committee of Experts, though acknowledging the measures taken by the authorities, in the absence of any practical implementation, considered that the undertakings remained only formally fulfilled. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages [...] in the courts**”.

218. According to the fourth periodical report, no requests to use Lower Sorbian were registered. Nevertheless the authorities should take positive measures to facilitate the use of Lower Sorbian in criminal proceedings.

219. In view of the lack of practical implementation, the Committee of Experts maintains its previous conclusion that the undertaking is only formally fulfilled.

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

### **Paragraph 1**

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

a ...

iv *to ensure that users of regional or minority languages may submit oral or written applications in these languages;*

220. In its third evaluation report, the Committee of Experts welcomed the initiative of the Brandenburg Minister of the Interior who gave instructions to review the demand for further training in Sorbian language skills for employees and asked for further information on the follow-up in the next periodical report. In the meantime, however, the Committee of Experts considered that the undertaking remained formally fulfilled. The Committee of Experts urged the authorities to take the necessary steps to ensure that the possibility to submit oral and written applications in Lower Sorbian is guaranteed in practice. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]**”.

221. According to the fourth periodical report, the authorities state that structural measures only make sense based on an identifiable need and this was the reason for the above-mentioned instruction of the Brandenburg Minister of the Interior. They inform that Sorbian participants are not charged for interpreters or translators. They further inform that, concerning time limits, applications in Lower Sorbian are treated on an equal footing with applications in German.

222. The Brandenburg Ministry of the Interior consulted the other ministries and suggested taking into account Lower Sorbian language knowledge when employing staff, if this skill might be useful for performing the envisaged job. However, in view of legal provisions regarding eligibility for a public office, the command of Lower Sorbian language cannot be considered as a general qualification criterion for employment within public authorities.

223. The ministries have also been asked to review the extent to which the possibility to submit applications in Lower Sorbian is actually used and to evaluate the demand for further training as regards the Lower Sorbian language. According to their replies, there was no demand for further training and no further training measures were provided or carried out.

224. In view of the lack of information concerning the practical implementation of this undertaking, the Committee of Experts maintains its previous conclusion that the undertaking is formally fulfilled.

***The Committee of Experts strongly urges the authorities to take the necessary steps to ensure that the possibility to submit oral and written applications in Lower Sorbian is guaranteed in practice.***

## Paragraph 2

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

...

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

225. In its third evaluation report, the Committee of Experts welcomed the initiative of the State Ministry of the Interior which had addressed a letter to the relevant regional and local authorities to remind them of their obligations under Article 10 of the Charter and recommend them to consider the knowledge of the Sorbian language as an asset in job announcements. The Committee of Experts asked for further information on the follow-up in the next periodical report. In the meantime, however, the Committee of Experts considered that the undertaking remained partly fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities **“take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]”**.

226. According to the fourth periodical report, local authorities in the Sorbian settlement were asked for information on the extent to which it was ensured that the Sorbian-speakers have the possibility to submit oral or written applications in Lower Sorbian. According to the respective authorities, requests and other documents in Lower Sorbian are only rarely submitted and only few of the staff speak Lower Sorbian. However, translation is ensured.

227. The representatives of the Sorbian-speakers informed the Committee of Experts of their wish for applicants with Lower Sorbian language skills to be recruited to public offices.

228. The Committee of Experts recalls<sup>7</sup> that this undertaking requires the creation of conditions so that it becomes practically possible to use the language and making the potentially interested parties aware of these facilities. It maintains its previous conclusion that the undertaking partly fulfilled.

***The Committee of Experts encourages the authorities to take measures to improve the practical implementation of this undertaking in practice.***

## Paragraph 3

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

...

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

229. In its third evaluation report, the Committee of Experts concluded that, due to repeated absence of information with regard to this undertaking, it was not fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities **“take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]”**.

230. No information is provided in the fourth periodical report concerning public services.

231. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled and encourages the authorities to provide further detailed information with regard to the possibility to submit a request and receive a reply in Lower Sorbian in the case of public services provided by the administrative authorities or other persons acting on their behalf (i.e. postal services, hospitals, electricity, public transport).

<sup>7</sup> Paragraph 208 of the 2<sup>nd</sup> evaluation report

#### **Paragraph 4**

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

...

- 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.*

232. In its third evaluation report, the Committee of Experts considered the undertaking not fulfilled.

233. According to the fourth periodical report, it is possible for public service employees with a knowledge of a regional or minority language to be appointed in the territory where the language is used, but the authorities do not see the necessity to adopt specific measures encouraging these employees to use this possibility. There are no reports of any applications by Lower Sorbian-speaking staff being rejected. However, no information is available on how many Lower Sorbian-speaking staff asked to be appointed in the territory where the language is used.

234. In view of the lack of legal provisions or information on the practical implementation of this undertaking, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled. It urges the authorities to take measures to ensure compliance as far as possible with requests from public service employees having a knowledge of Lower Sorbian to be appointed in the territory in which that language is used.

#### **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:*

...

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

235. In its third evaluation report, the Committee of Experts concluded in the light of the new approach concerning Article 11.1.b that the undertaking was fulfilled.

236. However, with respect to private radio broadcasting, it encouraged the authorities to promote regional or minority broadcasting through financial incentives. The Committee of Experts expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities

237. In the fourth periodical report, the German authorities maintain that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media.

238. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

239. The Committee of Experts maintains its previous conclusion that the undertaking is fulfilled. However, it still encourages the authorities to promote the broadcasting of Lower Sorbian programmes by private radio broadcasters.

c ...

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

240. In its third evaluation report, the Committee of Experts had received no further information on the broadcasting of television programmes in the private or public media, nor of any measures taken by the *Land* authorities to encourage and/ or facilitate the broadcasting of television programmes. The Committee of Experts therefore maintained the conclusion that the undertaking was not fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities “**take measures so that adequate radio and television broadcasting are available in [...] Lower Sorbian**”.

241. No information is provided in the fourth periodical report. Paragraphs 237-238 above equally apply to television broadcasting.

242. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts encourages the authorities to take measures to encourage and/or facilitate the broadcasting of television programmes in Lower Sorbian on a regular basis.***

## **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;***

243. In its third evaluation report, the Committee of Experts considered the undertaking still fulfilled at the time of the report. However, it also observed that there was a risk of this undertaking not being fulfilled unless steps were taken to ensure the level of funding of the foundation and the continuity of the Sorbian National Ensemble, given its particularly significant position in Sorbian culture.

244. According to the fourth periodical report, in July 2009, the Federal Government Commissioner for Culture and Media and the *Länder* Brandenburg and the Free State of Saxony signed an agreement for the joint funding for the Foundation for the Sorbian People. Pursuant to its provisions, the Foundation will receive an annual subsidy of 16.8 million Euros (8.2 million Euros from the Federal authorities, 5.85 million Euros from the Free State of Saxony, and 2.77 million Euros from Brandenburg). In November 2009, the Foundation decided to grant the Sorbian National Ensemble a loan and a consolidation strategy was to be prepared by spring 2010.

245. The representatives of *Domowina* have informed the Committee of Experts that the available resources are not enough to ensure the future of institutional structures, particular the Sorbian National Ensemble and the financial situation remains precarious.

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

### **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.***

247. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled.

248. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph

94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

249. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

250. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Lower Sorbian language in Germany's cultural policy abroad.

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

### **Paragraph 1**

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

...

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

251. In its third evaluation report, the Committee of Experts had been informed that the *Land* authorities provided some financial support to promote the use of Lower Sorbian at church services. The Committee of Experts therefore considered the undertaking partly fulfilled.

252. No further examples were provided in the fourth periodical report.

253. The Committee of Experts requests the authorities to provide more information on the measures taken to encourage and/or facilitate the use of Lower Sorbian in economic and social activities.

### 3.2.4. North Frisian in the Land of Schleswig-Holstein

254. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of North Frisian. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

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

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

256. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

257. In its third evaluation report, the Committee of Experts considered that the undertaking was still only partly fulfilled. It again urged the authorities to make available, systematically and through adequate institutional and financial support, at least a substantial part of pre-school education in North Frisian to those pupils whose families so request.

258. In the fourth periodical report, the authorities refer to the responsibility of local public child and youth welfare agencies with respect to day-care centres, which includes deciding whether regional and minority languages should be offered and if so, which ones. The authorities also refer to the general scheme of funding provided by the *Land* to local authorities for children in independent day-care centres as a means of support.

259. With regard to teacher training, the federal authorities inform that they have supported projects providing advanced training for nursery school teachers. Two weekend courses offering instruction in the

Frisian language and in teaching methods are still available to the Frisian nursery school teachers and the volunteer Frisian language tutors.<sup>8</sup>

260. The organizations of the North Frisian speakers informed the Committee of Experts that there is practically no serious offer of pre-school education either completely or substantially in North Frisian. Since the information given by the authorities on the number of pre-school establishments making an offer in North Frisian does not give clear any indications as to the extent to which the North Frisian language is actually used in pre-school education, the Committee of Experts cannot conclude whether the offer mentioned in the German state report really conforms with the undertakings chosen under Article 8.1.a. (preschool education given either completely in North Frisian or at least a substantial part of it in North Frisian). It seems, however, that most of the offers of pre-school education mentioned by the authorities are not living up to the standards required by the undertaking. The authorities accordingly are under an obligation to actively promote an improved offer of North Frisian pre-school education.

261. The Committee of Experts notes that no significant measures seem to have been taken by the authorities in order to provide systematically and through adequate institutional and financial support at least a substantial part of pre-school education in North Frisian to those pupils whose families so request. It therefore maintains its previous conclusion that the undertaking is still only partly fulfilled.

***The Committee of Experts strongly urges the authorities to make available, systematically and through adequate institutional and financial support, at least a substantial part of pre-school education in North Frisian to those pupils whose families so request.***

- b** *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;***

262. In its third evaluation report, the Committee of Experts revised its previous conclusion and considered that the undertaking was not fulfilled. It urged the German authorities to make available North Frisian teaching at least as an optional subject in the normal curriculum. Furthermore, the Committee of Ministers recommended that the German authorities “**adopt and implement a structured policy for the promotion and preservation of North Frisian [...], including in particular measures which ensure as a matter of urgency that primary and secondary education is available in [this language].**”

263. According to the fourth periodical report, in October 2008 the Ministry of Education and Women's Affairs of *Land* Schleswig-Holstein issued a decree concerning Frisian language education. *Inter alia* this requires schools in the Nordfriesland district and on the Island of Helgoland to inform parents that they may request that their children take part in North Frisian language education.

264. The authorities also inform that demand for North Frisian classes has been annually evaluated by the Nordfriesland education authority and it has always been met.

265. The representatives of the Frisian-speakers have expressed their concern regarding Frisian language education. The number of pupils is decreasing, after some schools in the language area were closed or merged. North Frisian is still offered only as one of several optional courses, in addition to the normal curriculum and outside regular teaching hours. There are no binding curricula for the teaching of North Frisian. Expert assistance on North Frisian teaching and supervision of North Frisian education are not systematically available. In addition there is a lack of continuity between school levels and programmes. No structured and pro-active approach has been created by the authorities in this field. Frisian language education is not governed by any legal provisions, but only by the above-mentioned decree, which will apply until 2013. With respect to its provisions, the Frisian-speakers view control of the compliance of schools with the obligation to inform parents as advisable. As to the demand surveys, these do not seem to reflect completely and adequately the need for Frisian language classes.

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<sup>8</sup> See also 3<sup>rd</sup> evaluation report, paragraph 259

266. The Committee of Experts recalls that the undertaking requires the German authorities at least to make available North Frisian teaching as an integral part of the curriculum. As this minimum condition does not seem to be met, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts strongly urges the authorities to make available North Frisian teaching as an integral part of the curriculum within primary education.***

- c 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;*

267. In its third evaluation report, the Committee of Experts revised its previous conclusion and considered that the undertaking was not fulfilled. It urged the German authorities to make available North Frisian teaching at least as an optional subject within secondary education. Furthermore, the Committee of Ministers recommended that the German authorities **adopt and implement a structured policy for the promotion and preservation of North Frisian, including in particular measures which ensure as a matter of urgency that primary and secondary education is available in this language.**

268. According to the fourth periodical report, in line with the October 2008 decree on Frisian language education, Frisian may be offered in the fifth and sixth grades as an optional subject or in the framework of a Frisian language cultural project. From the seventh grade onwards it can be offered as an optional subject in the normal curriculum. At the upper secondary level, Frisian may be chosen instead of a foreign language, if staff are available.

269. The representatives of the Frisian-speakers, while welcoming the inclusion of Frisian in the normal curriculum from the seventh grade onwards as a step in the right direction, voiced concern with regard to the language teaching at the lower grades, as well as to the general background and development of Frisian language education (see also paragraph 263 above).

270. The Committee of Experts notes that in practice a total of 902 pupils in 20 schools of all levels studied North Frisian in the 2009/2010 school year and that compared to the information in the previous monitoring cycles<sup>9</sup> their number has significantly decreased. Although the decree seems to slightly improve the position of North Frisian in secondary education, further measures including the systematic and continued provision of North Frisian as an integral part of the curriculum at all levels of secondary education are necessary.

271. The Committee of Experts considers the undertaking only partly fulfilled.

***The Committee of Experts strongly urges the authorities to make available North Frisian teaching as an integral part of the curriculum within secondary education.***

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

272. In its third evaluation report, the Committee of Experts considered the undertaking partly fulfilled at the time of the report. However, there was a risk that if the trend at that time continued the undertaking would not be fulfilled at all. The Committee of Experts urged the authorities to ensure that appropriate facilities for teacher training are in place to meet the needs for education in North Frisian and to provide incentives aimed at increasing the number of North Frisian teachers at all levels of education.

273. According to the fourth periodical report, Frisian is taught at the universities of Kiel and Flensburg. At the University of Kiel, Frisian philology may be studied, both at bachelor and master levels, but only as a side subject to various two-subject programmes or as an additional subject in a two-subject teacher training course. At the Frisian Institute of the University of Flensburg some semester hours of instruction in Frisian are offered by specialized instructors. In the framework of the multi-disciplinary bachelor course in education,

<sup>9</sup> See paragraph 524 of the 2<sup>nd</sup> periodical report and 3004 of the 3<sup>rd</sup> periodical report

completion of a course in Low German or Frisian is still required for admission to examinations in the subject "German"<sup>10</sup>. Since the 2008/2009 winter semester, the Centre for Advanced Training at the University of Flensburg has offered a certificate course in Frisian studies to students in the teacher training course, guest students and teachers. This allows graduates to teach Frisian at schools in Schleswig-Holstein. On the whole, however, the institutional structure at the University of Flensburg is not sufficient to produce an adequate number of North Frisian teachers with the qualifications necessary to improve systematically the offer of North Frisian education at primary and secondary schools throughout the North Frisian language area.

274. The representatives of the Frisian speakers have informed the Committee of Experts that there are still difficulties in recruiting new staff and these will likely increase in the future. There is no systematic approach with respect to teacher training. Frisian is no longer a proper subject in teacher training and moreover no vacancies are offered for the second practical phase of training in the Frisian language area. The Frisian Council is trying to recruit qualified teachers already working at schools in Nordfriesland as Frisian language teachers and a pilot project is being conducted on the Island of Föhr.

275. The Committee of Experts recalls that teacher training is an essential component in ensuring an adequate offering of North Frisian at all levels of education. Therefore, planning for teacher training should be regarded as an integral part of the structured policy for the promotion and preservation of North Frisian as recommended by the Committee of Ministers<sup>11</sup>. The Committee of Experts also bears in mind that, according to the above-mentioned decree on Frisian education, Frisian language instruction is offered depending on available staff. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

***The Committee of Experts strongly urges the authorities to ensure that appropriate facilities for teacher training are in place to meet the needs for education in North Frisian in a short and long term perspective and to provide incentives aimed at increasing the number of North Frisian teachers at all levels of education.***

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

276. In its third evaluation report, the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities "**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**".

277. According to the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

278. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of North Frisian education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

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

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<sup>10</sup> See also paragraph 277 of the 3<sup>rd</sup> evaluation report

<sup>11</sup> See also paragraph 280 of the 3<sup>rd</sup> evaluation report

## Article 10 – Administrative authorities and public services

### Paragraph 1

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

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

280. In its third evaluation report, the Committee of Experts concluded that the undertaking was formally fulfilled but there remained practical problems with regard to the implementation of this undertaking which must be addressed. Furthermore, the Committee of Ministers recommended that the German authorities **“take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]”**.

281. According to the fourth periodical report, structural measures only make sense based on identifiable need and are considered only in regions inhabited traditionally or by large numbers of the regional or minority language speakers. The authorities also refer to the provisions of the Frisian Act, which offer many opportunities for language promotion.

282. The Committee of Experts however has not been informed of any measures taken in order to tackle the practical problems in the implementation of this undertaking. It therefore maintains its previous conclusion that the undertaking is only formally fulfilled. The Committee of Experts encourages the authorities to provide specific information in the next periodical report on measures taken to ensure that it is possible in practice to validly submit documents in North Frisian.

