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European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN CROATIA

Second 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 Croatia**

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

To facilitate this task, the Committee of Ministers adopted, in accordance with Article 15.1, an outline for the periodical reports that a Party is required to submit to the Secretary General. The report should be made public by the State. This outline requires the State to give an account of the concrete application of the Charter, the general policy for the languages protected under Part II and in more precise terms all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee'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, so as to attempt to obtain a just and fair overview of the real language situation. After a preliminary examination of an initial periodical report, the Committee submits, if necessary, a number of questions to each Party to procure supplementary information from the authorities on matters it considers insufficiently developed in the report itself. This written procedure is usually followed up by an "on-the-spot visit" of a delegation of the Committee to the respective State. During this visit the delegation meets bodies and associations whose work is closely related to the use of the relevant languages, and consults the authorities on matters that have been brought to its attention. This information-gathering process is designed to enable the Committee to evaluate more effectively the application of the Charter in the State concerned.

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

CONTENTS

A.	Report of the Committee of Experts on the application of the Charter in Croatia	4
	Chapter 1. Background information	4
	1.1. The ratification of the Charter by Croatia	4
	1.2. The work of the Committee of Experts.....	4
	1.3. Presentation of the regional or minority language situation in Croatia: update	5
	1.4. Specific issues arising in the evaluation of the application of the Charter in Croatia.....	5
	Chapter 2. The Committee of Experts' evaluation in respect of Part II and Part III of the Charter	7
	2.1 The evaluation in respect of Part II of the Charter.....	7
	2.1.1 <i>Evaluation of compliance with the provisions under Article 7 relevant to the second monitoring round.....</i>	<i>7</i>
	2.1.2 <i>The situation concerning the Slovenian language</i>	<i>13</i>
	2.2 The evaluation in respect of Part III of the Charter.....	14
	2.2.1 <i>Preliminary issue concerning the territorial scope of the undertakings entered into by Croatia under Part III</i>	<i>14</i>
	2.2.2 <i>Evaluation of the specific undertakings entered into by Croatia under Part III of the Charter.....</i>	<i>16</i>
	Chapter 3. Conclusions	38
	3.1 Conclusions of the Committee of Experts on how the Croatian authorities have reacted to the recommendations of the Committee of Ministers.....	38
	3.2 Findings of the Committee of Experts in the second monitoring round	39
	Appendix I: Instrument of ratification by Croatia.....	43
	Appendix II: Comments by the Government of Croatia.....	44
B.	Recommendation of the Committee of Ministers of the Council of Europe on the application of the Charter by Croatia.....	46

A. Report of the Committee of Experts on the application of the Charter in Croatia

adopted by the Committee of Experts on 26 November 2004
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 Croatia

1. The Republic of Croatia signed and ratified the European Charter for Regional or Minority Languages (hereafter referred to as “the Charter”) and deposited its instrument of ratification on 5 November 1997. The Charter entered into force for Croatia on 1 March 1998.
2. Article 15, paragraph 1 of the Charter requires States Parties to submit three-yearly reports in a form prescribed by the Committee of Ministers¹. The Croatian authorities presented their second periodical report to the Secretary General of the Council of Europe on 14 January 2003.
3. In its previous evaluation report on Croatia (ECRML (2001) 2), the Committee of Experts of the Charter (hereinafter referred to as “the Committee of Experts”) outlined particular areas where the legal framework, policy and practice could be improved. The Committee of Ministers took note of the report presented by the Committee of Experts and adopted recommendations (RecChL (2001) 2), which were addressed to the Croatian authorities.

1.2. The work of the Committee of Experts

4. This second evaluation report is based on the information obtained by the Committee of Experts from the second periodical report of Croatia and through interviews held with representatives of some of the regional or minority languages in Croatia and the Croatian authorities during the “on-the-spot” visit, which took place on 2-5 March 2004. Two comments were subsequently submitted under Article 16 para. 3 of the Charter.
5. On the basis of the observations made in its first evaluation report, in the present second evaluation report the Committee of Experts will focus on the provisions and issues under both Part II and Part III which were singled out in the first report as raising particular problems. It will evaluate in particular how the Croatian 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. It will then refer to the paragraphs in the first report which set out the Committee of Experts’ reasoning², before evaluating how the Croatian authorities have reacted. The Committee of Experts will also look at the new issues detected during the second monitoring round.
6. The report contains detailed observations that the Croatian authorities are urged to take into account in order to develop their policy on regional or minority languages with a view to dealing with the problematical aspects highlighted by the Committee of Experts. The Committee of Experts has, on the basis of its detailed observations, also established a list of general proposals for preparing a second set of recommendations to be addressed to Croatia by the Committee of Ministers, as provided in Article 16 para. 4 of the Charter (Chapter 3.3. of this report).
7. This report is based on the political and legal situation prevailing at the time of the Committee of Experts’ second “on-the-spot” visit to Croatia (2-5 March 2004). The Committee of Experts is aware

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

² The boxes which appeared in the first evaluation report are the underlined sentences which appear in the present second report.

that changes in legislation and practice may have taken place since their visit. These changes will be taken into account in the next report of the Committee of Experts concerning Croatia.

8. The present second report was adopted by the Committee of Experts on 26 November 2004.

1.3. Presentation of the regional or minority language situation in Croatia: up-date

9. The Committee of Experts refers to the relevant paragraphs of the first evaluation report (paras. 8-25) for the basic presentation of the situation of regional or minority languages in Croatia. The following information constitutes an up-date of the information contained in the first evaluation report.

Situation of the languages

10. The results of the 2001 census provided by the Croatian Government, compared to those of the 1991 census (to which the first evaluation report made reference; see para. 10), show a dramatic decline in the numbers of mother-tongue speakers:

- Italian: 20 521 (26 580 in 1991, ie minus 22,7%);
- Hungarian: 12 650 (19 684 in 1991, ie minus 35,7%);
- Czech: 7 178 (10 378 in 1991, ie minus 30,8%);
- Slovak: 3 993 (5 265 in 1991, ie minus 24,1%);
- Ruthenian: 1 828 (2 845 in 1991, ie minus 35,7%);
- Ukrainian: 1 027 (1 430 in 1991, ie minus 28,1%);
- Serbian: 44 629 (207 300 in 1991, ie minus 78,4%).

Legal framework

11. Important legislative changes have occurred since the end of the period to which the first evaluation report referred. Two important legislative acts were adopted in 2000: the Law on the Equal Official Use of Language and Script of National Minorities in the Republic of Croatia and the Law on the Education in Minority Languages (which replaced the 1979 Law on Education). Then, on 13 December 2002 the Croatian Parliament adopted the new Constitutional Law on the Rights of National Minorities, which has replaced the former Constitutional Law on Human Rights and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia. The relevant provisions of these pieces of legislation will be referred to in the evaluation parts of the present report concerning the implementation of Parts II and III of the Charter.

1.4. Specific issues arising in the evaluation of the application of the Charter in Croatia

12. The Committee of Experts commends in the first place the way in which the Croatian authorities contributed to this second monitoring round and it compliments the latter in this respect. It also notes that the second periodical report was published on the website of the Ministry of Justice. On the other hand, during the "on-the-spot" visit several minority language organisations informed the Committee of Experts that the second periodical report was not disseminated widely.

13. An issue which had already arisen in the first monitoring process concerns the territorial scope of the application of the Charter in Croatia with regard to the languages which have been selected to be covered also by Part III of the Charter. The uncertainty resulting from the terms of the declaration accompanying the Croatian instrument of ratification has not disappeared and this produces two major negative consequences: in the first place, it is not possible to identify all the areas which are covered by Part III obligations; in the second place, there are a number of areas with regard to which Part III is presently not applied because of the way in which the domestic legal framework functions, in spite of the significant and traditional presence of the regional or minority languages spoken there. This issue will be dealt with later on (see paras. 51-62 below).