## 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:*

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

283. In its third evaluation report, the Committee of Experts gained the impression that the authorities had not taken measures to encourage and/ or facilitate the broadcasting of radio programmes and concluded that the undertaking remained not fulfilled. It urged the German authorities to take measures to encourage and/ or facilitate the broadcasting of radio programmes in North Frisian on a regular basis. Furthermore, the Committee of Ministers recommended that the German authorities **“take measures so that adequate radio and television broadcasting are available in [...] North Frisian”**.

284. With respect to private radio broadcasting, the Committee of Experts encouraged the authorities to promote regional or minority broadcasting through financial incentives. The Committee of Experts expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities.

285. According to the fourth periodical report, in December 2009, the media authority Hamburg/Schleswig Holstein (MA HSH) organized a call for bids especially aimed at providers offering programmes specifically dedicated to North Frisian. Participants explicitly included Frisian-language offerings in their proposals. Pursuant to this bid, one frequency on the Island of Föhr was awarded to the Open Channel Schleswig-Holstein for ten years. The Open Channel (in cooperation with the private Ferring Foundation) will broadcast one hour per day in North Frisian, but hopes to expand the programme to seven hours per day. Additional funding for these programmes was promised by the Frisian Council. Some of the project funding granted by the federal authorities to the Frisian Council will be used to finance the contribution of the Frisian Council to the programmes. The Committee of Experts welcomes this information.

286. The public broadcaster NDR continues to offer a three-minute weekly programme in Frisian (*Fransch for enarken/Frisian for all*) and occasionally, longer programmes. Radio Schleswig Holstein (R.SH) also includes at times Frisian features in its programme, while in February 2010 Radio Öömrang covered for the first time a North Frisian Festival. The authorities also inform that the governing mayor of the Free and Hanseatic City of Hamburg sent a letter to the public broadcaster NDR on behalf of all the *Länder* parties to the NDR state treaty, asking the broadcaster to increase the efforts to implement the Charter in the field of media.

287. The representatives of the North Frisian speakers have informed the Committee of Experts that they were also interested in programmes by the public broadcasters and wish for amendments of the NDR state treaty to include obligations concerning minority languages, as well as of the *Land* regulations concerning private broadcasters.

288. The Committee of Experts refers to its evaluation for Danish and confirms its view that the Open Channel model could serve as a basis for fulfilling this undertaking, but requires systematic financial support that enables speakers to broadcast radio programmes on a regular basis.

289. The Committee of Experts reiterates that promoting minority language broadcasting in the private media sector through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

290. The Committee of Experts commends the efforts undertaken by the media authority Hamburg/Schleswig Holstein (MA HSH), but it still considers the undertaking partly fulfilled at present. It encourages the German authorities to continue to take measures that encourage and/or facilitate a sufficient level of broadcasting of radio programmes in North Frisian on a regular basis.

c ...

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

291. In its third evaluation report, the Committee of Experts concluded that, in the absence of any indications of measures taken to encourage and/ or facilitate the broadcasting of television programmes of North Frisian on a regular basis, the undertaking remained not fulfilled. It urged the German authorities to take measures to encourage and/ or facilitate the broadcasting of television programmes in North Frisian on a regular basis. Furthermore, the Committee of Ministers recommended that the German authorities “**take measures so that adequate radio and television broadcasting are available in [...] North Frisian**”.

292. According to the fourth periodical report and to the information received from the representatives of the North Frisian speakers, no television programmes in North Frisian are currently broadcast. The German authorities continue to consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is an intervention incompatible with the independence of the media.

293. The Committee of Experts reiterates that promoting minority language broadcasting in the private media sector through financial incentives, as is currently carried out for example for cultural programmes, would not infringe the independence of the media.

294. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

**The Committee of Experts strongly urges the authorities to take measures to encourage and/ or facilitate the broadcasting of television programmes in North Frisian on a regular basis.**

e ...

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

295. In its third evaluation report, the Committee of Experts maintained its previous conclusion that this undertaking was not fulfilled. It encouraged the authorities to take measures to encourage and/ or facilitate the publication of newspaper articles in North Frisian on a regular basis.

296. No information on measures taken to encourage and/facilitate the publication of newspaper articles in North Frisian is available in the fourth periodical report. The German authorities maintain the view that these measures would interfere with the independence of the media.

297. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

**The Committee of Experts urges the authorities to take measures to encourage and/ or facilitate the publication of newspaper articles in North Frisian on a regular basis.**

f ...

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

298. In the third evaluation report, the Committee of Experts had received no information on how the subsidy fund allowed productions in North Frisian to qualify for them in practice. The Committee of Experts therefore revised its previous conclusion and considered that the undertaking was not fulfilled.

299. In the fourth periodical report, the authorities state that the Frisian organizations may submit proposals for audiovisual projects to be paid from the project funds provided annually by the *Land* authorities (media authority Hamburg/Schleswig Holstein).

300. It is still not clear, however, whether the existing measures for financial assistance to audiovisual productions, in particular those provided by the promotion institution *Filmförderung Hamburg Schleswig-Holstein* are designed in such a way that productions in North Frisian can qualify for them in practice and to what degree these funds have actually been used for that purpose.

301. The Committee of Experts requests the German authorities to provide, in the next periodical report, information about audiovisual productions in North Frisian that have been supported by the *Filmförderung Hamburg Schleswig-Holstein*.

## **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:*

...

- 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;*

302. In its third evaluation report, the Committee of Experts had been informed that bodies other than the Frisian associations may make use of the state subsidies to, *inter alia*, employ staff with Frisian language skills. However, the Committee of Experts had not been made aware of how these subsidies were used in

practice or how the authorities promoted measures to ensure that Frisian-speaking staff were employed. It therefore considered that the undertaking remained partly fulfilled.

303. No information in this respect is provided in the fourth periodical report. The Committee of Experts therefore maintains its conclusion that the undertaking is partly fulfilled. It encourages the German authorities to provide specific information on measures taken to ensure that the bodies responsible for organising or supporting cultural activities other than the Frisian organisations have at their disposal staff who have a full command of Frisian.

### **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.*

304. In its third evaluation report, the Committee of Experts considered that this undertaking remained not fulfilled.

305. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

306. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

307. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the North Frisian language in Germany's cultural policy abroad.

### **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;*

308. In the third evaluation report, the Committee of Experts was not in a position to conclude on this undertaking and looked forward to receiving information on possible further talks on concluding agreements, for example in the context of the North Sea Cooperation, in the next periodical report.

309. According to the information provided to the Committee of Experts, no international agreements required by the undertaking exist and no negotiations are underway. The Committee of Experts therefore considers the undertaking not fulfilled.

### 3.2.5. *Sater Frisian in the Land of Lower Saxony*

310. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Sater Frisian. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.a; g
- Article 10, paragraph 4.a;
- Article 10, paragraph 5;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; c; e; f;g
- Article 12, paragraph 2;
- Article 13, paragraph 1.a; c; d.

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

312. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

313. In its third evaluation report the Committee of Experts was disappointed to observe that no changes had occurred since the previous monitoring round, especially considering the fact that Sater Frisian is a particularly endangered language and requires urgent financial and practical support from the authorities in the field of education if it is to survive at all as a living language. It therefore maintained its previous conclusion that this undertaking was not fulfilled. The Committee of Experts strongly urged the authorities to encourage, through adequate institutional and financial support, the provision of at least a substantial part of pre-school education in Sater Frisian to those pupils whose families so request.

314. According to the fourth periodical report, in the five nursery schools in Saterland Sater Frisian is currently still taught for one hour per week by volunteers. However, the Land authorities provided €10,000 annually in 2008 and 2009 to the *Seelter Bund* for the project “Preserving the Sater Frisian Language”. This enabled the organization to provide teaching materials, organize training courses and reimburse the travel expenses of volunteers.

315. The Committee of Experts has been informed that as of 2011 Sater Frisian will be taught bilingually in kindergartens and primary schools in Saterland (see also paragraph 49 above).

316. The Committee of Experts commends the positive initiatives taken, but still considers the undertaking not fulfilled at present. It looks forward to learning more about the results of the initiatives taken in the next monitoring cycle, and hopes that the positive developments that started over the last years will lead to fulfilment in the near future.

e ...

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

317. In its third evaluation report, the Committee of Experts had been informed that a focus on Low German had been assigned to the new professor for German Philology at the University of Oldenburg, including a teaching position in Sater Frisian, and a language centre would also be established. While welcoming the initiative taken, the Committee of Experts still considered the undertaking not fulfilled at the time of the report and asked the authorities to provide further information in the next periodical report on the establishment and activities of the above mentioned language centre and the exact extent to which Sater Frisian was offered.

318. According to the fourth periodical report, an institute for German philology with a focus on Low German and Sater Frisian was established at the University of Oldenburg in late 2007. A class in Sater Frisian has been offered at the university since August 2009. In the framework of a master course in language sciences organized in cooperation with the University of Bremen, two seminars on Sater Frisian have been offered since the 2009/2010 winter semester. The University also conducts various research studies. In addition, the second edition of the Sater Frisian-German dictionary is in preparation and will hopefully receive the necessary financing for completion and publication.

319. The Committee of Experts considers the undertaking fulfilled at present and looks forward to receiving information on the further developments and sustainability of the present offer.

f ...

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

320. In its third evaluation report, the Committee of Experts concluded that this undertaking was not fulfilled and encouraged the authorities to take measures to re-establish an offer of adult education in Sater Frisian.

321. No information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts urges the authorities to take measures to re-establish an offer of adult education in Sater Frisian.***

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

322. In the third evaluation report, the Committee of Experts considered that the undertaking remained partly fulfilled and encouraged the authorities to extend the teaching of the history and culture reflected by Sater Frisian to all schools in Saterland. The Committee of Experts also encouraged the authorities to look into the possibility of including the teaching of the history and culture related to the Sater Frisian language in the mainstream curriculum so that the majority population on a larger scale also learns about the history and the culture of Sater Frisians.

323. According to the fourth periodical report, the core curriculum requires that the regional context is taken into account when choosing topics and units for the teaching of skills. In the case of German, history and geography, the curriculum refers to the local area and the region in formulating competences.

324. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled. It requests the German authorities to provide more specific information in the next periodical report on the extent to which the teaching of the history and the culture which is reflected by Sater Frisian is ensured in practice, not only in the education of Sater Frisians, but also in mainstream education in the region.

- 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.*

325. In its third evaluation report, the Committee of Experts concluded that, in the absence of periodic reports the undertaking remained not fulfilled and asked the authorities to provide pertinent information in their next periodical report. Furthermore, the Committee of Ministers recommended that the German authorities **“ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III”**.

326. According to the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education. The Lower Saxony authorities further state that the issues concerning a supervisory body and related reports will be dealt with in the new version of the decree “The Region in Classroom Instruction”, which is currently being revised.

327. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Sater Frisian education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public

328. The Committee of Experts considers this undertaking still not fulfilled at the time of the report. It would welcome more information in the next periodical report about the outcome of the revision of the above mentioned decree with respect to the supervisory bodies.

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

### **Paragraph 1**

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

- a ...*
- v to ensure that users of regional or minority languages may validly submit a document in these languages;*
- ...*
- c to allow the administrative authorities to draft documents in a regional or minority language.*

329. In its third evaluation report, the Committee of Experts had been informed that no documents had been drafted in Sater Frisian and therefore considered these undertakings not fulfilled. It urged the authorities to take the necessary steps to ensure that the users of Sater Frisian may validly submit a document in Sater Frisian and to allow the administrative authorities to draft documents in Sater Frisian. Furthermore, the Committee of Ministers recommended that the German authorities **“take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]”**.

330. In the fourth periodical report, the authorities state that structural measures only make sense based on identifiable need and are considered only in regions inhabited traditionally or by large numbers of the regional or minority language speakers. Also, bearing in mind the limited number of users of Sater Frisian and the provision “as far as this is reasonably possible”, the two undertakings could only be applied with respect to local authorities in Saterland municipality.

331. The Committee of Experts recalls that undertakings under Article 10 paragraph 1 refer to the administrative authorities of the state, while local and regional authorities are governed by the provisions of Article 10 paragraph 2<sup>12</sup>.

332. It also points out that the provision “as far as this is reasonably possible” is not to be understood as a means of not applying these undertakings once they have been chosen by a state. It only allows for a flexible or gradual approach in the implementation, bearing in mind the implications in terms of finance or human resources and the fact that in some circumstances a full application may not be realistic<sup>13</sup>. In the view of the Committee of Experts accepting a provision of the Charter “entails the commitment to provide the resources and make the administrative arrangements required to render it effective”<sup>14</sup>. Accordingly, the *Land* should look for ways to render the undertakings effective with regard to state authorities that are of particular relevance for all citizens in the Sater Frisian area (e.g. police, tax authorities).

333. The Committee of Experts therefore maintains its previous conclusion that the undertakings are not fulfilled.

***The Committee of Experts strongly urges the authorities to take the necessary steps to ensure that the users of Sater Frisian may validly submit a document in Sater Frisian and to allow the administrative authorities to draft documents in Sater Frisian.***

## **Paragraph 2**

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

...

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

334. In its third evaluation report, the Committee of Experts had been informed that it was possible to submit applications to the municipality in Sater Frisian. However, the Committee of Experts was still unclear about the actual practical implementation of this undertaking and asked the authorities to clarify this issue in the next periodical report. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]**”.

335. According to the fourth periodical report, in practice applications are rarely submitted in Sater Frisian.

336. The Committee of Experts considers the undertaking only partly fulfilled. It encourages the German authorities to take positive measures to improve the implementation of this undertaking in practice.

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

337. In the third evaluation report, in the absence of reports of any publications, the Committee of Experts concluded that the undertaking remained not fulfilled.

338. In the fourth periodical report, the authorities argue that the undertaking only requires parties to allow for the publication by regional authorities of their official documents also in the relevant regional or minority languages and would therefore be fulfilled.

339. The Committee of Experts maintains its previous opinion that, in order to comply with this undertaking, a certain degree of practical implementation (“to encourage”) must follow the mere “allowing” of publications in Sater Frisian. It again points out that not all publications need to be published in Sater Frisian, but for example, key documents or documents related to Sater Frisian<sup>15</sup>. The Committee therefore maintains its previous opinion that the undertaking is not fulfilled.

<sup>12</sup> See also paragraph 102 of the explanatory report to the Charter and paragraph 347 of the 3<sup>rd</sup> evaluation report.

<sup>13</sup> See paragraph 104 of the Explanatory report

<sup>14</sup> Paragraph 104 of the Explanatory report

<sup>15</sup> See also paragraph 347 of the 3<sup>rd</sup> evaluation report

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

340. In its third evaluation report, the Committee of Experts concluded that, in the absence of any positive evidence that documents are published in Sater Frisian by the local authorities, the undertaking was not fulfilled.

341. According to the fourth periodical report, documents are published in German, the official language.

342. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

**The Committee of Experts urges the authorities to take measures to encourage the local publication of official documents also in Sater Frisian.**

*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;**

343. In its third evaluation report, the Committee of Experts concluded that, in the absence of any positive evidence that Sater Frisian was used in debates in the assemblies of the *Kreis* (*Kreistag*), the undertaking was not fulfilled.

344. According to the fourth periodical report, only German is used in debates in the assemblies of the *Kreis*, as only one member speaks Sater Frisian. The Committee of Experts would like to emphasize that even in situations like these it is still possible to encourage the use of regional or minority languages at least on a symbolical level. The Committee of Experts has not been informed of any such encouragement.

345. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

*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;**

346. In its third evaluation report, the Committee of Experts had been informed that although there were Sater Frisian-speakers in the municipal council, the language was not used in the meetings. It therefore considered that the undertaking was formally fulfilled.

347. According to the fourth periodical report, only German is used in practice in debates in the council and committee meetings in Saterland municipality. The statement of the authorities in the fourth periodical report points to the fact that there is no willingness to encourage the use of Sater Frisian in municipal council meetings, indicating that the idea of a use of Sater Frisian in council meetings is "bizarre" in the eyes of the authorities. The Committee of Experts would like to underline that the undertaking is not restricted to a mere "allowing", but requires the state to "encourage" the use of the language in municipal council meetings when there exist serious societal impediments towards public use of the language .

348. The Committee of Experts considers the undertaking not fulfilled.

#### **Paragraph 4**

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

...

*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.**

349. In its third evaluation report, the Committee of Experts had not received any information on any other kind of positive practice or incentives or structured approach with regard to this undertaking, which however seemed all the more important with a view to complying with the undertakings above and considered this undertaking not fulfilled.

350. According to the fourth periodical report, six employees at the town hall of Saterland speak Sater Frisian. The Committee of Experts understands from the information received that there have been no requests to be appointed in the territory where Sater Frisian is used. The authorities maintain they are only required to comply with requests from public service employees and not to take any other action to encourage them.

351. The Committee of Experts has pointed to some undertakings chosen under Article 10 that are not fulfilled. The undertaking of Article 10.4.c provides a means of improving the performance in regard to the unfulfilled undertakings under Article 10 paragraphs 1 and 2. The Committee of Experts has received no information on the use of this measure in this respect.

352. Based on this the Committee of Experts considers the undertaking not fulfilled.

## Article 11 – Media

### Paragraph 1

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

...

b ...

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

353. In its third evaluation report, the Committee of Experts considered the undertaking fulfilled. It had been informed that a weekly programme “Saterland aktuell” was broadcast in Sater Frisian on the citizens’ radio *Ems-Vechte-Welle*. With regard to public broadcasting, the Committee of Experts was not aware of any broadcasting on public radio channels in Sater Frisian.

354. In the fourth periodical report, the authorities further inform that, while they may not directly influence the broadcasting of Sater Frisian radio programmes, the organization of the Sater Frisian-speakers may take initiatives and submit proposals to radio stations for producing and broadcasting radio programmes. Financial support as project funding is in this case possible. Also, Lower Saxony is envisaging amending the Media Act, with a view to strengthening regional and minority languages. The Minister President of Lower Saxony sent a letter to radio broadcasters and print media companies, encouraging them to continue and increase their activities concerning regional and minority languages.

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

c ...

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

356. In its third evaluation report, the Committee of Experts was not aware of any television programmes in Sater Frisian and considered that the undertaking remained not fulfilled. It urged the German authorities to adopt positive measures aimed at encouraging and/ or facilitating the broadcasting of television programmes in Sater Frisian on a regular basis. Furthermore, the Committee of Ministers recommended that the German authorities “**take measures so that adequate radio and television broadcasting are available in Sater Frisian [...]**”.

357. In the fourth periodical report, the authorities refer to television programmes about Saterland and the Sater Frisian language and culture. However, no programmes in Sater Frisian are available.

358. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

359. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts strongly urges the authorities to adopt positive measures aimed at encouraging and/ or facilitating the broadcasting of television programmes in Sater Frisian on a regular basis.***

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

360. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled.

361. In the fourth periodical report, the authorities state that despite targeting potential applicants, no relevant applications were submitted. However the Committee of Experts received no information regarding concrete measures taken to encourage and/or facilitate the production of audio and audiovisual works in Sater Frisian.

362. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

*e*      ...

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

363. In the third evaluation report, the Committee of Experts had been informed that the *General-Anzeiger Rhauderfehn* regional newspaper published weekly articles in Sater Frisian and considered that the undertaking was fulfilled. It nevertheless encouraged the authorities to take steps to facilitate the publication of newspaper articles in Sater Frisian.

364. In the fourth periodical report, the authorities refer to the incompatibility of any measures aimed at encouraging and/or facilitating the publication of newspaper articles in minority languages with the independence of the media.

365. The Committee of Experts reiterates that promoting minority language written media through financial incentives would not infringe the independence of the media and would be needed, as a means of encouragement, if private publishers did not incorporate newspaper articles in Sater Frisian on their own initiative. Since there is a practice of regular publication of such articles in a regional newspaper, the Committee of Experts maintains that the undertaking is fulfilled.

*f*      ...

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

366. In its third evaluation report, the Committee of Experts considered that the undertaking was not fulfilled as it understood that no measures had been taken by the authorities towards a practical implementation of this undertaking.

367. According to the fourth periodical report, no financial assistance has been granted to audiovisual production in Sater Frisian, as no applications were submitted.

368. The Committee of Experts considers the undertaking not fulfilled.

## **Article 12 – Cultural activities and facilities**

### **Paragraph 1**

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

...

- 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;*

369. In its third evaluation report, the Committee of Experts considered this undertaking fulfilled. However it asked for information on the effect of the transfer of the task of promoting regional culture to the *Landschaftsverbände* (regional local authority associations) and in the case of Sater Frisian to the *Oldenburger Landschaft e.V.*

370. In the fourth periodical report, the authorities refer to the positive effect of this transfer on culture in Lower Saxony. The Committee of Experts would welcome more specific information with respect to the effect of the transfer to Sater Frisian.

### **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.*

371. In its third evaluation report, the Committee of Experts considered that the undertaking was partly fulfilled for Lower Saxony and not fulfilled for federal authorities.

372. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* ( see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

373. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

374. As for the *Land* authorities, the organisation of an event dedicated to Low German and Sater Frisian in Brussels is currently under consideration.

375. The Committee of Experts considers this undertaking still only partly fulfilled at the Land level and not fulfilled at federal level, since there seems to be no structured approach to integrating the Sater Frisian language in Germany's cultural policy abroad.

### 3.2.6. *Low German in the Länder of Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein*

#### 3.2.6.a. *Low German in the Free Hanseatic City of Bremen*

376. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Low German in Bremen. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1 e ii ; f.i;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.e; f;
- Article 11, paragraph 1. b ii, f.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; e ; g;
- Article 13, paragraph 1.a; c.

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

378. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

#### **Article 8 – Education**

379. In the third monitoring cycle the Committee of Experts was informed about an extensive survey concerning Low German in schools, carried out in October 2006 and meant to serve as a basis for developing and implementing a concept for teaching Low German. The Committee of Experts welcomed the initiative and looked forward to receiving further information in this respect. The fourth periodical report did not contain any information on the results of the survey. The envisaged concept for the teaching of Low German has not yet been adopted.

380. During the on-the-spot visit, the authorities of the Free Hanseatic City of Bremen informed the Committee of Experts that they are considering adopting the Low German education model of the Free and Hanseatic City of Hamburg, as well as a set of measures with a view to implementing the provisions chosen under the Charter until 2016. The Committee of Experts encourages the authorities to continue the steps towards establishing a systematic approach to Low German education.

#### **Paragraph 1**

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

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

381. In its third evaluation report, the Committee of Experts considered that there was a need for a systematic approach in the field of pre-school education in Low German. In the absence of clear information, it could not conclude that this undertaking was fulfilled and asked the authorities to provide the relevant information in the next periodical report. It urged the authorities to take the necessary measures so that pre-school education in Low German will be available where there is a sufficient demand.

382. In the fourth periodical report the authorities state that there is no demand for Low German pre-school education beyond what is currently offered. In the current legal framework, the possibility to require day-care institutions to present a specific content is limited.

383. The Committee of Experts received no further information on the extent to which Low German is used in pre-school education. Furthermore, no steps towards a systematic approach in this field seem to have been taken by the authorities. The Committee of Experts therefore must conclude that the undertaking is not fulfilled.

*b* ...

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

384. In its third evaluation report, the Committee of Experts considered that this undertaking remained not fulfilled. It urged the authorities of the Free Hanseatic City of Bremen to adopt a structured approach with a view to ensuring that Low German was systematically taught within primary education with regular school hours allocated to it. Furthermore, the Committee of Ministers recommended that the German authorities **“take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to Low German and provide clear guidelines for Low German teaching [...]”.**

385. According to the fourth periodical report, due to the core competences and tasks, it is not possible to allocate regular school hours to Low German or to use a part of the German hours for teaching Low German. The authorities intend to focus on reading competitions. Literature and textbooks were offered to schools by the Low German Institute. The *Framework Plan for Elementary Education* does not contain any specific reference to Low German.

386. In the light of this information, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts strongly urges the authorities of the Free Hanseatic City of Bremen to adopt a structured approach with a view to ensuring that Low German is systematically taught within primary education with regular school hours allocated to it.***

*c* ...

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

387. In the third evaluation report, the Committee of Experts considered the undertaking remained partly fulfilled and encouraged the authorities to ensure that Low German is offered throughout secondary education. It urged the authorities to take the necessary measures to make the teaching of Low German within secondary education more systematic with regular school hours allocated to it. Furthermore, the Committee of Ministers recommended that the German authorities **“take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to Low German and provide clear guidelines for Low German teaching [...]”.**

388. According to the fourth periodical report, the curricula for lower secondary grades are under revision and the position of Low German in secondary education should be strengthened. In the framework of this reform, more funds are planned in the new budget to be allotted to Low German education (in the form of projects or working groups).

389. The authorities also state that Low German is taught only at schools in Bremen where there are teachers with a particular qualification for Low German (which is rarely the case in practice).

390. In the light of this information, the Committee of Experts maintains its previous conclusion that the undertaking is still only partly fulfilled.

***The Committee of Experts strongly urges the authorities to take the necessary measures to make the teaching of Low German within secondary education more systematic with regular school hours allocated to it.***

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

391. In its third evaluation report, the Committee of Experts had been informed that the planned overall new concept for teaching Low German intended to lead to compliance with the requirements of the Charter, including the teaching of the history and culture related to Low German. The Committee of Experts looked forward to receiving further information on this concept and how it was put into practice in the next periodical report.

392. According to the fourth periodical report, in the general curricula, conceived as broad-based education plans, Low German may be listed as a compulsory subject area, but no details may be prescribed. However, according to the authorities, Low German lessons would also have to refer to the history and culture which is reflected by it.

393. Based on this information, the Committee of Experts understands that the teaching of the history and culture which is reflected by Low German depends in practice on the teacher, as the curricula do not have any compulsory provisions in this respect.

394. The Committee of Experts therefore concludes that the undertaking is not fulfilled. It encourages the German authorities to make arrangements to ensure the teaching of the history and culture which is reflected by Low German.

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

395. In its third evaluation report, the Committee of Experts considered the undertaking not fulfilled and encouraged the authorities to provide basic and further training of teachers of Low German.

396. According to the fourth periodical report, optional Low German modules continue to be offered as part of teacher training at Bremen University. No further training offers are currently available. If needed, teachers follow further training offers in neighbouring Lower Saxony.

397. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts urges the authorities to provide the basic and further training of teachers of Low German needed to fulfil the undertakings under Article 8.***

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

### **Paragraph 1**

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

*a ...*

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

398. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration**”.

399. No information is provided in the fourth periodical report. The authorities do not see the necessity of such measures, as the Charter is directly enforceable in Germany. The Committee of Experts recalls<sup>16</sup> that apart from adopting administrative regulations, the authorities could envisage other measures, for example informing the administrative bodies of their duties as well as carrying out an awareness campaign and identifying Low German speakers within the administration, etc.

400. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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

401. In its third evaluation report the Committee of Experts concluded that the undertaking was not fulfilled as the authorities of the Free Hanseatic City of Bremen stated that they did not envisage drafting documents in Low German.

402. In the fourth periodical report, the authorities do not see the necessity of further measures, as the undertaking would be already fulfilled by allowing administrative authorities to draft documents in Low German.

403. The Committee of Experts points out that a certain degree of implementation must follow the mere “allowing” of documents to be drafted in Low German. The Committee of Experts has not been made aware of any document drafted in Low German by the administrative authorities. It maintains its previous conclusion that the undertaking is not fulfilled.

## **Paragraph 2**

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

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

404. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled.

405. In the fourth periodical report, the authorities confine themselves to stating that the undertaking is already fulfilled by allowing the use of Low German within the framework of the regional or local authority.

406. The Committee maintains its view that a degree of practical implementation is necessary in order to fulfil the undertaking. In the absence of positive evidence of any measures taken by the authorities, it maintains its previous conclusion that the undertaking is not fulfilled.

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

407. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration [...]**”.

408. No relevant information is provided in the fourth periodical report. The authorities maintain that the undertaking is already fulfilled by allowing the possibility for users of Low German to submit oral and written applications.

409. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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

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

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<sup>16</sup> See paragraph 422 of the 3<sup>rd</sup> evaluation report

410. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, these undertakings were not fulfilled.

411. No information on any measures is provided in the fourth periodical report. The authorities maintain that the undertaking is already fulfilled by allowing the possibility for users of Low German to submit oral and written applications.

412. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts maintains its previous conclusion that the undertakings are not fulfilled.

## Article 11 – Media

### Paragraph 1

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

c ...

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

413. In its third evaluation report, the Committee of Experts, taking into consideration the lack of regular programmes in Low German, considered that the undertaking remained not fulfilled at the time of the report.

414. No information is provided in the fourth periodical report.

415. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

416. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts urges the authorities to encourage the broadcasting of television programmes in Low German on a regular basis.***

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

417. In its third evaluation report, the Committee of Experts considered that, in the absence of information on any positive action taken by the authorities the undertaking remained not fulfilled.

418. In the fourth periodical report the authorities refer to the activity of *nordmedia* company, whose audiovisual productions are in some cases subtitled or dubbed into Low German. The Committee of Experts observes that this information may be relevant for Article 12 paragraph 1 c.

419. The Committee of Experts has not been informed of any specific measures aimed at encouraging and/or facilitating the production and distribution of audio and audiovisual works in Low German. It therefore maintains its previous conclusion that the undertaking is not fulfilled. The Committee of Experts encourages the German authorities to encourage and/or facilitate the production and distribution of audio and audiovisual works in Low German.

e ...

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

420. In its third evaluation report, the Committee of Experts, while noting the presence of articles in Low German, concluded that the undertaking remained not fulfilled, due to the fact that their frequency of publication did not correspond to the requirements of the undertaking.

421. No further information is provided in the fourth periodical report. The authorities confine themselves to referring to the independence of the media. Regarding this view of the authorities the Committee of Experts refers to its remarks under paragraph 365.

422. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts urges the authorities to encourage and/or facilitate the publication of newspaper articles in Low German on a regular basis.***

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

423. In the third evaluation report, the Committee of Experts considered the undertaking partly fulfilled, as the public broadcaster *Radio Bremen* provided regular follow-up training to its staff with regard to Low German and its use in radio programmes.

424. In the fourth periodical report the authorities state in a very general way that, as part of the training reform, those involved in this activity are required to take the Charter's requirements into account. The Committee of Experts asks the authorities to provide more specific information on the support for the training of journalists and other staff for media using Low German in the next periodical report.

425. The Committee of Experts maintains its previous conclusion that the undertaking is partly 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:***

...

***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;

426. In the third evaluation report, the Committee of Experts considered the undertaking not fulfilled.

427. According to the fourth periodical report, the authorities intend to improve the situation. The Committee of Experts has been informed that the audiovisual productions of *nordmedia* company are in some cases subtitled or dubbed into Low German.

428. The Committee of Experts considers the undertaking partly fulfilled.

***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;

429. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled.

430. In the fourth periodical report the authorities inform that a report on the situation of Low German in Bremen is currently being prepared, at the request of the *Land* Parliament.

431. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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

432. In the third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled.

433. In the fourth periodical report, the authorities confine themselves to stating that Bremen's democratic organization ensures appropriate participation of the Low German speakers at different levels. However, the Committee of Experts has not received any information which relates directly to this undertaking.

434. The Committee of Experts recalls<sup>17</sup> that this undertaking requires the public authorities to provide incentives for the direct participation of the users of Low German in providing facilities and planning cultural activities. In the absence of any information on measures taken by authorities to encourage direct participation by representatives of the users of Low German in providing facilities and planning cultural activities it maintains its previous conclusion that the undertaking is not fulfilled.

### **Paragraph 3**

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

435. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled as regards the federal level.

436. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

437. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

438. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Low German language in Germany's cultural policy abroad.

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

### **Paragraph 2**

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

...

- 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;*

439. In its third evaluation report, the Committee of Experts observed that the Free Hanseatic City of Bremen had not taken any measures towards a more systematic provision in order to ensure that social care facilities had Low German-speakers at their disposal. It therefore considered that the undertaking remained partly fulfilled and urged the German authorities to adopt a structured policy with a view to making more systematic the possibility for the person concerned to be received and treated in Low German in social care facilities in Bremen.

440. According to the fourth periodical report, the authorities are of the view that it would be inappropriate to require privately run facilities to make knowledge of Low German a mandatory condition of employment.

441. The Committee recalls<sup>18</sup> that the undertaking requires the States Parties to *ensure* that the possibility of receiving and treating persons in Low German is offered, which implies structural measures with a view to guaranteeing a more systematic provision. Such measures could include regulations governing the relevant

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<sup>17</sup> Paragraph 454, 2<sup>nd</sup> evaluation report

<sup>18</sup> Paragraph 465, 2<sup>nd</sup> evaluation report

qualifications which take account of a person's knowledge of Low German or facilities and incentives for the existing social care personnel to improve their Low German skills.

442. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

***The Committee of Experts strongly urges the authorities to adopt a structured policy with a view to making more systematic the possibility to be received and treated in Low German in social care facilities.***

### 3.2.6.b. Low German in the Free and Hanseatic City of Hamburg

443. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Low German in Hamburg. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1.e ii; f.ii; g
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2 e; f;
- Article 11, paragraph 1; bii, e.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a;g;
- Article 13, paragraph 1.a; c;

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

445. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

446. In its third evaluation report, the Committee of Experts commended the Hamburg authorities for issuing the directive that made the “cultivation of the Low German language” in pre-schools legally binding. It observed, however, that the wording of this directive did not make it clear to what extent Low German should be taught at pre-schools, and asked the authorities for clarification and further information on the practical implementation of the new directive in the next periodical report. In the meantime it considered the undertaking partly fulfilled.

447. According to the fourth periodical report, the directive requires institutions to create a “great variety of learning situations enabling children to acquire basic interaction means and skills”. This also applies to Low German where it is spoken as a second language. The time dedicated to Low German is determined according to the language skills of the group. Children who do not speak Low German need to be familiarized with Low German texts. The tendency is to present Low German poems and songs.

448. The Committee of Experts observes, however, that the wording of the directive does not make it clear to what extent Low German should be taught at pre-schools. The Committee of Experts asks the authorities for clarification and further information on the practical implementation of the new directive in the next periodical report. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled.

b ...