14. A more particular issue concerns the Romany language. As was already observed in the first evaluation report, the reservation made by the Croatian authorities with regard to Article 7 para. 5 of the Charter excludes non-territorial languages, including the Romany language, from protection and

promotion under the Charter. Nevertheless, in the first evaluation report the Committee of Experts expressed its hope that the Croatian authorities would especially take into consideration the needs of the Romany language (see para. 46 of the first evaluation report). According to the information collected by the Committee of Experts during the “on-the-spot” visit, several initiatives have in fact been taken by the Croatian authorities in this regard. Thus the curriculum will be translated into Romany and funds have been allocated for a TV-programme in Međimurje. Furthermore, the authorities have expressed their intention to start education in Romany (additional references to the Romany language can be found also in the second periodical report, eg at pages 19 and 22). The Committee of Experts welcomes these positive developments and hopes that they will help to create the conditions which might allow Croatia to withdraw its reservation concerning Article 7 para. 5 of the Charter in the case of the Romany language.

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

2.1 The evaluation in respect of Part II of the Charter

2.1.1 *Evaluation of compliance with the provisions under Article 7 relevant to the second monitoring round*

Introductory remarks on the approach of the Committee of Experts in respect of Part II in the second evaluation report

15. As was already mentioned above, the Committee of Experts will focus on the provisions of Part II which were singled out in the first report as raising particular issues. The Committee of Experts will therefore not comment in the present report on provisions where no major issues were raised in the first report and for which the Committee of Experts did not receive any new elements requiring it to reassess their implementation or to present it differently. These provisions are as follows:

- Article 7 para. 1.a (see para. 30 of the first evaluation report);
- Article 7 para. 1 e (see paras. 35-36 of the first evaluation report);
- Article 7 para. 2 (see para. 41 of the first evaluation report);
- Article 7 para. 5 (see para. 46 of the first evaluation report).

16. The Committee of Experts nonetheless reserves the right to evaluate the situation again at a later stage.

Article 7 - Objectives and principles

Paragraph 1

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

- 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;***

17. In the first evaluation report, the Committee of Experts observed that the reorganisation of territorial administration since 1992 seemed to have created an obstacle to the promotion of regional or minority languages, and encouraged the Croatian authorities to review these new administrative divisions (see para. 31 of the first evaluation report).

18. The second periodical report submitted by the Croatian Government did not provide specific elements in this regard (see in particular p. 10). The Committee of Experts received complaints concerning the areas where Hungarian is spoken, according to which the administrative divisions were made in 1993 in such a way that Croatian speakers would be in a majority in most cases. Furthermore, the authorities themselves conceded that some of the more than 550 local units are too weak to provide minority rights, although in such cases government funds would be made available.

19. According to the information collected by the Committee of Experts during the "on-the-spot" visit, it appears that despite several changes made to the 1992 law, no requests to change administrative divisions have ever been received by the authorities from the minority language groups. However, the absence of any measures in relation to areas where the Hungarian language is spoken leads to the preservation of an unsatisfactory situation.

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

20. The adoption of the legislative acts mentioned above constitutes a clear sign of more resolute action on the part of the Croatian authorities to safeguard regional or minority languages in Croatia,

although a serious problem still arises from the fact that significant groups of speakers may be partly left out of such a framework (see in particular para. 60 below). In any event, at least in those cases which are fully covered by the relevant provisions, the legislative developments referred to above have laid down the necessary legal framework to take the other measures, in particular of a practical nature, which are needed to comply adequately with the present obligation (see for example paras. 108-111 and 140-144 below).

21. The domestic mechanisms for monitoring the implementation of the undertakings entered into by Croatia seem to have been strengthened and more comprehensive information was provided in the second monitoring round. The following bodies seem to be playing a more active role: the Governmental Office for National Minorities, the Parliamentary Committee for Human Rights and National Minorities and the Council for National Minorities. As to the latter, its ability to receive a significant input from the field seems, however, to be hampered by the difficulties with the first round of elections for the establishment of local minority councils (the bodies representing the minorities at local level which have an advisory role vis-à-vis the authorities). In fact, the role that the local minority councils are supposed to play should be made better known to regional or minority language speakers.

22. As to the need to provide adequate financing, a crucial aspect of safeguarding regional or minority languages, the Committee of Experts has of course some understanding for the economic difficulties that Croatia has been suffering from over the recent past. However, greater efforts need to be made by the Croatian authorities in this area, especially taking account of the dramatic decline in the number of speakers that the most recent statistics have shown (see para. 10 above). Significantly, in at least two cases, those of the Hungarian and the Italian languages, the information collected by the Committee of Experts shows that the support of the third-party States concerned contributes substantially to cover the basic needs for the protection of these languages.

The Committee of Experts encourages the Croatian authorities to increase the financial means devoted to the fulfilment of the undertakings under the Charter.

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

23. Article 12 of the 2002 Constitutional Law on the Rights of National Minorities and Article 4 of the Act on the Use of the Languages and Scripts of National Minorities lay down four criteria for the official use of regional or minority languages (see also para. 55 below): the speakers must constitute at least one-third of the population of the municipality; or such a use results from an international agreement; a municipality has so prescribed in its statute; or, within its sphere of competence, a county has so prescribed in its statute. Article 4 of the Act on the Use of the Languages and Scripts of National Minorities lays down a significant legal framework for allowing the official use of regional or minority languages in particular by State, regional and local administrations. However, the actual meaning of the "equal and official use" formula referred to in the law is not entirely clear.

24. Furthermore, if a group of speakers does not meet one of the first two criteria laid down in the law, for example the one-third to which the 2002 Constitutional Law refers, while representing nevertheless a sizeable community, it is Article 4 of the Act on the Use of the Languages and Scripts of National Minorities which comes into play, meaning that it is up to the local self-government to decide whether or not the language shall be granted equal and official use. One such example is the municipality of Daruvar for the Czech language: the Czech-speaking population amounts to 18,91% of the total population, according to the figures provided by the municipality itself, and it is present in a concentrated manner. This is clearly a sizeable community but it falls outside the scope of the above-mentioned domestic legal provisions and the municipality has not granted the official use. In such cases the use and visibility of the language in public life is haphazard and is actually subject to the absolute discretion of the local authorities. In this respect, a number of problematical situations were brought to the attention of the Committee of Experts.

25. In some areas, where the language has not been granted equal and official use, several difficulties have been reported concerning in particular the use of the language in the relations with the public authorities. Thus in Draž and Petlovac for the Hungarian language, in Beli Manastir for the Hungarian language and the Serbian script and in Daruvar for the Czech language and for the

Serbian script, there is almost no use or presence of the language or of the script in the dealings with the local branches of the State administration or within local or regional self-government units. Furthermore, in the dealings with the latter the possibility of using the language either does not exist or is admitted in principle but very rarely put into practice. The Committee of Experts was also informed of serious retrograde steps. For example, in Daruvar bilingual signs and notices in the local administrative offices in the Czech language were removed a few years ago. Finally, in the cases mentioned above the place-name in the regional or minority language concerned has practically no visibility.

26. Complaints were raised with the Committee of Experts also concerning the lack of possibilities of using the Italian language in the relations with the public administration in the city of Rijeka, where, depending on the criterion applied, between 2,700 and 6,700 Italian speakers live, ie between 1,9 and 4,6% of the total population of the city. This is the highest or the second highest - according to the statistics - concentration of Italian speakers in one single city. The speakers also complained about the reluctance of the authorities to give some recognition to Rijeka's place-name in the Italian language ("Fiume"). All the Italian speakers living in this city obtained was the recognition of the autochthonous character of the Italian-speaking population living in Rijeka. This case was presented as paradoxical by the representatives of the Italian speakers, since most of the important institutions for the whole Italian-speaking minority in Croatia are located in Rijeka.

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

27. In its first evaluation report (see para. 56), the Committee of Experts stressed that education was one of the most crucial factors in promoting a language, and encouraged the Croatian authorities to increase the facilities for the users of the regional or minority languages to have more direct access to teaching at all appropriate stages.

28. The adoption of the Act on Education in the Languages and Scripts of National Minorities has provided an institutional infrastructure for teaching in and of the regional or minority languages. This Act provides inter alia that the curriculum for minority language education must contain, in addition to the common general part, elements which relate to the specific characteristics of the national minority concerned (in the fields of mother tongue instruction, literature, history, geography and culture). Teachers must have a command of the regional or minority language, whether they come from the minority itself or have a different background.