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

449. In its third evaluation report, the Committee of Experts maintained its previous conclusion that the undertaking was partly fulfilled. It urged the authorities of the City of Hamburg to pursue their efforts to increase the provision for the teaching of Low German within primary education, including the allocation of regular school hours to Low German. Furthermore, the Committee of Ministers recommended that the German authorities “**take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to and provide clear guidelines for Low German teaching [...]**”.

450. According to the fourth periodical report, the February 2009 Framework Concept Plan for Primary Schools provides for the teaching of Low German as a separate subject at least in the rural areas which are part of the Low German linguistic landscape (Finkenwerder, Neuenfelde, Cranz, Vier- und Marschlande). Lessons for the acquisition of Low German were introduced at primary schools as of the 2010/2011 school year and Low German is currently taught in 10 primary schools, based on a flexible model, with at least two hours per week, to a relatively high number of pupils. The Committee of Experts welcomes this information. A framework plan for Low German for grades 1-6 is currently being prepared by the authorities, in cooperation with the Low German Institute and Hamburg University.

451. The authorities also inform that, before the new teaching model was introduced, the members of the Association of Low German speakers in Hamburg (*Plattdütsch in Hamburg e.V*) were already teaching Low German in some schools and nursery schools in Vierlande and Marschlande, in consultation with the headmasters and the teachers. Schools provide the teaching materials and expenses are reimbursed. The competent authorities granted financial support in 2009/2010.

452. The Committee of Experts commends the Hamburg authorities for their efforts and considers the undertaking fulfilled.

c ...

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

453. In its third evaluation report, the Committee of Experts concluded that the undertaking remained partly fulfilled and encouraged the authorities to introduce Low German as an optional subject in more schools. It urged the authorities to pursue their efforts with a view to making the teaching of Low German within secondary education more systematic with regular school hours allocated to Low German. Furthermore, the Committee of Ministers recommended that the German authorities “**take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to and provide clear guidelines for Low German teaching [...]**”.

454. According to the fourth periodical report, lessons for the acquisition of Low German will be offered as of 2011/2012 also in the 5<sup>th</sup> and 6<sup>th</sup> grades in the rural areas of the Low German linguistic landscape (Finkenwerder, Neuenfelde, Cranz, Vier- und Marschlande).

455. The Committee of Experts considers the undertaking at present still partly fulfilled.

d ...

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

456. In its third evaluation report, the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled. It encouraged the authorities to re-examine the possibility of offering Low German within technical and vocational education.

457. According to the fourth periodical report, Low German is not yet an integral part of the curriculum within technical and vocational education, but the authorities intend to include it in the future.

458. Therefore, the Committee of Experts considers the undertaking not fulfilled at the time of the report.

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

459. In its third evaluation report, the Committee of Experts considered that the undertaking was fulfilled with regard to further training. With regard to basic teacher training, it was unclear to what degree the radical transformation of teacher training at Hamburg University would conform to the requirements of this undertaking. The Committee of Experts urged the authorities to take into consideration the requirements resulting from the Charter in its ongoing efforts at reforming teacher training and provide relevant information in the next periodical report.

460. According to the information received during the on-the-spot visit, Low German teacher training has been reformed. Low German is now taught as a specific subject at Hamburg University, leading to a specialised *facultas* (certificate) for Low German. Graduates are given preference within hiring policies. The Committee of Experts looks forward to learning more about these recent reforms in the next periodical report.

461. The Committee of Experts considers the undertaking fulfilled.

- 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.**

462. In its third evaluation report, the Committee of Experts had been informed that a representative of the supervisory school authority had been nominated by the Authority for Education and Sports with regard to the implementation of educational projects concerning Low German. While welcoming such a step, the Committee of Experts had not been informed of the extent of the tasks nor of any periodical reports made public and considered the undertaking not fulfilled. Furthermore the Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

463. In the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

464. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Low German education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

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

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

### **Paragraph 1**

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

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

466. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration [...]**”.

467. No information on measures taken by authorities is provided in the fourth periodical report. The authorities do not see the necessity of further measures, as in their view the Charter is directly enforceable in Germany.

468. The Committee of Experts reiterates<sup>19</sup> that proactive measures need to be taken by the authorities aimed at encouraging the Low German-speakers to avail themselves of the opportunity of submitting documents in Low German, starting from human resources policy, information campaigns and measures to inform the relevant authorities of their obligations. In the absence of such measures, it maintains its previous conclusion that the undertaking is not fulfilled.

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

469. In the absence of positive evidence of any measures taken by the authorities the Committee of Experts considered that the undertaking was not fulfilled in its third evaluation report.

470. No information is provided in the fourth periodical report. The authorities do not see the necessity of further measures as the Charter's provisions in their view are directly enforceable in Germany and the undertaking would be already fulfilled by allowing administrative authorities to draft documents in Low German.

471. The Committee of Experts points out that a certain degree of implementation must follow the mere allowing of documents to be drafted in Low German. The Committee of Experts has not been made aware of any document drafted in Low German by the administrative authorities. It therefore maintains its previous conclusion that the undertaking is not fulfilled.

## **Paragraph 2**

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

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

472. In its third evaluation report, the Committee of Experts maintained its previous conclusion that the undertaking was partly fulfilled, since Low German was only used in certain circumstances. It was also of the view that in certain limited areas in the territory of Hamburg pro-active measures might be suitable.

473. In the fourth periodical report, the authorities state that the undertaking is already fulfilled by allowing the use of Low German in the framework of regional or local authorities.

474. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

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

475. In its third evaluation report, the Committee of Experts considered that, in the absence of positive evidence of any measures taken by the authorities, the undertaking was not fulfilled. The Committee of Ministers recommended that the German authorities "**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration [...]**".

476. No relevant information is provided in the fourth periodical report. The authorities confine themselves to stating that the undertaking is already fulfilled by allowing the possibility for users of Low German to submit oral and written applications.

477. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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<sup>19</sup> See paragraph 497 of the 3<sup>rd</sup> evaluation report

#### **Paragraph 4**

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

...

- 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.*

478. In its third evaluation report, the Committee of Experts had again not received any new information or any other information on any kind of positive practice or incentives or structured approach with regard to this undertaking and therefore considered the undertaking not fulfilled.

479. According to the fourth periodical report, the authorities do not see the necessity of pro-active measures with regard to this undertaking. They also inform that no request to be appointed in the territory where Low German is used has ever been rejected.

480. The Committee of Experts has pointed to some undertakings chosen under Article 10 that are not fulfilled. The undertaking of Article 10.4.c provides a means of improving the performance in regard to the unfulfilled undertakings under Article 10 paragraphs 1 and 2. The Committee of Experts has received no information on the use of this measure in this respect.

481. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

#### **Article 11 – Media**

##### **Paragraph 1**

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

...

*c ...*

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

482. In its third evaluation report, the Committee of Experts had not been informed of any form of encouragement or facilitation towards the broadcasting of television programmes in Low German and therefore concluded that the undertaking remained not fulfilled.

483. According to the fourth periodical report, the German authorities continue to consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media.

484. The Committee of Experts considers that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

485. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

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| <p><b><i>The Committee of Experts urges the authorities to encourage the broadcasting of television programmes in Low German on a regular basis.</i></b></p> |
|--|

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

486. In its third evaluation report, in the absence of positive evidence of any measures taken by the authorities, the Committee of Experts considered that the undertaking was not fulfilled.

487. In the fourth periodical report, the authorities refer to the general support under the *Filmförderung Hamburg Schleswig-Holstein*. However, this may be relevant for article 11 paragraph 1 f.

488. The Committee of Experts therefore maintains its previous conclusion that this undertaking is not fulfilled. It encourages the German authorities to take measures to encourage and/or facilitate the production and distribution of audio and audiovisual works in Low German.

f ...

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

489. In the third evaluation report, the Committee of Experts had been informed about the merger of the subsidy fund in Hamburg to the new *Filmförderung Hamburg Schleswig-Holstein*. The Committee of Experts had received no information on how the new subsidy fund allowed for the qualification of productions in Low German in practice. It therefore considered that the undertaking remained not fulfilled.

490. According to the fourth periodical report, the *Filmförderung Hamburg Schleswig-Holstein* offers general support for film production, and Low German audiovisual productions are also eligible if they meet the general funding criteria.

491. The Committee of Experts has not been informed of any support given to the audiovisual productions in Low German in practice. Therefore, it considers the undertaking only formally fulfilled. It encourages the authorities to apply existing measures for financial assistance also to audiovisual productions in Low German.

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

492. In its third evaluation report, the Committee of Experts was not aware of any training for journalists with regard to the use of Low German in radio and television programmes and therefore considered the undertaking not fulfilled.

493. According to the fourth periodical report, the authorities are not aware of any measures in this field. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

**The Committee of Experts encourages the authorities to support the training of journalists and other staff for media using Low German.**

## 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:**

...

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;**

494. In its third evaluation report, the Committee of Experts had received no new information with regard to this undertaking. It therefore maintained its previous conclusion that the undertaking was not fulfilled.

495. No information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

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

496. In its third evaluation report, the Committee of Experts had received no new information with regard to this undertaking and concluded that the undertaking was not fulfilled.

497. In the fourth periodical report, the authorities confine themselves to stating that the democratic organization ensures appropriate participation of Low German-speakers at the different levels. However, the Committee of Experts has not received any information which relates directly to this undertaking.

498. The Committee of Experts recalls<sup>20</sup> that this undertaking requires the public authorities to provide incentives for the direct participation of the users of Low German in providing facilities and planning cultural activities. In the absence of any information on measures taken by authorities to encourage direct participation by representatives of the users of Low German in providing facilities and planning cultural activities it maintains its previous conclusion that the undertaking is not fulfilled.

### **Paragraph 3**

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

499. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled as regards the federal level.

500. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

501. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

502. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Low German language in Germany's cultural policy abroad.

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

### **Paragraph 1**

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

...

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

503. In its third evaluation report, the Committee of Experts had received no new information with regard to this undertaking and therefore maintained its previous conclusion that the undertaking was not fulfilled.

504. No information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled. It asks the German authorities to provide specific information on other measures taken to facilitate and/or encourage the use of Low German in economic and social life.

### **Paragraph 2**

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

...

---

<sup>20</sup> Paragraph 454, 2<sup>nd</sup> evaluation report

- 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;*

505. In its third evaluation report, the Committee of Experts had been informed that treatment in Low German was generally ensured in some of those retirement homes where the residents speak Low German but that a provision for all persons who are in need of care could not be ensured. The Committee of Experts therefore maintained its previous conclusion that the undertaking was only partly fulfilled and urged the authorities of Hamburg to adopt a structured policy with a view to making more systematic the possibility for the person concerned to be received and treated in Low German in social care facilities.

506. In the fourth periodical report, the German authorities state that requiring privately run facilities to make knowledge of Low German a mandatory condition of employment may infringe labour law.

507. The Committee recalls<sup>21</sup> that the undertaking requires the States Parties to *ensure* that the possibility of receiving and treating persons in Low German is offered, which implies a structured policy with a view to guaranteeing a systematic provision. Such measures could include regulations governing the relevant qualifications which take account of a person's knowledge of Low German or facilities and incentives for the existing social care personnel to improve their Low German skills.

508. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

***The Committee of Experts strongly urges the authorities to adopt a structured policy with a view to making more systematic the possibility to be received and treated in Low German in social care facilities.***

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<sup>21</sup> Paragraph 465, 2<sup>nd</sup> evaluation report

### 2.2.6.c. Low German in the Land of Mecklenburg-Western Pomerania

509. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Low German in Mecklenburg-Western Pomerania. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1 g;.h;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.a; b; f;
- Article 11, paragraph 1bii, d;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; b; d; e; f; h;
- Article 13, paragraph 1.a; c; d.

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

511. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

512. In its third evaluation report, the Committee of Experts observed that the offer of Low German in pre-schools was patchy and the Centre for Low German seriously understaffed. The Committee of Experts acknowledged the efforts made by the authorities but nonetheless considered that the undertaking remained partly fulfilled at the time of the report. It encouraged the authorities to provide adequate resources to the Centre for Low German with a view to meeting the growing demand for the teaching of Low German in pre-school education and offering Low German more systematically.

513. According to the fourth periodical report, the Centre for Low German does not exist anymore. Further training for pre-school teachers is provided by *Landesheimatverband Mecklenburg-Vorpommern e.V.*, the association of Low German speakers *Klößnack Rostocker 7* and the *Volkskulturinstitut* in Rostock.

514. Low German is taught in all day-care centres to varying degrees. Pre-school teachers may choose among languages and teach Low German as a second language.

515. The Committee of Experts observes that it is unclear to what extent Low German is taught in practice at pre-schools. It appears furthermore that there is no structured system which would give parents systematically the option to choose either pre-school education entirely in Low German, or at least a

substantial part of it in Low German. The Committee of Experts asks the authorities for clarification and further information in the next periodical report.

516. The Committee of Experts still considers the undertaking partly fulfilled.

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

517. In its third evaluation report, the Committee of Experts noted that there were specific guidelines (*Rahmenplan*) for the teaching of Low German and that it was taught twice a week as an optional subject from the 7<sup>th</sup> class onwards. The numerous initiatives, many of which were on a voluntary basis, only reached about half of the schools in Mecklenburg-Western Pomerania. Also, Low German was in a less favourable position to compete with foreign language courses. The Committee of Experts welcomed the improvements with regard to the supply of teachers and commended the authorities for the improvements in the overall offer of Low German education at primary and secondary schools. It nevertheless observed that shortcomings remained in the provision of Low German education and considered these undertakings still partly fulfilled at the time of the report. It encouraged the authorities to pursue their efforts to ensure that Low German is systematically taught as an integral part of the curriculum at primary and secondary schools in the territories where Low German is used. Furthermore, the Committee of Ministers recommended that the German authorities “**take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to and provide clear guidelines for Low German teaching**”.

518. According to the fourth periodical report, the 2004 Administrative Ordinance “Low German in School” and the Framework Plan on Low German govern the provision of Low German in schools. Also, the 2006 School Act, as amended in 2009, lays down the attachment of pupils to their natural, social and cultural environment and the cultivation of Low German as elements to be promoted by schools. In primary education, two major approaches exist. The first is an internal Low German curriculum for grades 1-4, which, in order to be compulsory for all pupils, should include German, social studies and music as subjects. In its framework, Low German may be taught through language encounter (Low German is not a separate subject, but some subjects are taught in Low German, when appropriate), early immersion lessons and bilingual education (Low German is not a subject, but it is used to convey contents and subjects like social studies, literature, philosophy, religion are taught in Low German), as well as early-age foreign language lessons (Low German is taught). The second possibility is a school-related curriculum, across grades and subjects, which involves language encounter, as well as early immersion lessons and bilingual education.

519. In secondary education, several options exist with respect to the teaching of Low German: Low German taught as a second foreign language in the 7<sup>th</sup> grade or as a third foreign language in the 9<sup>th</sup> grade, three times per week; Low German taught as a compulsory optional subject for one year; Low German taught as a compulsory optional subject for six months, whereby pupils are made aware of linguistic and cultural particularities (language encounter, similar to that available for Danish or Swedish). In the full-day offerings, Low German may be an optional subject in working groups and project works, and part of language encounters. A school-related Low German curriculum may be applied across grades and subjects, involving language encounter, as well as early immersion lessons and bilingual education.

520. A Plan to Promote Low German across Mecklenburg Western Pomerania will be drafted under the coordination of the working group on Low German in Schools.

521. According to the representatives of the Low German-speakers, although Low German formally has a good position in the school curriculum, problems still arise in practice, due to inconsistency in the implementation of the 2004 Administrative Ordinance “Low German in School”. There seems to be no reliable structure where teaching of Low German as a second or third language is systematically ensured in practice as an integral part of the curriculum throughout the Low German-speaking territory, because it is left to the discretion of schools to what degree they are willing to offer teaching of Low German.

522. In the light of this information, the Committee of Experts considers the undertaking still partly fulfilled. It urges the authorities to pursue their efforts to ensure that Low German is systematically taught as an integral part of the curriculum at primary and secondary schools in the territories where Low German is used.

d ...

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

523. In its third evaluation report, the Committee of Experts was once again not in a position to conclude on this undertaking and urged the authorities to provide information in the next periodical report on the outcome of the survey that was being conducted to assess the situation of Low German education in technical and vocational education, and on the extent to which the teaching of Low German in technical and vocational education takes place in practice.

524. According to the fourth periodical report, the provisions of the 2006 School Act (see paragraph 518 above) also apply to technical and vocational schools. Low German is part of the subject German. Students are taught about the linguistic history and sociology, as well as about the Low German culture and history of the region.

525. The Committee of Experts points out that the undertaking requires the teaching of Low German as an integral part of the curriculum in technical and vocational education. It therefore considers the undertaking not fulfilled.

e ...

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

526. In the third evaluation report, the Committee of Experts was concerned with the reduction of the offer of Low German at the universities in Rostock and Greifswald and encouraged the authorities to take efforts against a further decline. It nevertheless considered that the undertaking was fulfilled at the time of the report.

527. According to the fourth periodical report, at Rostock University Low German is a compulsory part of all teacher training courses in German and a compulsory subject of choice in Bachelor and Master courses in German studies. Greifswald University has, after a series of organisational changes, also integrated Low German in the curriculum for German teachers, in this case as an optional subject of specialization.