29. There are three basic models of education:

- model A provides that all lessons take place in the language and script of the national minority with compulsory teaching of the Croatian language; as a rule this model is used in separate institutions but it may also be used in special departments of mainly Croatian-speaking schools;
- model B is a bilingual one, whereby natural sciences are taught in Croatian whilst social science subjects as well as those relating to the minority are taught in separate classes in the minority language and script;
- model C consists of a special teaching programme of five hours per week in addition to the normal Croatian curriculum and covers language instruction, as well as the literature, history, geography, music and art relating to the minority language in question.

30. The present undertaking is only concerned with the teaching of regional or minority languages. Therefore, insofar as they concern models A and B, a series of practical problems in the field of education will specifically be dealt with in the evaluation under Part III of the Charter. Two general problems must be raised at this stage. First of all, model C encounters several difficulties. It often takes place on Saturdays (in Knin for example, as reported to the Committee of Experts). This requires an extra effort from the pupils concerned and furthermore, school buildings do not offer the facilities that are made available during the normal school-week. The authorities are aware of this problem and during the "on-the-spot" visit they made reference to plans to include model C in the regular curriculum.

The Committee of Experts encourages the Croatian authorities to improve the practical conditions in which model C is used and preferably to include it in the regular curriculum.

31. Another general problem concerns the special form of education by correspondence, which according to the second periodical report (see p. 17) has been used by the Serbian minority since 2001. During the “on-the-spot” visit, the authorities themselves acknowledged that this model is not working and explained that it was envisaged for those areas (such as Zagreb, Dalmatia or the County of Šibenik) where no other model was made available. The authorities indicated to the Committee of Experts that this model is going to be abandoned and referred to plans for setting up a multicultural school in Zagreb.

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

32. In its first evaluation report (para. 56) the Committee of Experts found that no provisions existed to promote the teaching of minority languages to non-speakers of the language living inside the area where it is mostly used and that the organisation of such classes was on the initiative of private organisers. The second periodical report does not contain any elements in this regard and it therefore appears that no progress has been made in this area, with the only exception of the Italian language especially as far as Istria is concerned. There pupils with a Croatian-speaking background can freely enroll in Italian-speaking schools. In the bilingual municipalities the Croatian-speaking schools offer optional courses of Italian supported by the Ministry of Education and Sport and some possibilities exist also with the “popular universities”, which are supported by the municipalities concerned. The Committee of Experts received information indicating that this could also be the case for other languages and would therefore welcome additional information in the next periodical report. The Committee of Experts reiterates, in this regard, that the provision of this sort of facilities is conducive to mutual understanding and tolerance between the speakers of the different languages spoken in the State.

The Committee of Experts encourages the Croatian authorities to provide additional information regarding the possibility for non-speakers of a regional or minority language living in the area where it is used to learn it if they so desire, including for languages other than Italian.

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

33. The only new issue that the Committee of Experts has detected in the second monitoring round under this provision concerns the Ruthenian language. In this respect, the Committee of Experts has already observed that the Ruthenian language is still confronted with some very fundamental problems, such as the lack of a proper standardisation in the Croatian context (cf. the second evaluation report of the Committee of Experts on the implementation of the Charter by Hungary, ECRML (2004) 5, para. 29). Promoting study and research on Ruthenian in higher education is therefore very relevant with a view to improving the teaching of the Ruthenian language (cf. also para. 91 below).

The Committee of Experts encourages the Croatian authorities to take measures to promote study and research on Ruthenian at universities or equivalent institutions.

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

34. The main new issue that the Committee of Experts has detected in the second monitoring round under this provision concerns the transnational exchanges in the field of the media in the case of the Italian language.

35. In its first evaluation report on the implementation of the Charter by Slovenia, the Committee of Experts dealt with the Italian-speaking television and radio channels located in the city of

Koper/Capodistria (see the first evaluation report of the Committee of Experts on the implementation of the Charter by Slovenia, ECRML (2004) 3, paras. 71-72). It noted, inter alia, that the wide coverage that the Italian-speaking television channel in Koper/Capodistria was afforded in the former Yugoslavia also extended to the Italian-speaking minority in Croatia, as at that time the Italian-speaking minority in Yugoslavia was not divided, as it is today, by the Slovenian-Croatian border. This helped the Italian language in the region concerned to maintain its historically homogeneous character. The situation has, however, dramatically changed since Slovenia and Croatia gained independence. First of all, the Italian-speaking television channel in Koper/Capodistria was deprived of its relays and the Italian-speaking radio channel in Koper/Capodistria may now only use low-powered medium-wave frequencies. The reduced capacity of the Italian-speaking radio channel in Koper/Capodistria to cover the whole Istrian peninsula results in a reduced possibility to reach the more numerous Italian-speaking minority living in Croatia, primarily in Istria but also in the Croatian city of Rijeka. This also applies to the Italian-speaking television channel since, for example, owing to the loss of the relevant relays, it cannot reach Rijeka either. The Committee of Experts underlined that the Italian-speaking electronic media located in Koper/Capodistria were a major means for maintaining links between the Italian-speakers across today's Slovenian-Croatian international border.

36. The Committee of Experts considers that these facts are relevant in the case of Croatia too, particularly since some of the relevant television relay stations are actually located on the Croatian territory. It recalls that the obligation laid down in the present provision is concerned with pursuing a policy aimed at the objective set out in the provision (cf. the first evaluation report of the Committee of Experts on the implementation of the Charter by Slovenia quoted above, para. 73). The developments mentioned above have in fact contributed to reducing appropriate transnational exchanges in the field of the media between the Italian-speakers living respectively in Slovenia and in Croatia, exchanges which are also relevant from the point of view of Article 7 para. 1.i of the Charter, instead of promoting them. Furthermore, it does not appear that Croatia has adopted a policy aimed at allowing the Italian-speaking television and radio channels located in Slovenia to reach again all the areas in Istria and the city of Rijeka, where Italian-speakers in Croatia live.

The Committee of Experts encourages the Croatian authorities to investigate the possibilities, in co-operation with Slovenia, of promoting the broadcasting of Italian-speaking television and radio channels located in Koper/Capodistria to the whole Croatian part of Istria and to the city of Rijeka.

37. Another issue that needs to be raised under Article 7 para. 1.i of the Charter concerns the Ruthenian language. As the Committee of Experts has already observed (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Hungary, quoted above, paras. 24 and 30), there is no state where Ruthenian is an official language but this language is spoken in several countries of central and eastern Europe. Co-operation between these countries could therefore be useful in particular with a view to fostering the process of standardisation of the language (in this respect see also para. 33 above). The Committee of Experts therefore encourages the Croatian authorities to provide information, in the next periodical report, on measures taken to promote transnational exchanges with those countries (Hungary and Slovakia, to begin with).

Paragraph 3

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

38. In its first evaluation report (see para. 42), the Committee of Experts found, for example during its visit to the Eastern Slavonian region, that tolerance towards the use of the Serbian language was lacking. While recognising that the history of Croatia clearly influenced the situation of the users of the Serbian language, the Committee of Experts strongly urged that national, local and regional administrative officials be made aware of the obligations deriving from the Charter with respect to the use of the Serbian language. More generally, the Committee of Experts considered that the Croatian

authorities should have taken measures to improve respect, understanding and tolerance over the whole of the territory of Croatia in relation to regional or minority languages.

39. The Committee of Experts recalls that experience proves that the extent to which a minority language is protected or promoted is linked to how it is received or perceived by majority language speakers. Indeed, regional or minority language protection or promotion is, in many respects, a reflection of the majority's approach and perception. As a result, awareness-raising with the majorities is of the utmost importance. This aspect may also concern the majority at the local level. As indicated by Article 7 para. 3 of the Charter, two fields are especially relevant in this respect: education and the media.

40. In general terms, the attitude of the Croatian-speaking majority towards regional or minority languages seems to have improved. At local level the situation may vary considerably. It is at this level that the Committee of Experts found the most positive situations (but also the most problematical ones), an exemplary one, in a positive sense, being the very favourable attitude of the Croatian-speaking population to the Italian language in the Istrian county. Furthermore, the relevant domestic provisions provide that the programme of the radio and television concession holders should promote understanding for members of national minorities (see p. 52 of the second periodical report).

41. However, it is still unclear how the autochthonous character of the linguistic minorities living in Croatia is explained in the general educational framework for the Croatian-speaking pupils and how tolerance towards regional or minority languages is fostered in this context, especially in those parts of the country where there is little or no contact at all (and therefore at best a limited knowledge) between the Croatian-speaking majority population and linguistic minorities.

42. As far as the media are concerned, the Law on the Media includes, as has already been mentioned above, the duty of the media to promote national tolerance. In this regard, it was reported to the Committee of Experts that if the national media have made progress in this respect, some regional media may still sometimes adopt intolerant or discriminatory speech.

43. The Serbian minority in Croatia constitutes a special case. According to the information collected by the Committee of Experts during the "on-the-spot" visit, in several areas of the country there remains an attitude problem due to the recent war events and those Serbian speakers who speak the ekavian variant of the language still hesitate to use it in public (the majority of the Serbian speakers in Croatia actually speak the ijekavian variant, which is almost identical to the Croatian standard language). The cultural difference is still often ethnically labelled and declaring a Serbian identity may provoke a reaction. Furthermore, Serbian pupils may feel a rejection vis-à-vis their original Serbian background.

44. This situation has concrete repercussions on the fulfilment of the undertakings under the Charter, particularly those that Croatia has entered into under Part III (as will be highlighted later on). Furthermore, the negative attitude which still exists, especially at local level, towards protecting and promoting the Serbian culture, language and script may have concrete negative repercussions on the way other languages covered by the Charter are promoted and protected. For example, on several occasions it was reported to the Committee of Experts that some provisions are not implemented with regard to certain languages on the grounds that otherwise the same provisions would have to be implemented for the benefit of Serbian-speakers as well (this was described as a "hostage-like" situation for the other languages concerned).

45. Two sets of measures should be envisaged in this area:

- a) the inclusion of elements of the culture expressed by the regional or minority languages spoken in Croatia in the general curriculum for Croatian pupils, as an integral part of the Croatian cultural heritage;
- b) measures aimed at encouraging the media to eliminate stigmatising approaches towards members of the Serbian community.

The Committee of Experts encourages the Croatian authorities to:

- include, in the general curriculum for Croatian pupils, the relevant elements of the specific cultures expressed by the regional or minority languages spoken in Croatia as an integral part of the cultural heritage of Croatia, thereby creating a more positive attitude among pupils belonging to the Croatian-speaking majority;***
- adopt a policy aimed at raising the media's awareness of regional or minority languages and at discouraging intolerant or degrading speech.***

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.

46. In its first evaluation report (see para. 56), the Committee of Experts considered that the Council for National Minorities, which has a consultative status, may act as the co-ordinating body through which users of regional or minority languages may express their needs and wishes concerning the protection of those languages. The Croatian authorities were thus encouraged to involve the Council for National Minorities in the work that relates to the protection and promotion of regional or minority languages, with special reference to the implementation of the Charter.

47. According to the information collected by the Committee of Experts, close co-operation now exists between the Council for National Minorities and the Government Office for National and Ethnic Minorities. Furthermore, in spite of the initial difficulties mentioned above (see para. 21), the local and regional councils of national minorities contemplated by Articles 23-24 of the 2002 Constitutional Law on the Rights of National Minorities do represent a potentially significant relay through which the speakers can better convey their needs and wishes to the national council. This makes it all the more important to overcome the difficulties referred to above.

2.1.2 The situation concerning the Slovenian language

48. In the first evaluation report (see para. 11), the Committee of Experts referred to information it had received to the effect that the Slovenian language could have been considered as a territorial language under Part II of the Charter. The Croatian authorities were thus encouraged to clarify this issue.

49. The second periodical report submitted by the Government contains some information concerning the number of speakers (see p. 7), which as in the case of all the regional or minority languages covered by the Charter has decreased, from 19,341 (1991 census) to 11,872 (2001 census). However, during the "on-the-spot" visit the Croatian authorities expressed the view that the Slovenian language in Croatia is actually a non-territorial language within the meaning of Article 7 para. 5 of the Charter, thus being covered by the reservation that Croatia has made to the effect of excluding protection and promotion of non-territorial languages under the Charter.

50. However, after the closure of the fact-finding process of the present second monitoring round, the Committee of Experts received information which indicates a traditional presence of Slovene in Croatia as a territorial language, at least as far as some areas bordering Slovenia are concerned. This information will be forwarded to the Croatian authorities in due time. As it raises the issue of a possible application of Article 7 of the Charter to Slovene in the relevant areas, the Croatian authorities are encouraged to submit specific comments in this regard in the next periodical report.

The Committee of Experts encourages the Croatian authorities to clarify the issue of the traditional presence of the Slovenian language in Croatia in co-operation with the speakers.

2.2 The evaluation in respect of Part III of the Charter

2.2.1 Preliminary issue concerning the territorial scope of the undertakings entered into by Croatia under Part III

51. Accompanying the ratification instrument was the following declaration:

“The Republic of Croatia further declares, with regard to Article 1, paragraph b., of the Charter, that pursuant to Croatian legislature, the term ‘territory in which regional or minority languages is used’ shall refer to those areas in which the official use of the minority language is introduced by the by-laws passed by the local self-government units, pursuant to Article 12 of the Constitution of the Republic of Croatia and Articles 7 and 8 of the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia.”

52. In the first evaluation report (see para. 20), the Committee of Experts observed that the implications of this declaration were unclear and that it could be interpreted in various ways. In particular, the Committee of Experts noted that Article 7 of the Constitutional Law provided that, where a minority represented more than 50% of the population, the relevant minority language became official in the area concerned and observed that this percentage represented a very high one to use as the yardstick. This was true especially in cases where a municipality comprises more than one minority and in Croatia this provision was in fact never applied (see para. 21 of the first evaluation report). However, under Article 8 of the Constitutional Law, if the percentage of users of the regional or minority language was below 50%, it was solely the responsibility of the local authorities to decide whether the language concerned should be officially used in the municipality (see para. 22 of the first evaluation report).

53. The Committee of Experts concluded that the declaration had to be interpreted in the light of the other elements in the instrument of ratification and of the initial periodical report of Croatia. On the basis in particular of the latter, the Committee of Experts identified the following areas as being covered in particular by Part III of the Charter: the County of Istarska for the Italian language, the County of Bjelovarsko-bilogorska for the Czech language, the Counties of Osječko-baranjska and Vukovarsko-srijemska for the Hungarian, Slovak, Ruthenian and Ukrainian languages, and finally the whole of the territory of Croatia for the Serbian language (see paras. 29 and 47 of the first evaluation report).

54. In the meantime, the above mentioned Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia has been abrogated and replaced by the above-mentioned 2002 Constitutional Law on the Rights of National Minorities. However, the declaration attached to the instrument of ratification has not been modified in order to take account of this change. In 2000, the Act on the Use of the Languages and Scripts of National Minorities, which lays down the conditions for the equal and official use of languages and scripts of national minorities, was also adopted, which further complicates the legal framework with which the instrument of ratification and the attached declaration should be confronted.

55. According to the new legislative provisions (in particular Article 4 of the 2000 Act read in conjunction with Article 12 of the 2002 Constitutional Law, which has superseded the former), equal and official use of languages and scripts of national minorities is realised under the following conditions:

- when members of individual national minorities in the territory of a municipality or town make up one-third of the population (this yardstick was introduced by the 2002 Constitutional Law, Article 4 of the 2000 Act still referring to the majority of the population);
- when stipulated by international agreements to which the Republic of Croatia is a party;
- when municipalities and towns have prescribed it in their statutes;
- when in relation to the work of its bodies, within the scope of its self-governing competence it is prescribed as such in the statute of a county on whose territory in certain municipalities and cities the languages and scripts of national minorities are in equal official use.

56. At the same time, the position of the Croatian Government on this issue has further evolved. In its second periodical report, the Croatian Government explains that with respect to the definition contained in Paragraph a) of Article 1 of the Charter, the Croatian authorities are not in a position to identify precise territories since members of national minorities are present throughout the entire territory, in greater or lesser numbers. The Government nevertheless indicates again the regions mentioned above (see para. 53). However, for the Serbian minority the Government, while reiterating that it is fundamentally dispersed throughout the territory of the country, states that smaller numbers are concentrated in parts of the following counties: Šibensko-kninska, Zадarska, Ličko-senjska, Karlovačka, Sisačko-moslavačka, Vukovarsko-srijemska and Osječko-baranjska. Furthermore, additional areas which are not located in one of the above-mentioned counties appear in the second periodical report in the context of the implementation of Part III undertakings (see eg pp. 16, 31, 32 and 39 for the Primorsko-goranska County as far as the Italian and Serbian languages are concerned).