528. The Universities of Greifswald, Rostock, Magdeburg, Hamburg and Kiel met at the suggestion of the Association for Low German Language Research and are looking into the possibility of establishing a decentralized Low German Masters course and the introduction of a Low German certificate. The Committee of Experts would welcome more information on developments in this respect in the next periodical report.

529. The Committee of Experts considers the undertaking still fulfilled.

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.*

530. In its third evaluation report, the Committee of Experts concluded that, in the absence of any information on the actual role of the Consultative Council or of the Low German Council with regard to this undertaking, in particular in the absence of any concrete evidence of periodic reports, the undertaking remained not fulfilled. It urged the authorities to take the envisaged moves towards drawing up periodic reports and making them public. Furthermore, the Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

531. In the fourth periodical report, the German authorities maintain that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

532. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these

functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Low German education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

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

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

### **Paragraph 1**

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

a ...

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

534. In its third evaluation report, the Committee of Experts considered that, in the absence of any evidence of practical implementation or targeted measures of encouragement, the undertaking remained formally fulfilled. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration[...]**”.

535. According to the fourth periodical report, the authorities do not see the necessity or obligation of encouragement measures and no such measures are envisaged. The Committee of Experts has not been informed of any document in Low German having been submitted to the state authorities.

536. The Committee of Experts considers that the undertaking is not fulfilled.

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

537. In its third monitoring round, the Committee of Experts had been informed that some speeches and letters were drafted in Low German within the Land administration. It considered the undertaking partly fulfilled.

538. No further information on other documents is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only partly fulfilled.

### **Paragraph 4**

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

...

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.*

539. In the absence of examples of any practical implementation or a specific human resources policy, the Committee of Experts maintained its previous conclusions that the undertaking was only formally fulfilled in its third evaluation report.

540. According to the fourth periodical report, the authorities do not see the necessity of pro-active measures with regard to this undertaking. They also inform that requests for appointment in the territory where Low German is used have been complied with.

541. Based on the information received, the Committee of Experts considers the undertaking fulfilled. However, it asks the authorities to provide specific information in the next periodical report concerning compliance with requests for appointment in the territory where Low German is used.

## 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:*

c ...

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

542. In its second evaluation report, the Committee of Experts had been informed that the Open Channel ROK-TV broadcast two television programmes per week in Low German and considered the undertaking partly fulfilled.

543. According to the fourth periodical report, the German authorities continue to consider that providing financial incentives to private broadcasters with a view to obtaining programmes in minority languages is incompatible with the independence of the media. However, discussions were held with representatives of the public and private media and of the Open Channels on the framework conditions for producing and broadcasting Low German programmes and the representatives were encouraged to broadcast more Low German television programmes. In 2009 the Minister President of Mecklenburg-Western Pomerania wrote a letter to public and private broadcasters encouraging them to pay greater attention to Low German in their programming.

544. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

545. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled. It still encourages the authorities to promote the broadcasting of Low German programmes by private broadcasters.

e ...

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

546. In its third evaluation report, the Committee of Experts noted that an increasing number of articles in Low German were being published in daily newspapers of the *Land* with at least one page per week. Despite the lack of pro-active measures undertaken by the *Land* government, the Committee of Experts considered that the undertaking remained fulfilled.

547. In the fourth periodical report, the authorities inform that discussions concerning Low German were also held with representatives of print media and the Minister President of Mecklenburg-Western Pomerania also sent a letter to newspapers encouraging them to continue using Low German in their daily editions.

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

f ...

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

549. In its third evaluation report, the Committee of Experts asked the authorities to provide more information in the next periodical report on the reasons why no projects in Low German had been financed.

550. In the fourth periodical report, the authorities only refer to the film "*Richard Wossidlo, der Volksprofessor*", under the provisions of Article 11 paragraph 1 d. Therefore, it is not clear to the Committee

of Experts whether general existing measures for financial assistance have been applied to audiovisual productions in Low German. It asks the German authorities to provide specific information in the next periodical 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:*

...

- 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;*

551. In its third evaluation report, the Committee of Experts considered, in the absence of any practical implementation of this undertaking, that the undertaking was only formally fulfilled.

552. In the fourth periodical report, the authorities refer again to the possibility of subsidising translation, dubbing, post-synchronisation and subtitling activities under the cultural promotion directive and state that no applications were submitted in 2007-2009.

553. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only formally fulfilled. It encourages the authorities to take proactive measures to foster access in Low German to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities.

### **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.*

554. In the third evaluation report, the Committee of Experts concluded that this undertaking was not fulfilled at the federal level, since no structured approach to integrating the Low German language in Germany's cultural policy abroad was apparent.

555. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

556. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

557. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Low German language in Germany's cultural policy abroad.

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

### **Paragraph 2**

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

...

- 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;***

558. In the third evaluation report, the Committee of Experts revised its previous conclusion and considered the undertaking not fulfilled. The use of Low German appeared to be more a matter of chance than of design, while the undertaking required the authorities to ensure that Low German is used in these establishments, which could only be achieved by a bilingual human resources policy. The Committee of Experts urged the authorities of Mecklenburg-Western Pomerania to adopt a structured policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities

559. In the fourth periodical report, the authorities inform that Low German is used in many social care facilities, in communication, therapy, as well as other activities. When admitted to a retirement home, future residents are required to provide information on the language skills. However no information is provided on any steps towards a structured policy to make it more systematically possible for the persons concerned to be received and treated in Low German in social care facilities.

560. The Committee of Experts recalls that the undertaking requires authorities to *ensure* that Low German is used in these establishments, which can only be achieved by a human resources policy that results in active bilingualism. The Committee of Experts strongly urges the authorities to adopt a structured policy with a view to making it more systematically possible for the persons concerned to be received and treated in Low German in social care facilities

561. The Committee of Experts considers that the undertaking is partly fulfilled.

### 3.2.6.d. Low German in the Land of Lower Saxony

562. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Low German in Lower Saxony. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1.f.iii;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.f;
- Article 10, paragraph 4.a;
- Article 11, paragraph 1.e.ii; f.ii ;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; d; e; f ; g;
- Article 13, paragraph 1.a; c; d;
- Article 14.a; b.

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

564. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## Article 8 – Education

### Paragraph 1

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

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

565. In the third evaluation report the Committee of Experts lacked concrete information on the situation of Low German education in pre-schools in other parts of Lower Saxony outside Ostfriesland and maintained its previous conclusion that the undertaking was only partly fulfilled.

566. No further information is provided in the fourth periodical report. The authorities confine themselves to stating that they do not collect statistical data about Low German teaching in day-care centres and that in practice the use of Low German depends on each institution, in keeping with the *Orientation Plan*.

567. The Committee of Experts therefore maintains its previous conclusion that the undertaking is still only partly fulfilled. It urges the authorities to systematically favour and/or encourage the provision of at least a substantial part of pre-school education in Low German to at least to those pupils whose families so request and whose number is considered sufficient.

e ...

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

568. In its third evaluation report the Committee of Experts considered the undertaking only partly fulfilled. It observed that the extent to which Low German was offered at the University of Oldenburg, as modules within the German course for Bachelor and Masters studies, did not correspond to the requirement of this undertaking, which would be all the more important, given the need for qualified teachers. The Committee of Experts asked for further information on the language centre that would be established at the university.

569. According to the fourth periodical report, students at the Institute for German Studies who study Low German and Sater Frisian can, in the framework of the Bachelor and Master courses, focus their studies on Low German, thus acquiring a Low German Bachelor Certificate and a Low German Master Certificate. For specialized studies Low German modules are available. There is an advanced module for the Bachelor programme and a master module for the Master programme. In the basic module at least one course on Low German per semester is compulsory in order to obtain a Low German certificate. Special courses for beginners and advanced learners have been introduced to teach students to speak and write Low German. Low German modules are generally available to all students. The University tries to place Low German students as trainees in schools, media and cultural institutions. Research is also conducted on Low German.

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

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

571. In the third evaluation report the Committee of Experts reviewed its previous conclusion and considered the undertaking not fulfilled. The expired decree *Die Region im Unterricht* (The Region in Classroom Instruction) regulating the teaching of the history and culture related to Low German had not been replaced and the new core curriculum, which had entered into force in August 2006 was not relevant for the undertaking. The Committee of Experts urged the authorities to ensure that the new decree regulates the teaching of the history and culture related to Low German.

572. In the fourth periodical report, the authorities state that the 2006 core curriculum, binding on all schools, requires departments in all subjects to take the regional context into account when selecting topics and units for teaching of skills. The decree is being updated.

573. The Committee of Experts requests the German authorities to provide more specific information in the next periodical report on the extent to which the teaching of the history and the culture which is reflected by Low German is ensured in practice.

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.*

574. In the third evaluation report, in the absence of any evidence of a supervisory body, the Committee of Experts maintained its previous conclusion that the obligation was not fulfilled. It asked the authorities to provide more information in the next periodical report. Furthermore, the Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

575. In the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

576. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability

of Low German education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

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

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

### **Paragraph 1**

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

a ...

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

578. In the third evaluation report the Committee of Experts revised its previous conclusion and considered the undertaking not fulfilled. It urged the authorities of Lower Saxony to ensure that users of Low German may validly submit documents in Low German within its administrative districts. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration[ ...]**”.

579. In the fourth periodical report, the authorities provide information on the possibility to validly submit documents in Low German in municipalities and districts.

580. The Committee of Experts points out that undertakings under Article 10 paragraph 1 refer to the administrative authorities of the state, while local and regional authorities are governed by the provisions of Article 10 paragraph 2<sup>22</sup>.

581. The Committee of Experts notes that the legislative framework for using Low German as a working language in administration seems to be deficient, since there is no explicit statutory reference to Low German as an official language in Lower Saxony. As a reaction to this deficiency the *Niedersächsische Heimatbund* has presented a draft of a Low German bill. The Committee of Experts looks forward to further developments in this regard and requests the authorities to inform on these issues in the next periodical report

582. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

***The Committee of Experts strongly urges the authorities of Lower Saxony to ensure that users of Low German may validly submit documents in Low German within its administrative districts to the administrative authorities of Lower Saxony.***

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

583. In its third evaluation report, the Committee of Experts considered the undertaking not fulfilled, as it had no example of any practical implementation of this undertaking or of positive measures taken by the authorities.

584. In the fourth periodical report, the authorities refer to municipalities and districts.

585. As the undertakings under Article 10 paragraph 1 refer to the administrative authorities of the state, the Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

### **Paragraph 2**

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

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

<sup>22</sup> See also paragraph 102 of the explanatory report to the Charter and paragraph 347 of the 3<sup>rd</sup> evaluation report.

586. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was only partly fulfilled since it had received no additional information or examples from the *Land* authorities with respect to this undertaking.

587. According to the fourth periodical report, Low German is used in the daily activities of a number of rural districts and municipalities. These have Low German-speaking employees and have taken measures for further staff training. Commissioners for Low German have also been appointed. Some authorities conduct marriage ceremonies in Low German. In one case, the mayor and the deputies address their audiences in Low German, when appropriate.

588. However, the representatives of the Low German speakers pointed to certain problems with regard to the use of Low German in the framework of administrative authorities. They specifically referred to prohibition of Low German remarks at a public questions-and-answers session and to a petition submitted in Low German by a council member in Emden, which had been rejected.

589. The Committee of Experts considers the undertaking partly fulfilled.

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

590. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was only partly fulfilled, as it had received no additional information or examples regarding this undertaking. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration [...]**”.

591. According to the fourth periodical report, it is possible to submit oral or written applications in Low German in a number of districts and municipalities. The Committee of Experts notes the fact that in some districts and municipalities Low German seems to be used to a certain degree in communications between local authorities and citizens. It is obvious, however, that this depends very much on local conditions. There is a clear necessity to establish a statutory right to ensure the possibility for users of Low German to submit oral or written applications in this language.

592. The Committee of Experts considers the undertaking still only partly fulfilled.

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

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

593. In its third evaluation report, the Committee of Experts concluded that these undertakings were not fulfilled, in the absence of any positive evidence of documents being published in Low German by the regional or local authorities.

594. In the fourth periodical report, the authorities state that the municipality of Friedeburg translates official documents and notifications into Low German, if necessary, and also publishes them. The municipality of Wardenburg will publish such documents in Low German in the future.

595. The publication by the local and regional authorities of their documents also in Low German appears to be very limited and there does not seem to be any structured policy to encourage local and regional authorities to do so. The Committee of Experts therefore considers the undertaking only partly fulfilled.

*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;**

596. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was only partly fulfilled, as it had no additional information or examples in this regard.

597. In the fourth periodical report, the authorities provide examples of a number of rural districts where Low German has been used in council meetings. The Committee of Experts notes the fact that Low German seems to be used to a certain extent in debates in regional assemblies. It is obvious, however, that this depends very much on local conditions and that there is no structured policy to encourage regional

authorities to use Low German in their debates. The Committee of Experts maintains its previous conclusion that the undertaking is only partly fulfilled.

#### **Paragraph 4**

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

...

- 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.*

598. In its third evaluation report the Committee of Experts concluded that the undertaking was not fulfilled, as it had received no information on any kind of positive practice, incentives or structured approach to this undertaking at the *Kreis* and local administration level.

599. In the fourth periodical report, the authorities state that the undertaking only calls for compliance with requests of public service employees to be appointed in the territory in which Low German is used. Such requests have been accepted and the authorities provide examples at the district and local level.

600. The Committee of Experts considers the undertaking fulfilled.

#### **Article 11 – Media**

##### **Paragraph 1**

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

...

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

601. In its third evaluation report the Committee of Experts considered that the undertaking remained fulfilled. However, with respect to private radio broadcasting, it encouraged the authorities to promote regional or minority language broadcasting through financial incentives. The Committee of Experts expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities.

602. In the fourth periodical report, the authorities further list a significant number of radio programmes in Low German on the Open Channel, that are broadcast daily, weekly, monthly or at irregular intervals.

603. The authorities also inform that Lower Saxony is envisaging amending the Media Act, with a view to strengthening regional and minority languages. The Minister President of Lower Saxony sent a letter to radio broadcasters and print media companies, encouraging them to continue and increase their activities concerning regional and minority languages.

604. The Committee of Experts reiterates that a stable offer of Low German radio programmes in Open Channels will probably need some degree of financial support. It maintains however its previous conclusion that the undertaking is fulfilled.

**c** ...

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

605. In its third evaluation report the Committee of Experts considered the undertaking not fulfilled as it seemed there was no programme in Low German still being regularly broadcast on public or private television channels.

606. According to the fourth periodical report, the public regional broadcaster *NDR* broadcast 20 episodes of the programme *Die Welt op platt* between 2006 and 2009 and the series is planned to continue. Low German programmes are also broadcast at irregular intervals on private television channels. The authorities also refer to the above-mentioned letter of the Minister President of Lower Saxony and envisaged amendment of the Media Act.

607. The Committee of Experts reiterates that a stable offer of Low German programmes on private television channels will probably only be possible if a certain amount of financial support is given. It invites the competent Land authorities to look into the issue of how the existing offer of Low German programmes could be regularized in such a way that it would fulfil the undertaking.

608. The Committee of Experts considers the undertaking only partly fulfilled, because the programmes mentioned above are still not broadcast on a regular basis.

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

609. In its third evaluation report the Committee of Experts considered the undertaking fulfilled with regard to audio works and not fulfilled with regard to audiovisual works. It received information that the production and distribution of Low German works in Lower Saxony was promoted by the *Land* Supervisory Authority and the media company *nordmedia*. Furthermore, it observed that the Supervisory Authority's form of promotion is only relevant in the context of creating a support structure for private radio broadcasting, and that funds given by *nordmedia* are relevant for Art. 11. 1. f

610. No further information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is fulfilled with regard to audio works and not fulfilled with regard to audiovisual works.

## **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:*

...

**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;*

611. In its third evaluation report the Committee did not conclude on this undertaking and asked the authorities to provide further information on measures taken to support translation and other activities in the next periodical report.

612. In the fourth periodical report, the authorities state that no relevant applications were submitted. The Committee of Experts considers the undertaking not fulfilled.

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

613. In the third evaluation report the Committee of Experts considered that the undertaking remained partly fulfilled, as certain programmes on the public regional television channel *NDR* had been dubbed into Low German.

614. No further information is provided in the fourth periodical report. The Committee of Experts maintains its previous conclusion that the undertaking is still only partly fulfilled.

## **Paragraph 2**

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

615. In the third evaluation report the Committee of Experts considered the undertaking fulfilled. It looked forward to receiving further information on the activities of the *Landschaftsverband Südniedersachsen* and of the Low German commissioners in the next periodical report.

616. According to the fourth periodical report, the Low German commissioners in Göttingen, Northeim and Ostrode am Harz support the various Low German speaker groups active in the area. Annually, the *Landschaftsverband Südniedersachsen* and the Low German commissioners organize an event dedicated to Low German, usually attended by 200-300 people. The Committee of Experts welcomes this information. It maintains its previous conclusion that the undertaking is fulfilled.

## **Paragraph 3**

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

617. In the third evaluation report, the Committee of Experts concluded that this undertaking remained not fulfilled as regards the federal level, since no structured approach to integrating the Low German language in Germany's cultural policy abroad was apparent.

618. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to take regular measures in the cultural policy abroad for minority languages and the cultures they reflect.

619. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

620. As for the *Land* authorities, the organisation of an event dedicated to Low German and Sater Frisian in Brussels is currently under consideration.

621. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Low German language in Germany's cultural policy abroad.

### 3.2.6.e. Low German in the Land of Schleswig-Holstein

622. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Low German in Schleswig-Holstein. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1.a.iv; f.iii; g;
- Article 9, paragraph 1.b.iii; c.iii;
- Article 9, paragraph 2.a;
- Article 10, paragraph 2.a; f;
- Article 11, paragraph 1.e.ii;
- Article 11, paragraph 2;
- Article 12, paragraph 1.a; d; f; g;
- Article 13, paragraph 1.a; c.

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

624. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

## 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:*

...

**b** ...

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

**c** ...

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

625. In its third evaluation report the Committee of Experts considered these undertakings remained partly fulfilled. It urged the authorities to pursue their efforts with a view to ensuring that Low German is systematically taught within primary and secondary education to the extent envisaged by these undertakings, by adopting clear guidelines and other structural measures. Furthermore, the Committee of Ministers recommended that the German authorities “**take action to improve provision and allocate adequate resources for regional and minority languages and in particular [...] increase the number of hours devoted to and provide clear guidelines for Low German teaching [...]**”.

626. According to the information received during the fourth monitoring cycle, the decree concerning Low German in education is not implemented in a resolute manner. The degree to which Low German teaching is integrated in the curricula of schools is at the discretion of the institutions and leads to an overall structure where provision of Low German teaching is more or less arbitrary. There is no reliable structure where teaching of Low German is systematically ensured in practice throughout the Low German speaking territory as an integral part of the curriculum.

627. However, the Committee of Experts has also been informed that bilingual history teaching and language immersion in sports classes are now offered in some schools. The Committee of Experts welcomes these developments.

628. The Committee of Experts considers the undertakings still only partly fulfilled, because Low German education is not systematically offered throughout the Low German speaking territory as an integral part of the curriculum.

e ...

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

629. In its third evaluation report the Committee of Experts regretted to note that Low German was no longer available as a separate university subject under the new degree courses, but nevertheless considered that the undertaking remained fulfilled.

630. According to the fourth periodical report, a part-time position for a lecturer for Low German has been created at Flensburg University.

631. At Kiel University Low German is offered as a core subject in the two-subject Bachelor or Master courses or as an additional subject in the Master of Education course. A certificate is granted on completion of study of an additional subject.

632. The Committee of Experts maintains its previous conclusion that the undertaking is fulfilled.

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

633. The undertaking was considered fulfilled in the third evaluation report. Representatives of the speakers, however, pointed out that the amount of training in Low German in the context of teacher training at the university of Flensburg is very limited. There is a training module in Low German in the framework of "German" as a major, but there seems to be no teaching of Low German as a separate subject within teacher training. The Committee of Experts would like to receive more information in the next periodical report, since the existing offer seems to be too limited bearing in mind the need to regularise and improve the teaching of Low German at schools.

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.*

634. In its third evaluation report the Committee of Experts considered that the undertaking remained not fulfilled. Furthermore, the Committee of Ministers recommended that the German authorities **"ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III"**.

635. In the fourth periodical report, the German authorities consider that the already existing regular reports fulfil this undertaking. Additional supervision and reporting would merely increase bureaucracy rather than improve the quality of minority-language education.

636. The Committee of Experts reiterates its observation made in previous monitoring cycles that the current undertaking does not necessarily require the setting up of a new body to carry out the monitoring envisaged under this undertaking. It is for example possible for existing supervisory bodies to carry out these functions and integrate them into existing administrative structures. In that case, there would be a need for a single body to coordinate, analyse and present the work carried out by the other bodies. Furthermore, this undertaking goes beyond the traditional inspection and reporting of mainstream education. It requires evaluating and analysing the specific measures taken and the progress achieved with regard to minority language education. The report should, among other things, contain information on the extent and availability of Low German education together with developments in language proficiency, teacher supply and the provision of teaching materials. Finally, these periodic reports should be made public.

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

## 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.*

638. In its third evaluation report the Committee of Experts urged once again the *Land* authorities to clarify whether there were territories within the *Land* where Low German is not traditionally used.

639. According to the fourth periodical report, Low German is traditionally used in the entire *Land* and therefore the undertaking cannot be implemented.

640. The Committee of Experts would like to stress, however, that it is far from evident that all the parts of Schleswig-Holstein today still are territories in which Low German is actively used by a considerable number of speakers. It is true that traditionally Low German was used all over Schleswig-Holstein, but the rapid decline of active proficiency in Low German has led to a situation where the undertakings of Article 8.1 probably apply only in some territories where there are still a sufficient number of speakers using Low German as a daily means of communication. Fortunately, the *Land* Schleswig-Holstein does not limit its efforts to offering Low German education in these territories, which means that there will be a certain provision of teaching of Low German also in the territories covered by paragraph 2. The Committee of Experts looks forward to receiving more information on the educational concepts and their practical implementation in environments where Low German is not an actively spoken language anymore.

## Article 10 – Administrative authorities and public services

### Paragraph 1

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

a ...

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

641. In its third evaluation report the Committee of Experts concluded that the undertaking remained only formally fulfilled since it had no information on the practical implementation or the pro-active measures taken to ensure that documents in Low German may be validly submitted. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration**”.

642. No information is provided in the fourth periodical report. The authorities maintain that no measures are necessary, as in their view the Charter is directly enforceable in Germany.

643. The Committee of Experts recalls<sup>23</sup> that apart from adopting administrative regulations, the authorities could envisage other measures, for example informing the administrative bodies of their duties as well as carrying out an awareness campaign and identifying Low German speakers within the administration, etc.

644. The Committee of Experts maintains its previous conclusion that the undertaking is only formally fulfilled.

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

645. In its third evaluation report the Committee of Experts revised its previous conclusion and considered the undertaking not fulfilled, in the absence of any positive measures or recent examples of practical implementation of the undertaking.

646. In the fourth periodical report, the authorities state that the undertaking is already fulfilled by allowing administrative authorities to draft documents in Low German and no further measures are necessary.

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<sup>23</sup> See paragraph 422 of the 3<sup>rd</sup> evaluation report

647. The Committee of Experts points out that a certain degree of implementation must follow the mere allowing of the documents to be drafted in Low German. Although the wording of the undertaking mentions only to “allow” the administrative authorities to draft documents in a regional or minority language, in the light of the objectives of the Charter it requires the state to take proactive measures that ensure a certain degree of practical use of the language in documents drafted by administrative authorities. It therefore considers the undertaking not fulfilled.

### **Paragraph 2**

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

...

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

648. In its third evaluation report the Committee of Experts considered the undertaking partly fulfilled and encouraged the *Land* authorities to resume their efforts with a view to making it possible in practice for Low German-speakers to submit applications in Low German. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration [...]**”.

649. No relevant information is provided in the fourth periodical report. The authorities maintain that the undertaking is already fulfilled by allowing the possibility for users of Low German to submit oral and written applications.

650. The Committee of Experts would like to underline that the undertaking is not restricted to a mere “allowing”, but requires the state to “encourage” the speakers to make use of the language in communicating with the regional and municipal authorities. In the absence of positive evidence of any measures taken by the authorities, the Committee of Experts maintains its previous conclusion that the undertaking is only partly fulfilled.

### **Paragraph 4**

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

...

- 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.*

651. In its third evaluation report the Committee of Experts considered the undertaking not fulfilled as it had not received any information on practical examples or on any kind of positive practice, incentives or structured approach with regard to this undertaking.

652. According to the fourth periodical report, the authorities do not see the necessity of pro-active measures with regard to this undertaking. However, no requests as defined in this undertaking seem to exist. The authorities also point out that the whole territory of the *Land* is Low German language area.

653. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

## **Article 11 – Media**

### **Paragraph 1**

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

...

- b** ...

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

654. In its third evaluation report, the Committee of Experts considered the undertaking fulfilled.

655. However, with respect to private radio broadcasting, it encouraged the authorities to promote regional or minority broadcasting through financial incentives. The Committee of Experts expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities.

656. Further information concerning the programmes of public broadcasters is provided in the fourth periodical report. The offer of Low German radio programmes by public broadcasters obviously is sufficient to fulfil the requirements of 11 1 b ii, but the parallel offer of Low German radio programmes in private broadcasting still remains rather limited.

657. The Committee of Experts encourages the authorities to promote the broadcasting of Low German programmes by private radio broadcasters. It reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

658. The Committee of Experts still maintains its previous conclusion that the undertaking is fulfilled.

**c ...**

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

659. In the third evaluation report the Committee of Experts considered the undertaking not fulfilled since it appeared that no television programmes in Low German were regularly broadcast.

660. According to the fourth periodical report, the public broadcaster NDR broadcasts the programme *Die Welt op Platt*, theatre plays, as well as other programmes in Low German. This offer of the public broadcaster, however, does not meet the criteria of a sufficient offer of television programmes on a regular basis that is provided for in Article 11 paragraph 1 c ii. It needs to be brought into a regular structure, covering the needs of Low German speakers with a sufficient programming time. Also, the very limited offer in private broadcasting and Open Channels needs some incentives for improvement.

661. The Committee of Experts encourages the authorities to promote the broadcasting of Low German programmes by private television broadcasters. It reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media.

662. The Committee of Experts considers the undertaking partly fulfilled.

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

663. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled since it had not received any relevant information on measures aimed at encouraging and/ or facilitating the production of audio and audiovisual works in Low German.

664. In the fourth periodical report, the authorities again have not provided any information on a case where the production and distribution of audio and audiovisual works in Low German has been encouraged and/or facilitated by public funds or comparable measures. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled. It asks the authorities to provide specific information in the next periodical report.

**f ...**

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

665. In its third evaluation report, the Committee of Experts encouraged the authorities to provide information in the next periodical report on how the *Filmförderung Hamburg Schleswig-Holstein* allowed for the qualification of Low German audiovisual productions in practice.

666. According to the fourth periodical report, productions in Low German qualify if they satisfy the general funding criteria, which include quality and substantive reference to Hamburg or Schleswig-Holstein. However, it is not clear whether existing measures for financial assistance have been applied in practice to Low German audiovisual productions. It considers the undertaking formally 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:*

...

- 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;*

667. In the third evaluation report the Committee of Experts considered these undertakings not fulfilled. It had been informed that the *Land* subsidised translation activities through the Low German institutions, but had no information as to whether any use was made of this possibility.

668. According to the fourth periodical report, works in Low German are very rarely translated into other languages. In general, works in other languages are also rarely translated into Low German, except for theatre plays, which are more often translated. These plays are usually translated as projects of publishers and authors. The Committee of Experts encourages the authorities to elaborate more in detail on their role in translation.

669. The Committee of Experts considers the undertakings partly fulfilled.

### **Paragraph 3**

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

670. In the third evaluation report, the Committee of Experts concluded that this undertaking was not fulfilled at the federal level, since no structured approach to integrating the Low German language in Germany's cultural policy abroad was apparent.

671. According to the fourth periodical report, the organizations in charge of cultural and educational policy abroad did not carry out any events to promote minority languages abroad in 2008/2009, except for planned programmes on regional or minority languages and their cultures at *Deutsche Welle* (see paragraph 94 above). The authorities do not see any legally binding obligation to regularly take measures in the cultural policy abroad providing for minority languages and the cultures they reflect.

672. The Committee of Experts emphasises that the spirit of this undertaking requires positive promotion abroad of Germany's regional or minority languages in the regular structures of cultural policy abroad. In the case of Germany, cultural policy abroad is run by the federal authorities, mainly through the network of the Goethe-Institute. Accordingly, fulfilment of this undertaking would include promoting regional or minority languages through the Goethe-Institute.

673. The Committee of Experts considers this undertaking not fulfilled at federal level, since there seems to be no structured approach to integrating the Low German language in Germany's cultural policy abroad.

## Article 13 – Economic and social life

### Paragraph 1

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

...

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

674. In its third evaluation report the Committee of Experts had no information concerning this undertaking. It therefore concluded that the undertaking was not fulfilled and urged the authorities to provide such information in the next periodical report.

675. No information is provided in the fourth periodical report. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

### Paragraph 2

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

...

- 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;*

676. In its third evaluation report the Committee of Experts revised its previous conclusion and considered the undertaking not fulfilled. Although Low German was used in many social care facilities, it was more a matter of chance than design. The Committee of Experts underlined that the undertaking required the authorities to ensure that Low German is used in these establishments, which could only be achieved by a bilingual human resources policy and urged the authorities of Schleswig-Holstein to adopt a structured policy with a view to making more systematic the possibility for the persons concerned to be received and treated in Low German in social care facilities.

677. According to the fourth periodical report, the role of public authorities in this field is limited. They can only appeal to operators of these facilities to hire Low German-speaking staff.

678. However, the *Land* authorities envisage measures in this field. They intend to make Low German skills a priority when selecting volunteers for the programmes they subsidize. Also, they are planning to fund and support the recruitment of more Low German-speaking hospital staff, for example by recommendations or as conditions for funding specific projects. The Committee of Experts welcomes these initiatives.

679. However, it maintains its previous conclusion that the undertaking is not fulfilled at present.

### 3.2.7. Romani in the Land of Hesse

680. In this section, the Committee of Experts will focus on problematic areas and new developments in the protection and promotion of Romani in Hesse. It will therefore not assess the implementation of provisions which were fulfilled in the first, second and/ or third monitoring cycles, apart from such undertakings where the Committee of Experts has received new relevant information. The following provisions will not be commented upon:

- Article 8, paragraph 1.g;
- Article 9, paragraph 2.a;
- Article 10, paragraph 5;
- Article 11, paragraph 2;
- Article 12, paragraph 1.f,g
- Article 12, paragraph 3;
- Article 13, paragraph 1.a.c

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

682. Finally the paragraphs and sub-paragraphs that are quoted in bold italics are the obligations chosen by Germany.

683. In the previous monitoring cycles the Committee of Experts already observed that certain difficulties persisted in the implementation of the undertakings chosen by *Land Hesse*. These difficulties were partly due to the fact that a large part of the speakers do not wish to have any presence of the Romani language outside the Sinti and Roma community and also due to the fact that, in accordance with the wishes of a number of speakers, the Romani language of the German Sinti and Roma has not been codified.

684. These difficulties still prevail. The Committee of Experts has again been informed that a large part of the Romani speakers firmly reject any use of the Romani language outside the Sinti and Roma community and in public life. Accordingly they view the full implementation of the Charter's undertakings to be against the cultural traditions and will of the speakers. They would, however, welcome support in the cultural field and for private language acquisition. Other Romani speakers, although accepting Romani teaching in public schools in a certain form, also point out that the Charter's provisions must be implemented bearing in mind the wish of most German Sinti and Roma not to have a standard written form of the language and to use it only within the community.

685. While respecting the views of the representatives of the speakers, in the view of Committee of Experts Romani would best be protected and promoted through the educational system. This would also make it possible for the authorities to implement the undertakings they have chosen. The example of Hamburg in paragraph 52 above demonstrates that such a move is not without precedent in Germany.

## Article 8 – Education

### Paragraph 1

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

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

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

686. In its third evaluation report, the Committee of Experts, while acknowledging the support given by the *Land* Hesse, observed that no education in or of Romani took place at any school level and concluded that the undertakings remained unfulfilled. The Committee of Experts urged the German authorities to take the necessary measures and allocate appropriate funds with a view to organising, in co-operation with the speakers, teaching in or of Romani at all levels of education in Hesse. Furthermore, the Committee of Ministers recommended that the German authorities “**take action to improve provision and allocate adequate resources for regional or minority language teaching and in particular [...] adopt a structured policy with respect to Romani in the field of education, in co-operation with the speakers**”.

687. The situation has not changed very much during the fourth monitoring cycle. The Committee of Experts is aware that some of the Romani speakers support Romani teaching in school, outside regular hours, by Sinti and Roma teachers and only for Sinti and Roma pupils, while others reject any form of Romani language presence in education, as well as in other public fields. The Committee of Experts encourages the authorities to provide more specific information regarding the presence of Romani in education at all levels in the next periodical report.

688. The Committee of Experts considers the undertakings not fulfilled.

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

689. In the third evaluation report the Committee of Experts concluded that the undertaking remained not fulfilled. It urged the authorities to clarify whether there was a demand for Romani education in the field of adult education and to take the necessary measures and allocate appropriate funds with a view to favouring and/ or encouraging the offering of Romani as a subject of adult and continuing education.

690. According to the fourth periodical report, the adult education centre in Marburg offers a Romani class for adults, open only to Romani language speakers. The Committee of Experts considers the undertaking

partly fulfilled and asks the authorities to strengthen their efforts to encourage the offering of Romani as a subject of adult education.

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

691. In its third evaluation report the Committee of Experts considered that the undertaking remained not fulfilled.

692. According to the fourth periodical report, there have been no requests from German Sinti and Roma for basic or further teacher training with regard to teaching Romani. The Education Bureau for National Minorities: Sinti and Roma offers education seminars and specialized seminars on the history and culture of Sinti and Roma for teaching candidates. Advanced training courses for mainstream teachers in the history and culture of Sinti and Roma also continue to be offered. However, the Committee of Experts has not been informed of any teacher training for Romani language education.