57. This complex situation has serious implications for a proper implementation of the undertakings entered into by Croatia under Part III. First of all, if it sticks to the terms of the declaration, the Committee of Experts is not in a position to identify all the areas to which Part III applies. The Committee of Experts is in fact aware, on the basis of the information produced by the Government as well as on the basis of the elements collected during the “on-the-spot” visit, of a number of municipalities which are no doubt covered by the law on equal and official use by virtue of one or the other among the criteria set out therein, read in conjunction with Article 12 of the 2002 Constitutional Law (because the population reaches the one-third threshold, because the area is concerned by an international agreement or because the Committee of Experts is informed of the decision by the municipality or the county to grant the language in question the “equal and official use” status). However, precisely because of the complexity of these criteria, the mere reference, by the Government, to a region is not sufficient to identify the municipalities which, within that region, are covered by one of the criteria provided for by this domestic legal framework and therefore by Part III of the Charter.

58. There is also another important aspect. The last two criteria laid down by the legislation in question (the granting of the “equal and official use” status by respectively a municipality’s statute or by a county’s statute) amounts, de facto, to delegating to a local authority the ultimate decision as to whether on a given territory a given language will be covered by Part III of the Charter in all those cases where the automatic criteria (one-third of the population or the operation of an international agreement) are not applicable. Consequently, not only would the Committee of Experts not be aware of all the cases where a municipality or a county has granted equal and official use in its statute, thus lacking a complete picture of the territories to which Part III applies, but above all the Government’s duty to indicate the territories to which Part III applies would only be partially fulfilled, as it would practically rely on the good will of the municipality or the county concerned. The Committee of Experts is of the opinion, however, that if States choose to define the territories to which Part III applies in the instrument of ratification, this should be done in unambiguous terms.

59. Two major consequences arise from the way in which the Croatian ratification of the Charter operates in practice. Firstly, the fact that the Committee of Experts cannot identify all the areas covered by Part III of the Charter means that it cannot properly monitor the implementation of Part III of the Charter. Secondly, in the cases where the automatic criteria do not operate, in practice the Government leaves it to the local and regional authorities to decide on whether or not Part III of the Charter will apply to a given territory.

60. As a result, not only is the territorial scope of the application of Part III somewhat undetermined and haphazard, but there are also areas deserving Part III protection which are excluded from this protection - if one keeps to the strict logic of the declaration - simply because the municipality or the county concerned does not want to grant equal and official use. The Committee of Experts detected several such areas during its on-the-spot visit and will mention the following purely as examples:

- Beli Manastir, where 11% of the population is made up of Hungarian speakers and about 22% of Serbs; neither the Hungarian language nor the Serbian script have been recognised, in spite of the fact that the Hungarians living there represent the highest concentration of

Hungarian speakers in a single city (996 people) and that Beli Manastir is the main administrative centre of the region and the place where many of the Hungarian minority institutions are located;

- Daruvar, which is the main administrative centre and settlement area for the Czech-speaking minority, which represents about 18% of the population in the municipality;
- Daruvar again, where 14% of the population are Serbs.

61. In this respect too the second periodical report seems to contradict the logic of the declaration, insofar as it comments on the implementation of certain Part III undertakings with regard to some of the areas which have not been granted the “equal and official use” status (see for example pp. 27 and 40-41 as far as Daruvar is concerned and p. 61 as far as Beli Manastir is concerned).

62. In the light of the above, the Committee of Experts concludes that the declaration appended to the Croatian instrument of ratification may produce consequences contrary to the spirit of the Charter and to the fundamental obligations deriving from the treaty.

The Committee of Experts encourages the Croatian authorities:

- ***to review the declaration appended to the instrument of ratification in the light of recent legislation and of the obstacles it appears to pose to an effective application of the Charter;***
- ***to identify the areas, where the languages covered by the Charter have a significant and traditional presence, to which Part III undertakings should apply;***
- ***to adapt the domestic legal framework in order to ensure the effective implementation of the Charter, especially in those cases where languages that have a significant and traditional presence do not benefit from the equal and official use status.***

2.2.2. Evaluation of the specific undertakings entered into by Croatia under Part III of the Charter

Introductory remarks concerning the approach of the Committee of Experts in the second evaluation report

63. The Committee of Experts has examined in more detail the existing protection of the languages that have been identified under the protection mechanism of Part III of the Charter. The languages in question are Czech, Hungarian, Italian, Serbian, Slovak, Ruthenian and Ukrainian.

64. Following the focused approach which was explained above (see para. 5), the Committee of Experts will concentrate on the provisions of Part III in relation to which a number of issues were raised in the first report. It will evaluate in particular how the Croatian authorities have reacted to the observations made by the Committee of Experts in the first monitoring round. In the present report, the Committee of Experts will proceed by recalling each time the key elements of each issue, and by referring to the paragraphs of the first report containing the details of its reasoning³, before evaluating how the Croatian authorities have reacted.

65. Consequently, for the purpose of the present report, the Committee of Experts will not comment on provisions in relation to which no major issues were raised in the first report and for which it did not receive any new elements requiring a revised assessment or a different presentation of their implementation. These provisions are the following:

- Article 9 para. 1.c.ii (para. 68 of the first evaluation report);
- Article 9 para. 1.c.iii (para. 69 of the first evaluation report);
- Article 9 para. 2 (para. 72 of the first evaluation report);
- Article 10 para. 1.a.iv (para. 75 of the first evaluation report);
- Article 10 para. 3.b and c (paras. 90-91 of the first evaluation report);
- Article 10 para. 5 (para. 92 of the first evaluation report);
- Article 11 para. 2 (para. 99 of the first evaluation report);

³ The boxes which appeared in the first evaluation report are the underlined sentences which appear in the present second report.

- Article 12 para. 1.a (para. 101 of the first evaluation report);
- Article 13 para. 1.a (para. 104 of the first evaluation report);
- Article 14 (paras. 108-109 of the first evaluation report).

66. The Committee of Experts therefore refers to the conclusions reached in its first report but reserves the right to evaluate the situation again at a later stage.

67. Finally, the paragraphs and sub-paragraphs that are quoted in bold italics are the actual obligations chosen by Croatia.

Article 8 – Education

General issue: the provision of textbooks

68. The Committee of Experts observes that the important question of the provision of teaching materials seems to raise a general and serious problem which affects all the languages covered by Part III. The Croatian Government explains that publication and printing of textbooks for regional or minority languages is more expensive owing to the small print run. However, some of the textbooks are translated and printed every year on the recommendation of the linguistic minorities concerned, in accordance with the financial means of the Ministry of Education and Sport, and the difference between the production costs and the sales price is borne by the State budget. Most textbooks are actually translated from Croatian, some are originally drafted in the regional or minority language and few are imported from the third-party State concerned (see p. 22 of the second periodical report).

69. It was reported to the Committee of Experts that because of the costs, only a few titles, among the many available, can be translated into a regional or minority language. Furthermore, translations should mirror the programmes in the Croatian books but it may happen that once it has been translated, the book is then abandoned. In addition to these basic difficulties, there is a lack of scientific textbooks and there are still at present no textbooks on history approved by the competent Ministry. In fact history books change continually so translating them becomes very difficult. Another problem that was raised with the Committee of Experts concerns specifically the Hungarian language. In fact, the publisher for the Hungarian community was located in Novi Sad before the recent war and no longer operates for the Hungarian-speaking minority in Croatia. Publication of the teaching materials must therefore pass through the Ministry of Education, which seems to entail delays.

70. The Committee of Experts considers that more investments are certainly needed in this area too but it also wonders whether the issue is not, at least partly, misconceived. In fact, by referring to the choice among all the textbooks available on the Croatian market, including all those that are originally drafted in the Croatian language, minority language speakers seem to face a daunting task. Even though, understandably, the minority language textbooks might have to follow to some extent the Croatian general curriculum, more attention could be paid to the solution of adopting textbooks specifically drafted for the minority language education. This seems to have several advantages: the wish of the speakers to be able to use books originally drafted in the language, instead of translations, would be better satisfied; the fact of being specifically adapted for the minority language education would probably mean a more reduced choice but would on the other hand lead to a longer use at school (thus making the task more cost-effective); the specificity of the teaching materials would make it possible to better reflect the history and culture of the minority language, with indirect beneficial effects for the fulfilment of this aspect of the undertaking entered into by Croatia under Article 8 para. 1.g. Consequently, the Committee of Experts considers that insofar as native-speaker authors with the sufficient qualifications are available, the drafting of textbooks which would be specific to minority language education should be encouraged and supported. Additional measures could also be taken to make the textbooks originally produced for the minority language more long-lasting. In the other cases more textbooks could be imported from third-party States where they are produced in the regional or minority language concerned and residually, more resources should be invested with a view to achieving more adequate translations of Croatian textbooks.

71. The Committee of Experts therefore considers that the Croatian authorities should take measures with a view to supporting more systematically the provision of original teaching materials specifically aimed at minority language education, insofar as native-speakers authors with the sufficient qualifications are available, with regard to all relevant subjects in the curriculum. In the other

cases, the Croatian authorities should strengthen the co-operation with the third-party States where teaching materials for education in the regional or minority languages concerned can be produced and where necessary, they should invest more resources with a view to achieving more adequate translations of Croatian teaching materials.

“Paragraph 1

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

Pre-school education:

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

72. In its first evaluation report (see paras. 49-50), the Committee of Experts noted that it was not clear whether there was a fixed number of pupils which was considered sufficient in order to apply one of the measures under Article 8, paragraph 1.a.i to ii to minority languages, although the Ministry of Education indicated that regional or minority language classes were organised for a minimum of seven pupils. The Committee of Experts therefore concluded that pre-school education in a regional or minority language existed for the seven languages in certain regions, even though there was no information indicating if this was a right which families could invoke (see para. 51 of the first evaluation report). The Committee of Experts also noted that summer schools had been organised for children at pre-school level in regional or minority languages but considered that these schools were not sufficient to fulfil this undertaking (see para. 52 of the first evaluation report). The Committee of Experts therefore encouraged the Croatian authorities to provide access to nursery school in a regional or minority language if families so requested and if their number was considered sufficient, as well as to make this procedure more transparent, in particular so that the municipalities which were responsible for organising this level of education ensured that pupils had the possibility of benefiting from it in their language.

73. According to the second periodical report (see p. 18), the organisation of pre-school teaching is within the competence of local self-government whereas the programmes are within the competence of the Ministry of Education and Sport. Pre-school education is provided in particular in the case of the Czech, Hungarian, Italian, Serbian and Slovak languages (statistical data for these languages are provided at p. 20 of the second periodical report).

74. The second monitoring round has not made it possible to clarify the issue of the minimum number of pupils required to set up a pre-school unit and whether this gives rise to an enforceable right. However, on the basis of the information received, it seems clear now that proper pre-school education is provided in the case of Czech, Hungarian, Italian, Serbian and Slovak. The Committee of Experts got the impression that this corresponds to a long-lasting tradition in the territories where these languages are spoken. The Committee of Experts did not receive any information, either from the authorities or from the speakers, contradicting this impression. The Committee of Experts therefore considers that this undertaking is fulfilled in the case of these languages.

75. On the other hand, on the basis of the information provided by the Government no proper forms of pre-school education are provided in the case of the Ruthenian and Ukrainian languages. The Committee of Experts therefore concludes that this undertaking is not fulfilled with regard to these languages.

The Committee of Experts encourages the Croatian authorities to extend the current provision of pre-school education also to the Ruthenian and Ukrainian languages.

Primary education

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

76. In its first evaluation report (see paras. 53-54), as in the case of pre-school education, the Committee of Experts found that the issue of the minimum number considered sufficient and of the procedure to set up primary school classes were not clear. In any event, it appeared, at the time, that primary school education existed in all the regional or minority languages, except Ukrainian and Ruthenian. The Committee of Experts therefore concluded that primary school education existed in certain regions for five of the seven languages, but that there was no information, again as in the case of pre-school education, as to whether or not this was a right which families could invoke if they requested it in sufficient numbers. The Committee of Experts therefore concluded that this obligation was not fulfilled for the Ruthenian and Ukrainian languages and encouraged the Croatian authorities to establish a specific structure for organising classes in all the regional or minority languages and to facilitate the equal access of those who wished to be taught a regional or minority language at primary school level.

77. In its second periodical report (see p. 18), the Government underlines inter alia that primary education for Slovak, Ruthenian and Ukrainian is largely implemented through model C.

78. In line with its previous remarks (see para. 30 above), the Committee of Experts considers that model C does not provide a satisfactory solution for the purpose of this undertaking. The situation appears to be particularly delicate for the Slovak language, given that according to the information collected by the Committee of Experts during the “on-the-spot” visit, the interest of the youngest generations to study Slovak has considerably decreased. The Committee of Experts therefore considers that a weak educational model is particularly inadequate in such a context.

79. More generally, the issue of the legal requirements for setting up a class is still unclear. Thus, the information gathered by the Committee of Experts during the “on-the-spot” visit led to a contradictory picture, as it referred to minimum numbers of 5 in one case, 10 or 12 in two other cases and even the minimum number of 4, pursuant to a more recent decree, was mentioned. However, according to the information made available to the Committee of Experts this has created no problem in practice.

80. The Committee of Experts considers that this undertaking is only partly fulfilled with regard to the Slovak, Ruthenian and Ukrainian languages.

The Committee of Experts encourages the Croatian authorities to strengthen education in primary schools for the Slovak, Ruthenian and Ukrainian languages.

Secondary education

- 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.”***

81. In its first evaluation report (see para. 55), the Committee of Experts noted that secondary education did not exist for the Czech, Slovak, Ruthenian and Ukrainian languages and that there was

no information to indicate whether there was a right that families could invoke if they so requested in sufficient numbers and what the minimum number would be.

82. The second periodical report (cf. p. 18) has not provided any concrete elements concerning the questions that the Committee of Experts raised in the first evaluation report. More importantly, according to the information collected during the “on-the-spot” visit, the situation on the ground remains problematical for most of the above-mentioned languages. In particular, there is still at present no secondary school for Slovak-speakers, although there was one in Bačka Palanka (which is now part of the territory of Serbia and Montenegro, 12 km from Ilok) up to the Serbo-Croatian war, and there are no higher courses offered. In fact, many pupils from Ilok and Osijek go to study in Slovakia. No improvement has been detected in this area for the Ruthenian and Ukrainian languages either.

83. For the Czech language, on the other hand, the situation appears to be slightly different. According to the information obtained by the Committee of Experts during the “on-the-spot” visit, there is one secondary school for Czech-speakers in Daruvar, where at present the 1st, 3rd and 4th grammar-school grades are provided. If there is a sufficient number (the minimum being apparently 10), a class can be set up elsewhere, otherwise Czech would be an optional subject. The Committee of Experts has not been made aware of instances where a request by a sufficient number of families has been rejected.

84. The Committee of Experts considers that this undertaking is not fulfilled for the Slovak, Ruthenian and Ukrainian languages.

The Committee of Experts encourages the Croatian authorities to at least introduce the teaching of the Slovak, Ruthenian and Ukrainian languages within secondary education.

Technical and vocational education

- “d.i. to make available technical and vocational education in the relevant regional or minority languages; or*
- d.ii. to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or*
- 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; or*
- d.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.”***

85. In its first evaluation report (see para. 56), the Committee of Experts noted that according to the information received technical and vocational education was available only for the Italian language. Furthermore, it was not clear whether there was a fixed number of pupils that was considered sufficient in order to apply one of the measures under Article 8 paragraph 1.d.i to d.iii, and if so what the number would be. The Committee of Experts therefore concluded that the obligation was only partly fulfilled and encouraged the Croatian authorities to take measures to ensure that this undertaking be fulfilled in relation to the Hungarian, Czech, Slovak, Ukrainian, Ruthenian and Serbian languages.