693. The Committee of Experts considers the undertaking still not fulfilled.

*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.*

694. In its third evaluation report the Committee of Experts concluded that the undertaking remained not fulfilled since it had no further information from the authorities on any supervisory body responsible for the implementation of this undertaking. Furthermore, the Committee of Ministers recommended that the German authorities “**ensure that an effective monitoring mechanism exists in the field of education for all regional or minority languages covered under Part III**”.

695. According to the fourth periodical report, there are no special measures in this field beyond the supervision for all curricular offerings.

696. The Committee of Experts considers the undertaking remains not fulfilled.

## **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.*

697. In the third evaluation report the Committee of Experts had no information with regard to this undertaking and urged the authorities to provide relevant information in the next periodical report.

698. According to the fourth periodical report, the authorities maintain that the undertaking is fulfilled by *allowing* teaching of all regional or minority languages. However, the Committee of Experts did not receive the requested information in order to be able to assess whether the undertaking is fulfilled. It would especially welcome information on the protection and promotion of Romani in the Frankfurt area.

699. As long as the Committee of Experts lacks the relevant information, it must conclude that the undertaking is not fulfilled.

## **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:*

...

*b 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;*

- c *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;*

700. In its third evaluation report the Committee of Experts considered that the undertakings remained only formally fulfilled since it had no information on the practical implementation of the legal provisions in this field. It invited the authorities to provide such information in the next periodical report. The Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages [...] in the courts**”.

701. In the fourth periodical report, the authorities only refer to rare cases where Romani language interpreters are used in courts. No information is provided with respect to documents and evidence produced in Romani. The Committee of Experts therefore maintains its previous conclusion that the undertaking is only formally fulfilled.

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

### **Paragraph 2**

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

...

- 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;*

702. In its third evaluation report the Committee of Experts commended the authorities for having encouraged the local authority associations to make arrangements at the regional level to allow the use of Romani in debates of the assemblies at regional and local level. It concluded that the undertakings were only formally fulfilled.

703. In the fourth periodical report, the authorities refer to the wish of the speakers not to use the Romani language for communication outside the group. The Committee of Experts reminds the authorities that the choice of these two undertakings presupposes public use of Romani in order for the undertakings to be fulfilled.

704. The Committee of Experts maintains its previous conclusion that the undertaking is formally fulfilled.

### **Paragraph 3**

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

...

- c *to allow users of regional or minority languages to submit a request in these languages.*

705. In its third evaluation report the Committee of Experts had no information with respect to this undertaking from the authorities and concluded that it remained not fulfilled. It asked the authorities to provide information on practical implementation, pertinent legal provisions and positive measures with regard to this undertaking. Furthermore, the Committee of Ministers recommended that the German authorities “**take resolute action to establish a structured policy for making it possible to use regional or minority languages in dealings with the administration [...]**”.

706. In the fourth periodical report, the authorities refer to the wish of the speakers not to use the Romani language for communication outside the group. The Committee of Experts reminds the authorities that the choice of this undertaking presupposes the possibility of using Romani outside the group for those who so wish, in order for the undertaking to be fulfilled.

707. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

#### **Paragraph 4**

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

...

- 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.*

708. In its third evaluation report, the Committee of Experts considered that the undertaking remained not fulfilled since it had received no information on any kind of positive practice or incentives or structured approach with regard to this undertaking.

709. According to the fourth periodical report, no such requests from public service employees have been submitted. The authorities are not aware of any public service employees having a knowledge of the Romani language. The Committee of Experts reminds the authorities that the choice of this undertaking presupposes that there are some Romani speakers among the public service employees in order for the undertaking to be fulfilled. The Committee of Experts encourages the authorities to strengthen their efforts to have some Romani speakers among their employees.

710. The Committee of Experts considers that the undertaking remains not fulfilled.

#### **Article 11 – Media**

##### **Paragraph 1**

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

...

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

711. In its third evaluation report the Committee of Experts concluded that the undertakings remained not fulfilled, in the absence of any further information on positive measures taken by the authorities to encourage the broadcasting of radio and television programmes in Romani.

712. The Committee of Experts encouraged the authorities to promote regional or minority broadcasting through financial incentives. It expressed its awareness of the particular sensitivities of the German authorities about requiring private broadcasters to include private programming in regional or minority languages, whether by regulation or license condition. Nevertheless, the Committee of Experts considered that promoting regional or minority language broadcasting through financial incentives, as is carried out for cultural programmes, should not infringe those sensitivities.

713. According to the fourth periodical report, the *Land* authorities have informed the broadcaster *Hessischer Rundfunk* about the undertakings under the Charter and initiated a dialogue between the *Land* public service broadcasting cooperation and the *Land* association of German Sinti and Roma. No other measures in this field are possible according to the views of the authorities, due to the independence of the media. The authorities also inform the Committee of Experts that no requests for Romani language programmes have been addressed by the representatives of Sinti and Roma to the public broadcaster.

714. The Committee of Experts has also been informed that the Lower Saxony *Land* Association of the Sinti Alliance of Germany is producing and funding the radio programme *Latscho Dibes*. This is broadcast monthly for one hour on five private radio stations, including one in Hesse. However, the Committee of Experts understands that no support from *Land* Hesse is provided.

715. The Committee of Experts reiterates that promoting minority language broadcasting through financial incentives, as is currently carried out, for example, for cultural programmes, would not infringe the independence of the media

716. The Committee of Experts maintains its previous conclusion that the undertakings are not fulfilled.

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

717. In its third evaluation report the Committee of Experts had no further information concerning this undertaking and concluded that it remained not fulfilled.

718. In the fourth state report, the authorities maintain that support for the Documentation and Cultural Centre of German Sinti and Roma, funded by the federal authorities, is sufficient to fulfil this undertaking, regardless of the decisions this institution makes concerning the use of the funds.

719. The Committee of Experts has received no further information on the practical implementation of this undertaking and whether audio and audiovisual works in Romani are actually produced. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled.

- e**
  - i** *to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages; or*
  - ii** *to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis;*

720. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled. It encouraged the authorities, in co-operation with the Romani-speakers, to overcome the existing obstacles due to the absence of a standard written form of Romani and the wish of some of the speakers not to make written materials in Romani publicly accessible.

721. No further information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertakings are not fulfilled.

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

722. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled, as it had not received any further information with respect to its implementation.

723. No further information is provided in the fourth periodical report. The Committee of Experts therefore maintains its previous conclusion that the undertaking is not fulfilled. It requests the authorities to provide relevant information in the next periodical report.

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

724. In its third evaluation report the Committee of Experts maintained its previous conclusion that the undertaking was not fulfilled as it had not received any further information with respect to the practical implementation of this undertaking.

725. No such information is provided in the fourth periodical report. The authorities maintain that the support to the Documentation and Cultural Centre of German Sinti and Roma is sufficient to fulfil this undertaking. It is unclear, however, whether and to what degree the Documentation and Cultural Centre is dealing with language issues at all. It is also far from clear whether any training of journalists takes place at the Documentation and Cultural Centre. The Committee of Experts requests the authorities to provide specific information on the training programmes organized by the Documentation and Cultural centre in the

next periodical report. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

## **Article 12 – Cultural activities and facilities**

### **Paragraph 1**

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

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

726. In its third evaluation report the Committee of Experts concluded that the undertaking was not fulfilled, in the absence of any evidence of an encouragement specific to the Romani language.

727. No further information is provided in the fourth periodical report. The authorities maintain that the undertaking is already fulfilled under the existing support, which the recipients may use according to their wish. The Committee of Experts would welcome more information in the next periodical report on the extent to which the Documentation and Cultural Centre supported by the authorities encourages types of expression and initiatives specific to Romani and fosters the access to works produced in Romani. The Committee of Experts maintains its previous conclusion that the undertaking is not fulfilled.

- 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;*

728. In its third evaluation report, the Committee of Experts had not received any information about bodies other than the *Land* Association of German Sinti and Roma which are responsible for organising cultural activities in relation to the Romani language. It considered the undertaking partly fulfilled.

729. No further information is provided in the fourth periodical report. The authorities' view is that the undertaking can only be fulfilled by supporting cultural activities of Roma and Sinti associations or by involving them in such activities. They also underline that a part of the Romani speakers are against using the language outside the community. The Committee of Experts points out that this undertaking also refers to other bodies whose role is to organise or support various cultural activities. These bodies should give sufficient importance in their programmes to the knowledge and use of the Romani language and the culture it represents<sup>24</sup>. The Committee of Experts maintains its previous conclusion that the undertaking is partly fulfilled.

### **Paragraph 2**

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

730. In the third monitoring cycle, the Committee of Experts was not in a position to conclude on the fulfilment of this undertaking, due to lack of information. It urged the German authorities to provide further information in their next periodical report.

731. In the fourth periodical report, the authorities state that the undertaking is already fulfilled by allowing cultural activities and facilities. They also state that Sinti and Roma do not live in clearly defined settlement areas and there are no territories where Romani is traditionally used.

732. The Committee of Experts, however, would like to stress that the fact that Sinti and Roma traditionally do not live in clearly defined settlement areas does not mean that there are no territories where Romani "is traditionally used" in the sense of Article 1.b of the Charter. Historically most Sinti and Roma did not have the opportunity to settle permanently, but socio-political changes have led to a situation where most of the speakers are clearly geographically concentrated in certain areas today. These territories form a

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<sup>24</sup> Paragraph 117 Explanatory Report

“geographical area in which the said language is the mode of expression of a number of people justifying the adoption of the various protective and promotional measures provided for in this Charter” (Article 1.b of the Charter). Fortunately, the *Land* Hesse does not limit its efforts to these territories, which means that there should be a certain number of protective and promotional measures applied also in the territories covered by Paragraph 2.

733. The Committee of Experts looks forward to receiving more specific information on the promotional concepts and their practical implementation in urban areas where now there are strong concentrations of Romani speakers.

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

### **Paragraph 1**

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

...

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

734. In its third evaluation report the Committee of Experts considered the undertaking not fulfilled, in the absence of any practical examples of encouragement of facilitation of the use of Romani with regard to social and economic activities.

735. According to the fourth periodical report, the authorities refer to a letter sent to the federation of Hesse employers associations asking them to encourage its members to facilitate and support the use of Romani in the context of economic activities. The Committee of Experts commends the authorities on this initiative, and looks forward to receiving information on any further developments in the next periodical report. It nevertheless considers that the undertaking is not fulfilled at present.

## **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;*

736. In its third evaluation report the Committee of Experts considered the undertaking not fulfilled, as no such agreements had been reached.

737. In the fourth periodical report, the authorities refer to the activities in the framework of international organizations and to the fact that the different conditions in various countries call into question the reason for cooperation.

738. The Committee of Experts points out that the undertaking refers to bilateral and multilateral agreements mainly in the fields of culture and education, which bind Germany to states where Romani is used in an identical or similar form. Since this covers a whole range of cultural and educational agreements with states particularly in South Eastern and Eastern Europe there should be ample room for applying the undertaking. An implementation would require, however, that these agreements are used in such a way as to foster contacts among Romani speakers in the states concerned in the fields of culture and education. The Committee of Experts looks forward to receiving more detailed information in the next periodical report on how Germany is applying the mentioned agreements with the objective of fostering contacts among Romani speakers in Germany and in other countries.

739. In the absence of specific information on the implementation of this undertaking, the Committee of Experts considers the undertaking not fulfilled.

## Chapter 4 Findings of the Committee of Experts in the fourth monitoring round

- A. The Committee of Experts compliments Germany on its continuing constructive dialogue with the Committee of Experts and its transparent approach to the implementation of the Charter. It notes, in particular, that the third evaluation report of the Committee of Experts and the fourth periodical report of Germany were discussed with representatives of regional or minority languages at an implementation conference and that the written comments of the language groups were appended to the third and fourth periodical reports. The Committee of Experts commends the German authorities for the detailed information contained in the fourth periodical report and their response to requests for further information made by the Committee of Experts.
- B. There have been some positive new developments concerning some of the languages protected under Part III of the Charter. Despite these achievements, however, the situation of most regional or minority languages has not changed significantly since the first monitoring round and the previous recommendations of the Committee of Ministers still largely remain valid. The Committee of Experts regrets to note that the situation of some of the more endangered languages remains critical, in particular Lower Sorbian. The situation of Sater Frisian remains particularly precarious, despite the efforts undertaken by the federal and Land authorities. The Committee of Experts considers that Germany should take more determined steps to tackle the problems identified by the Charter's monitoring mechanism.
- C. Under international law, the federal state is responsible for the implementation of the Charter obligations. However, in the internal distribution of competences, the protection and promotion of regional or minority languages is mainly under the responsibility of the *Länder*. There is no federal language policy and the Federation mainly fulfils a co-ordinating role in this area. There is an institutional representation of regional or minority languages at the federal level in place now. While some mechanisms of inter-Land co-operation are also being put into place, the Committee of Experts considers that there is further scope for development in this area, in particular with regard to the Low German language, with the possible assistance of the federal level, also in financial terms. This also applies to the Romani language, most notably in the field of education.
- D. Measures taken in favour of regional or minority languages continue to vary significantly between the *Länder* concerned and even between various languages in one *Land*. Overall, the promotion of regional or minority languages is hampered, to varying degrees depending on the *Land*, by the lack of long-term, structured policies of language promotion and the absence of a pro-active approach to this promotion. Where the authorities show a positive attitude to regional or minority languages, and are prepared to devote energy and resources to them, the Committee of Experts observed good progress. In certain other cases, however, the Committee of Experts observed a regrettable lack of political will on the part of the authorities to assume responsibility for implementing the Charter.
- E. The Federal Government has renewed its commitment to maintain more or less its level of contribution to the Foundation for the Sorbian People. Fortunately, the uncertainties on the financing of the Foundation have been overcome, but the Foundation remains short of funding taking into consideration the extensive institutional network funded through the Foundation. The maintenance of some Sorbian language cultural institutions is still threatened.
- F. Part III implementation of the Charter with regard to Romani in Hesse continues to lack a more pro-active and structured policy. The Committee of Experts observes that compliance with many of the selected undertakings is rendered difficult by the fact that the German Sinti and Roma have no codified varieties of Romani. In addition, according to representatives of the two organizations of Sinti and Roma in Germany, Romani-speakers do not wish their language to have a presence in public life outside the Sinti and Roma community. This position makes the implementation of most of the Part III undertakings for Hesse very difficult. However, there have been some positive developments in the field of Romani education in Hamburg and Bavaria.
- G. The situation regarding education in Danish at all levels remained satisfactory until summer 2010. The envisaged budgetary cuts in the financing of the Danish school system threaten to damage severely the achievements of decades of institutional build up in the Danish educational sector. It is to be hoped that the trilateral talks between the *Land* Schleswig-Holstein, Denmark and the Federal Government will bring a solution that stabilizes the exemplary model of minority language education developed for Danish in Schleswig-Holstein.

H. Provision for teaching in or of Upper Sorbian is still relatively well developed. However, the rationalisation programme in rural schools in territories where Upper Sorbian is traditionally used continues to have an adverse effect on the maintenance of the language. During the last ten years, two out of four secondary schools (Mittelschulen) in the core area of Upper Sorbian that were teaching entirely in Sorbian have been closed. The “2 plus” model of teaching Sorbian has been introduced. Depending on the situation, the “2 plus” model may not be sufficient to develop native speakers' language competence. Replacing full Sorbian medium education with a lesser offering (e.g. the model “2 plus”) is perceived by the speakers as a retrograde step and definitely does not benefit the Upper Sorbian language in the long term perspective.

I. There have been no noticeable improvements regarding Lower Sorbian education. The shortage of qualified Lower Sorbian teachers at all levels of education, in particular, is a problem that has to be dealt with urgently in order to secure the future of Lower Sorbian, which the Committee of Experts already identified as a particularly endangered language in its first evaluation report. The transfer of teacher training for Sorbian teachers to Leipzig has evidently hampered the efforts to improve the situation, since too few students from Brandenburg enrol in Sorbian studies at Leipzig University. There is also a pressing need to invest in the Lower Sorbian pre-school sector to ensure a firm foundation for Lower Sorbian education. A structured and systematic policy across all levels of education is still urgently needed, in particular to ensure continuity of Sorbian education from pre- to primary school, and from primary to secondary school.

J. Despite the political support pledged by the authorities of Schleswig-Holstein to implement the coherent and realistic education model developed by speakers of North Frisian, very little has been done by the authorities. North Frisian education continues to suffer because it remains outside the regular curriculum and there is no structured policy ensuring a systematic offering of North Frisian education even where there is a clear demand.

K. Sater Frisian still faces terminal decline unless urgent steps are taken by the Lower Saxony authorities to maintain it as a living language. Some steps have been taken to improve Sater Frisian education although the amount and quality of teaching of Sater Frisian is still far from a level needed to safeguard the survival of the language. Teaching and study of Sater Frisian needs to be strengthened even more and as a matter of priority, in accordance with Germany's obligations under Article 7, paragraph 1.f and Article 8 of the Charter. The Committee of Experts regards this as being a matter of utmost importance.