86. The second periodical report (see p. 19) indicates that technical and vocational education is available also for Hungarian and Serbian following the education models A and B. There is, however, no mention of the other languages covered by Part III. The only additional information obtained by the Committee of Experts during the “on-the-spot” visit concerns the Czech language. A request by at least 10 pupils would seem to guarantee the establishment of a class for the Czech language. On the other hand, according to the information gathered by the Committee of Experts during the “on-the-spot” visit, in practice the situation would seem to depend on the good will of the headmaster and a case was reported of the school for tourism, where (paradoxically) the teaching of Czech is not offered. However, in Bjelovar secondary school Czech is offered as an optional foreign language course.

87. In sum, technical and vocational education in the Slovak, Ruthenian and Ukrainian languages still appears to be unavailable, nor is there any teaching of these languages. The situation for the Czech language remains unclear.

88. The Committee of Experts therefore considers that this undertaking is still not fulfilled with regard to Slovak, Ruthenian and Ukrainian, and it is not in a position to conclude as regards the Czech language.

The Committee of Experts encourages the Croatian authorities to at least introduce the teaching of the Slovak, Ruthenian and Ukrainian languages within technical and vocational education and to clarify the situation as regards the Czech language.

University and higher education

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

89. In its first evaluation report (see para. 57), the Committee of Experts noted that the study of Czech, Slovak and Italian was available at university level. Studies of Hungarian and Ukrainian history and Serbian literature were also available, but not the study of the languages as a separate subject at university and higher education level. The Committee of Experts therefore concluded that the obligation was fulfilled regarding Czech, Slovak, and Italian, but encouraged the Croatian authorities to improve facilities for the study of the Ruthenian, Ukrainian, Hungarian and Serbian languages at university and higher education levels.

90. The second periodical report (see p. 19) confines itself to stating that the Czech, Hungarian, Italian, Serbian and Ukrainian national minorities realise this right. During the “on-the-spot” visit, the Committee of Experts did not indeed detect particular problems in this area with regard to the Czech, Italian, Slovak and Ukrainian languages. However, as far as the Hungarian language is concerned, it was reported to the Committee of Experts that a specialised department in the Faculty of Philosophy at the University of Zagreb existed until 1998 and that at present the re-opening of a University class in Osijek is being sought. As for the Serbian language, the options available within the Faculty of Philosophy in Zagreb seem to be very narrow and limited to humanity studies.

91. Ruthenian constitutes a special case. Indeed, given its general situation as a language which seems to be still lacking proper standardisation in Croatia (see also para. 33 above) as well as the shortcomings affecting Ruthenian at various stages of the educational system, and taking account of the crucial role that education has to play for the protection and promotion of regional or minority languages, the provision of facilities for the study of Ruthenian as university and higher education subjects must be seen as a very important measure to safeguard this language.

92. A more particular problem concerning the Italian language, that was raised during the “on-the-spot” visit, relates to the recognition of diplomas obtained in Italy, which still appears to be problematical but which, according to the speakers, constitutes an important tool to encourage the youth of the minority to stay and live in Croatia, thus reversing a trend which existed until recently to leave for Italy. The Committee of Experts considers this argument particularly relevant taking account of the figures from the 2001 census, provided by the Government, which show a dramatic decline in the number of Italian speakers.

93. The Committee of Experts therefore concludes that this undertaking is still only partly fulfilled.

The Committee of Experts encourages the Croatian authorities to:

- ***accelerate the re-establishment of university studies for the Hungarian language;***
- ***strengthen the provision of university studies for the Serbian language;***
- ***take immediate steps to introduce university and higher education level studies for the Ruthenian language;***
- ***report to the Committee of Experts, in the next periodical report, on the measures taken to improve facilities for the study of the Ukrainian language at university and higher education levels;***
- ***investigate the possibilities of simplifying and accelerating the procedure for the recognition of university diplomas obtained in third-party States, particularly those obtained in Italy.***

Adult and continuing education

“f.ii. to offer such languages as subjects of adult and continuing education”

94. In its first evaluation report (see para. 58), the Committee of Experts noted that it had received no information about the offering of adult and continuing education in any of the languages. It therefore considered that this obligation was not fulfilled and encouraged the Croatian authorities to take steps within the education system to enable speakers of the regional or minority languages to obtain teaching of the respective languages in adult and continuing education.

95. The second periodical report (see p. 19) confines itself to stating that there was no request for this form of education from members of national minorities in 2001.

96. The Committee of Experts considers this information insufficient. According to the elements gathered during the “on-the-spot” visit, at least as far as the Hungarian language is concerned adult education exists but is organised on a purely private basis in the Osijek Center.

97. The Committee of Experts therefore considers that this undertaking is not fulfilled.

The Committee of Experts encourages the Croatian authorities to take measures in the field of adult and continuing education and to report on them in the next periodical report.

Teaching of history and culture

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

98. In its first evaluation report (see para. 59), the Committee of Experts noted that the authorities had only stated that this was ensured, without providing, however, any precise information or examples of how this had been incorporated into the education curriculum, and especially how the history and culture of the various languages were presented in the education materials used. The Committee of Experts therefore encouraged the Croatian authorities to provide more comprehensive information regarding the teaching of the history and the culture reflected by the languages in Part III.

99. In the second periodical report again very little information regarding this undertaking was given. During the “on-the-spot” visit, the Committee of Experts was informed by the Ministry of Education that 30% of the curriculum of minority education is designed to include specific elements of the history and culture which are reflected by the regional or minority languages (in accordance with Article 6 para. 1 of the 2000 “Law on the Education in the Language and Script of National Minorities in the Republic of Croatia”). A complaint, on which the Croatian authorities are invited to comment in the next periodical report, was specifically raised in the case of the Slovak language (elements of Slovak history and culture seem to be rarely taught in the regular system beyond the 4th grade).

100. Furthermore, the Committee of Experts observes that the present undertaking concerns not only education for pupils using regional or minority languages but also education for non-speakers about the specific history and traditions of the regional or minority languages spoken in the relevant territory. This normally entails including elements of the history and culture which is reflected by the regional or minority language in the national curriculum, or at least in the curriculum for Croatian-speaking pupils within the territories concerned.

101. However no information was provided on education for Croatian-speaking pupils, either with regard to the national curriculum or more specifically with regard to the territories concerned (see also para. 41 above). The Committee of Experts is therefore not in a position to conclude on this undertaking and it encourages the Croatian authorities to provide further information in the next periodical report.

Basic and further training of teachers

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

102. In its first evaluation report (see in particular para. 61), the Committee of Experts considered that this obligation was fulfilled only for Italian and further noted that a Serbian language department for teachers in the Pedagogical Faculty at the University of Zagreb was envisaged for the year 2000. The Committee of Experts was furthermore informed that there was an exchange programme with teachers from Hungary, the Czech Republic and Slovakia. In this respect, the Committee of Experts observed that such initiatives were important for the enhancement of the quality of the teaching of the respective languages and contributed to remedying the lack of qualified teachers but added, however, that in the long term a structured establishment of teacher training programmes for all the languages covered by Part III of the Charter was nevertheless necessary. Basic and further training of teachers therefore needed to be arranged for the Serbian, Slovak, Czech, Hungarian, Ukrainian and Ruthenian languages.

103. In its second periodical report (see p. 19), the Government refers to the Teachers' Academy in Zagreb for the Serbian language and, in general terms, to the organisation of further professional training through educational institutions for teachers as well as to additional training by means of seminars in the relevant third-party States. The Government adds that the law prescribes that priority must be given to the employment of members of national minorities. However, in all cases a complete knowledge of the language and script and of the appropriate subject are required. If this does not enable the problem to be solved, the possibility to employ nationals from other States can be resorted to.

104. In the field of teacher training the Committee of Experts received a number of complaints (Italian being however not concerned by the complaints in this respect). The lack of trained staff for the Slovak language was thus stressed to the Committee of Experts during the “on-the-spot” visit, although Slovakia offers 10 to 15 scholarships per year to train teachers (and several of them have indeed graduated in Bratislava). As to the Czech language, although there is a specific department on Czech language and literature in the Faculty of Philosophy at the University of Zagreb, it was reported to the Committee of Experts that there is no possibility to have teaching of Czech outside that specific department and that even within that department the level of the language corresponds to that of an elementary school and there are no optional language courses in Czech. The Czech Republic used to finance participation in seminars, but at the moment there are no exchanges and there is no bilateral agreement with the Czech Republic. According to the speakers, it is actually by chance that some teachers happen to be also members of the Czech-speaking community in Croatia but the present situation suggests that problems will occur in due time. As far as the Serbian language is concerned, a teacher training college did indeed open in 1999 (therefore apparently one year earlier than indicated by the Government in the second periodical report). However, according to the speakers, although this initiative was able to rely on political support at the beginning, it was not well received by the University and not sufficiently promoted in the media. As a consequence, the number of students has gradually decreased and there seems to be a proposal to shut it down.