L. While there have been considerable improvements in some *Länder* (in particular in Hamburg, but also in Mecklenburg-Western Pomerania) as regards the place of Low German in the Framework Curricula, in the overwhelming majority of cases Low German is taught within other subjects (mainly German), rather than as a subject in its own right. In the absence of clear guidelines regarding the minimum number of teaching hours devoted to Low German, provision for the teaching of this language remains highly variable, depending on the willingness of the schools, teachers and pupils, and generally is too limited to be considered an integral part of the curriculum. The lack of continuity in the teaching of Low German in Lower Saxony is a source of special concern. The most recent efforts undertaken by Hamburg to change the educational model for Low German into that of a regular school subject being taught as an integral part of the curriculum creates an exemplary model of how to fulfil the undertakings for Low German under Article 8. Hopefully other *Länder* will follow the example and adopt similar reforms. The study of and research into Low German in higher education needs to be strengthened as a matter of urgency, given that the availability of adequately trained specialised teaching staff is crucial for all the efforts in this field.

M. The absence of supervisory bodies within the meaning of Article 8, paragraph 1.i continues to be a severe problem for any attempt to improve the situation of education. Targeted mechanisms of supervision designed to monitor the measures taken and the progress achieved in developing regional or minority language education, with corresponding reports which are made public, are vital for the implementation of a structured education policy. The lack of such mechanisms makes it difficult to assess the development and shortcomings of regional or minority language education, and thus to develop and implement long-term strategies for improving it.

N. The use of regional or minority languages before administrative authorities (and before judicial authorities in the case of Upper and Lower Sorbian) remains marginal, with the exception of the use of spoken Low German in some areas. In the opinion of the Committee of Experts, in addition to the problem concerning the legal framework mentioned above, this is due to the fact that structured policies and relevant organisational measures to ensure the implementation of Germany's undertakings are often missing. Good practice that prevails elsewhere includes, for example, taking account of civil servants' skills in regional or minority languages, providing facilities and incentives for them to improve these skills, creating an adequate

framework for, and allocating resources to, translation and interpretation. Not enough is done to make the speakers aware of the possibility to use their language before the authorities.

O. With regard to broadcasting, public service broadcasting continues to be good for several regional or minority languages, in particular with regard to Upper Sorbian. There is a lack of television (and often also radio) broadcasting with regard to Danish, North Frisian, Sater Frisian and Romani. In these cases, programmes in regional or minority languages are currently broadcast sporadically, mainly on the Open Channel. Limited frequency as well as limited geographical coverage restrict the offer in these instances.

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

Q. In the field of social and economic life, the Committee of Experts is concerned about the lack of a bilingual policy in social care facilities. Some regional or minority languages are used in practice in such institutions, but as a matter of chance rather than design. More determined measures need to be taken in this respect.

The German government was invited to comment on the content of this report in accordance with Article 16.3 of the Charter. The comments received are attached in Appendix II.

On the basis of this report and its findings the Committee of Experts submitted its proposals to the Committee of Ministers for recommendations to be addressed to Germany. At the same time it emphasised the need for the German authorities to take into account, in addition to these general recommendations, the more detailed observations contained in the body of the report.

At its 1114th meeting on 25 May 2011, the Committee of Ministers adopted its Recommendation addressed to Germany, which is set out in Part B of this document.

## Annexe I: Instrument of ratification

### Germany

#### **Declarations contained in a letter from the Permanent Representation of Germany, dated 16 September 1998, handed to the Secretary General at the time of deposit of the instrument of ratification, on 16 September 1998 - Or. Engl./Germ.**

Minority languages within the meaning of the European Charter for Regional or Minority Languages in the Federal Republic of Germany shall be the Danish, Upper Sorbian, Lower Sorbian, North Frisian and Sater Frisian languages and the Romany language of the German Sinti and Roma; a regional language within the meaning of the Charter in the Federal Republic shall be the Low German language.

Pursuant to Article 3, paragraph 1, of the Charter, the Federal Republic of Germany specifies the regional or minority languages to which the provisions selected pursuant to Article 2, paragraph 2, of the Charter shall apply upon the entry into force of the Charter in the Federal Republic of Germany:

Danish in the Danish language area in *Land* Schleswig-Holstein:

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

Upper Sorbian in the Upper Sorbian language area in the Free State of Saxony:

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

Lower Sorbian in the Lower Sorbian language area in *Land* Brandenburg:

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

North Frisian in the North Frisian language area in *Land* Schleswig-Holstein:

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

Sater Frisian in the Sater Frisian language area in *Land* Lower Saxony:

Article 8, paragraph 1 a iv; e ii; f iii; g; i;  
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;  
Article 10, paragraph 1 a v; c; paragraph 2 a; b; c; d; e; f; paragraph 4 a; c; paragraph 5;

Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;  
Article 12, paragraph 1 a; b; c; d; e; f; g; paragraph 2; paragraph 3;  
Article 13, paragraph 1 a; c; d.

Low German in the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Obligations regarding Low German in the territory of the *Länder* Free Hanseatic City of Bremen, Free and Hanseatic City of Hamburg, Mecklenburg-Western Pomerania, Lower Saxony and Schleswig-Holstein:

Article 8, paragraph 1 a iv; e ii; g;  
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;  
Article 10, paragraph 1 a v; c; paragraph 2 a; b; f;  
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;  
Article 12, paragraph 1 a; d; f; paragraph 3;  
Article 13, paragraph 1 a; c;

and additionally:

- in the Free Hanseatic City of Bremen:

Article 8, paragraph 1 b iii; c iii; f i; h;  
Article 10, paragraph 2 c; d; e;  
Article 11, paragraph 1 g;  
Article 12, paragraph 1 b; c; e; g;  
Article 13, paragraph 2 c;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iii; c iii; d iii; f ii; h; i;  
Article 10, paragraph 2 e; paragraph 4 c;  
Article 11, paragraph 1 g;  
Article 12, paragraph 1 g;  
Article 13, paragraph 1 d; paragraph 2 c;

- in *Land* Mecklenburg-Western Pomerania:

Article 8, paragraph 1 b iii; c iii; d iii; h; i;  
Article 10, paragraph 4 c;  
Article 12, paragraph 1 b; c; e; h;  
Article 13, paragraph 1 d, paragraph 2 c;

- in *Land* Lower Saxony:

Article 8, paragraph 1 f iii; i;  
Article 10, paragraph 2 c; d; e; paragraph 4 a; c;  
Article 12, paragraph 1 b; c; e; g; paragraph 2;  
Article 13, paragraph 1 d;  
Article 14 a; b;

- in *Land* Schleswig-Holstein:

Article 8, paragraph 1 b iii; c iii; f iii; h; i; paragraph 2;  
Article 10, paragraph 4 c;  
Article 12, paragraph 1 b; c; g;  
Article 13, paragraph 1 d; paragraph 2 c.

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

The Romany language of the German Sinti and Roma in the territory of the Federal Republic of Germany and Low German language in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt shall be protected pursuant to Part II of the Charter.

Part II of the European Charter for Regional or Minority Languages shall be applied to Romany, the minority language of the German Sinti and Roma in the territory of the Federal Republic of Germany, and to the

regional language Low German in the territory of the *Länder* Brandenburg, North-Rhine/Westphalia and Saxony-Anhalt upon its entry into force in the Federal Republic of Germany in accordance with the declaration of the Federal Republic of Germany of 23 January 1998. The objectives and principles laid down in Article 7 of the Charter shall form the bases with regard to these languages. At the same time, German law and Germany's administrative practice thus meet individual requirements laid down in Part III of the Charter:

With regard to Romany

for the territory of the Federal Republic of Germany:

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

and additionally:

- in *Land* Baden-Württemberg:

Article 8, paragraphs 1 a iv, 1 e iii;  
Article 10, paragraph 4 c;  
Article 12, paragraphs 1 a, 1 d; f; paragraph 2.

- in *Land* Berlin:

Article 8, paragraph 1 a i/ii; b i/ii/iii/iv; e i/ii/iii; i; paragraph 2;  
Article 11, paragraph 1 b i/ii: c ii; e i/ii;  
Article 12, paragraph 1 a; d; f;

- in the Free and Hanseatic City of Hamburg:

Article 8, paragraph 1 b iv; c iv;  
Article 11, paragraph 1 b ii; c ii;  
Article 12, paragraph 1 a; d; f;

- in *Land* Hesse:

Article 8, paragraph 1 a iii/iv; b iv; c iv; d iv; e iii; i; paragraph 2;  
Article 11, paragraph 1 b ii; c ii; e i;  
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; paragraph 2;  
Article 12, paragraph 1 a; d; f; paragraph 2;

- in *Land* Lower Saxony:

Article 12, paragraph 1 a; d; f;

- in *Land* Rhineland-Palatinate:

Article 8, paragraph 1 a iv; e iii;  
Article 11, paragraph 1 c ii;  
Article 12, paragraph 1 a; d; f;

- in *Land* Schleswig-Holstein:

Article 10, paragraph 1 a v; paragraph 2 b; paragraph 4 c;  
Article 11, paragraph 1 b ii; c ii;  
Article 12, paragraph 1 a; d; f; paragraph 2.

With regard to Low German:

- in *Land* Brandenburg:

Article 8, paragraph 1 a iv; b iv; c iv; f iii; g;

Article 9, paragraph 2 a;  
Article 10, paragraph 2 b; paragraph 3 c;  
Article 11, paragraph 1 b ii; c ii; d; e ii; f ii; paragraph 2;  
Article 12, paragraph 1 a; f; g;

- in *Land* North-Rhine/Westphalia:

Article 8, paragraph 1 e iii; g; h; paragraph 2;  
Article 9, paragraph 1 b iii; c iii; paragraph 2 a;  
Article 11, paragraph 1 d; paragraph 2;  
Article 12, paragraph 1 a; d; e; f; g; h; paragraph 2;  
Article 13, paragraph 1 a; c; d;

- in *Land* Saxony-Anhalt:

Article 8, paragraph 1 a iv; b iv; c iv; g; h;  
Article 9, paragraph 2 a;  
Article 11, paragraph 1 b ii; c ii; e ii; paragraph 2;  
Article 12, paragraph 1 a; f; g; h.

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

In accordance with the national distribution of competencies, the way in which the above-mentioned provisions of Part III of the Charter are implemented through legal regulations and Germany's administrative practice with due regard to the objectives and principles specified in Article 7 of the Charter shall be the responsibility of either the Federation or the competent *Land*. Details will be provided in the procedure for implementing the federal act with which the legislature consents to the Charter as laid down in the Memorandum to the Charter.

**Period covered: 1/1/1999 -**

**The preceding statement concerns Article(s) : 10, 11, 12, 13, 14, 2, 3, 7, 8, 9**

**Declaration contained in a letter from the Permanent Representative of Germany, dated 17 March 2003 and registered at the Secretariat General on 21 March 2003 - Or. Engl./Germ.**

In accordance with Article 3, paragraph 2, of the Charter, the Federal Republic of Germany will apply to the minority languages named below the following additional provision pursuant to Article 2, paragraph 2:

. North Frisian in the North Frisian language area in Land Schleswig-Holstein:  
Article 10, paragraph 2 (g)

. Sater Frisian in the Sater Frisian language area in Land Lower Saxony:  
Article 10, paragraph 2 (g)

. Romanes for the area of Land Hesse:

Article 8, paragraph 1 (a) (iii) and (iv); (b) (iv); (c) (iv); (d) (iv); (e) (iii); (i); paragraph 2  
Article 10, paragraph 2 (e); (f); paragraph 3 (c); paragraph 4 (c)  
Article 11, paragraph 1 (b) (ii); (c) (ii); (e) (i)  
Article 12, paragraph 1 (a); (d); (f); paragraph 2

In connection with the undertakings given for the entire federal territory :

Article 8, paragraph 1 (f) (iii); (g); (h)  
Article 9, paragraph 1 (b) (iii); (c) (iii); paragraph 2 (a)  
Article 10, paragraph 5  
Article 11, paragraph 1 (d); (e) (ii); (f) (ii); (g); paragraph 2  
Article 12, paragraph 1 (g); paragraph 3  
Article 13, paragraph 1 (a); (c); (d)  
Article 14 (a)

**Period covered: 21/3/2003 -**

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

## Appendix II: Comments by the German authorities



21st March 2011  
Az.:MII4-923 094 – 5/7

### **Comments by the Federal Republic of Germany**

regarding the Fourth Report of the Committee of Experts presented to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the European Charter for Regional or Minority Languages on the Implementation of the Charter in Germany

The Committee of Experts set up under the European Charter for Regional or Minority Languages (hereinafter referred to as the “Charter”) submitted its fourth evaluation report to the Committee of Ministers of the Council of Europe on Germany’s implementation of the Charter (hereinafter referred to as the “Fourth Monitoring Report”) in accordance with Article 16 of the Charter.

The Report was delivered to Germany with a letter from the Directorate IV of the Council of Europe dated 24 January 2011, giving Germany the opportunity to comment on the report by 11 April 2011.

Germany welcomes the open dialogue with all those involved in the implementation of the Charter and appreciates the activities of the Committee of Experts in evaluating the achieved level of compliance with Germany’s obligations arising from the Charter.

Germany thanks the Committee of Experts for the detailed and professional description of its results with regard to the implementation of the Charter. The analysis of what has been achieved and the detection of real or supposed deficits regarding recognized regional or minority languages are helpful for future action by policy-makers and the administration, both at the national and regional level.

However the implementation of obligations arising from the Charter in a given period under review hinges very much on the financial resources available in that period. The economic downturn, which has affected the countries across Europe, has also hit Germany, affecting the federal Länder in quite different measures. The Federal Government and the federal Länder are agreed that, in the climate of tight purse strings, the national minorities must also do their part to help consolidate the budgets at national and regional level. Schleswig-Holstein, for instance, was forced to make structural cuts in the 2011/2012 budgets, also affecting the Danish minority. The deficit of Danish substitute schools was at first expected to run to 4.7m euro, but was then reduced by a federal grant of 3.5m euro, which greatly alleviated the situation.

Germany wishes to point out that not all federal Länder are required to implement the Charter in primary and secondary education. The Committee of Experts has repeatedly called on Lower Saxony to provide Low German and Saterfrisian school education, in response to which Lower Saxony explains, once again, that it is not required to do so under the Charter. On the contrary, Lower Saxony regrets that the Committee of Experts has not acknowledged its voluntary efforts as such, and that it has continued to create the impression that Lower Saxony has failed to meet its obligations, especially with regard to Low German.

The Committee of Experts has also repeated its views regarding the use of regional or minority languages in the German media – a stance which Germany does not share for reasons it has repeatedly stated in depth. In this context, Germany wishes to point out once again that the freedom of expression, which is enshrined in Article 5 of the Basic Law, is one of the most fundamental elements of the free and democratic system of the Federal Republic of Germany. This principle will continue to preclude any government influence on, for instance, the distribution of licences, the geographical delimitation of broadcasting areas, or the (public or private) media via financial incentives.

Germany notes that the Committee of Experts itself points out that, in Germany, responsibility for the implementation of the Charter rests with the federal Länder. That said, it does not sufficiently acknowledge this circumstance nor the fact that Germany has made it a principle to involve the national minorities via their umbrella organizations in the process of implementing the Charter and the Framework Convention for the

Protection of National Minorities. Given for instance the amount of time needed to translate the Committee of Experts' Report into German, its time limits for comments tend to be too short to involve the federal Länder and the federal associations of the speakers of the protected languages on a larger scale. Germany would not do justice to the report if it dealt with the experts' statements and proposals in the given period.

After consulting with the federal Länder, Germany has therefore decided to comment on the Committee's findings in its fifth State Report.

The Federal Government is planning to have the Fourth Monitoring Report translated into German and to post the translation on the Federal Interior Ministry's website by approximately mid-2011, and to make the federal associations of the speakers of the protected languages aware of the fact that they will be able to obtain information about the parts of the report which concern them at an early stage, so that they will have enough time before the Fifth State Report is drawn up to respond adequately, if necessary.

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

### **Recommendation RecChL(2011)2 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Germany**

*(Adopted by the Committee of Ministers on 25 May 2011  
at the 1114th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Having regard to the instrument of ratification submitted by 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 fourth periodical 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 their absence hinders practical implementation of the undertakings which Germany has entered into under the Charter;
2. ensure that the reduction of subsidies for private schools and cuts of the transport allowances will not jeopardize the continued functioning of the Danish-language education at the current level;
3. adopt and implement a structured policy for the promotion and preservation of North Frisian, Sater Frisian and Lower Sorbian, including in particular measures which ensure as a matter of urgency that primary and secondary education is systematically available in these languages;
4. ensure that the provision of education in Upper Sorbian is not jeopardized by the changes in the educational system concerning this language;
5. upgrade the teaching of Low German to the status of a regular school subject being taught as an integral part of the curriculum and increase the number of hours devoted to Low German, in the *Länder* concerned;
6. ensure that an effective monitoring mechanism in the sense of the Charter exists in the field of education for all regional or minority languages covered under Part III;
7. take resolute action to establish a structured policy for making it possible in practice to use regional or minority languages in dealings with the administration and, where relevant, in the courts;
8. take measures so that adequate radio and television broadcasting is available in Danish, Low German, Lower Sorbian, North Frisian, Romani, Sater Frisian.