105. The Committee of Experts does not underestimate the difficulties, which are also of a financial nature, that the authorities have to face in order to cope with the complex endeavour of organising

teacher training for a significant number of languages. However, it must be stressed once again that education plays a crucial part in the protection and promotion of regional or minority languages and that teacher training, as well as the availability of teaching materials, are a key factor for the success of minority language education.

106. Structural measures are still lacking for teacher training. Accurate planning is therefore necessary even where the authorities can rely on co-operation with the third-party States concerned, which may not always be available in a regular manner.

107. The Committee of Experts therefore considers that this undertaking is only partly fulfilled.

The Committee of Experts encourages the Croatian authorities to urgently devise a long-term and structured strategy in the field of teacher training.

Article 9 – Judicial authorities

“Paragraph 1

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

in criminal proceedings:

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

108. In its first evaluation report (see para. 63), with regard to Article 7 of the Act on Criminal Procedure, which states that “in criminal proceedings the Croatian language and the Latin script shall be used, unless another language or script has been introduced for some judicial areas by law” (translation by the Croatian authorities), the Committee of Experts noted the absence of a law specifically enabling a regional or minority language speaker to use his or her language in court. The Committee of Experts thus concluded that this undertaking was fulfilled for the Italian language in the Istarska County, given the existence of a specific obligation in accordance with the Osimo Agreement to use the Italian language in courts, but not for the other languages covered by Part III of the Charter (see para. 64 of the first evaluation report).

109. The second periodical report (see p. 23) recalls again Article 7 of the Criminal Procedure Act and states that it is not necessary to regulate the use of another language or script in criminal proceedings by a separate law. However, the second periodical report also refers to the Act on the Use of the Languages and Scripts of National Minorities in the Republic of Croatia, insofar as this law too regulates the use of regional or minority languages in courts and provides, in particular, that when the accused is identified as belonging to a minority, he or she must be informed of his or her right to use his or her regional or minority language. The second periodical report refers to some concrete examples concerning the Italian language in the Istarska County (see p. 25), but no example is provided concerning other languages and the second periodical report explicitly states that according to the data provided by the County Courts in Osijek and Vukovar, no case involving the use of a minority language was heard during the period 1999-2001.

110. In the view of the Committee of Experts, the present legal framework suggests that the right to use one’s regional or minority language in criminal proceedings is as such guaranteed. However, the linguistic rights in this field seem to be only rarely implemented in practice.

111. The Committee of Experts recalls that the fulfilment of this undertaking requires that the formal provisions in the law are followed by some degree of practical implementation. It therefore considers

that with the sole exception of the Italian language in the Istarska County, in all other cases this undertaking is only formally fulfilled.

“a.iv. to produce, on request, documents connected with legal proceedings in the relevant regional or minority language – if necessary by the use of interpreters and translations involving no extra expense for the persons concerned.”

112. In its first evaluation report (see para. 65), the Committee of Experts did not consider this undertaking fulfilled, with the sole exception of the Italian language, and encouraged the Croatian authorities to make arrangements for the use of Czech, Hungarian, Slovak, Ukrainian, Ruthenian, and Serbian in criminal proceedings.

113. For the same reasons set out above (see paras. 110-111), the Committee of Experts considers that with the sole exception of the Italian language in the Istarska County, in all other cases this undertaking is only formally fulfilled.

in civil proceedings:

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

114. In its first evaluation report (see para. 66), the Committee of Experts noted that this right was guaranteed in Article 6 of the Act on Civil Procedure, which stated that “civil proceedings shall be conducted in the Croatian language and with the use of the Latin alphabet, unless for a particular court, the use of another language or script is provided by law” (translation by the Croatian authorities) and that the obligation to allow a litigant to use his or her regional or minority language in accordance with the requirements of this undertaking was furthermore detailed in Article 102 of the Act on Civil Procedure. The Committee of experts considered, however, that this article was dependent on the existence of an implementing act that did not exist, and that therefore this undertaking was not fulfilled. The sole exception to this appeared to be the Italian language, which could be used in accordance with the requirements of the Osimo Agreement.

115. The second periodical report (see p. 24) refers to the same legal framework and quotes some figures concerning the use of the Italian language (see pages 24-25 of the second periodical report). The practical information collected by the Committee of Experts during the “on-the-spot” visit suggests that at least formally, the legal framework referred to above seems to be sufficient to guarantee the right in question. However, although new legislation has been subsequently adopted (see para. 23 above), on the basis of the information obtained, it appears that there is no practical implementation.

116. The Committee of Experts therefore considers, on the basis of the new information received, that with the single exception of the Italian language in the Istarska County, in all other cases this undertaking is only formally fulfilled.

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

117. In its first evaluation report (see para. 67), the Committee of Experts noted that the requirement of this undertaking was apparently guaranteed in Article 103 of the Act on Civil Procedure but considered that since the law due to implement this undertaking did not exist, this obligation was not fulfilled. The Croatian authorities were therefore encouraged to make arrangements for the use of Czech, Hungarian, Slovak, Ukrainian, Ruthenian, and Serbian in civil proceedings.

118. In its second periodical report (see p. 24), the Government refers again to the same legal framework concerning civil proceedings. At least formally this framework, which has subsequently been enriched by the new legislation referred to above, seems to be sufficient to guarantee the right in question. However, in this case too, on the basis of the information obtained, it appears that there is no practical implementation.

119. For the same reasons set out above (see paras. 115-116), the Committee of Experts considers, in the light of the new information received, that with the sole exception of the Italian language in the Istarska County, in all other cases this undertaking is only formally fulfilled.

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

120. In its first evaluation report (see para. 70), the Committee of Experts considered that owing to the lack of a legal basis for implementing the undertaking under b.ii above, no legal possibility existed to use a regional or minority language in civil proceedings and this undertaking was therefore considered as not fulfilled. As for administrative proceedings, the Committee of Experts observed that when there was a legal possibility to submit a document in a regional or minority language, which was always dependent on the decision of the relevant local government unit, this undertaking would have been fulfilled in accordance with Article 88.2 of the Court’s Rules of Practice (see para. 71 of the first evaluation report).

121. In its preceding observations the Committee of Experts has considered that the legal framework now formally ensures the possibility of using interpreters and translations (and this was also confirmed during the “on-the-spot” visit by different sources) and that the problem derives more from the fact that the formal provisions are not followed by some degree of practical implementation. It is also clear that the use of interpreters or translations would not involve any extra expense for the persons concerned.

122. In the light of the new information received, the Committee of Experts now considers that this undertaking is fulfilled.

Article 10 – Administrative authorities and public services

State authorities

“Paragraph 1

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

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

123. In its first evaluation report (see para. 73), the Committee of Experts observed that the obligation for the state administration to reply in a regional or minority language could not be deduced from Articles 7 or 8 of the previous Constitutional Law, which did not create any obligation for the central State to use the relevant language and only concerned the local self-governments units. The Committee of Experts did not consider this obligation fulfilled in respect of the Hungarian, Slovak, Czech, Serbian, Ukrainian and Ruthenian languages and encouraged the Croatian authorities to ensure that users of Czech, Hungarian, Slovak, Ukrainian, Ruthenian and Serbian may submit oral and written applications to the state administration and receive a reply in these languages. On the other hand, for the Italian language the Committee of Experts considered that the Osimo Agreement was implemented satisfactorily as concerned the use of Italian in state administration and that therefore this undertaking was fulfilled in respect of Italian (see para. 74 of the first evaluation report).

124. The legal framework has considerably changed since the first evaluation report. As was already noted above, Article 12 para. 1 of the 2002 Constitutional Law on the Rights of National Minorities stipulates that “(e)quality in the official use of a minority language and script shall be exercised in the territory of a self-government unit where the members of a national minority make at least one third of the population”. Paragraph 3 of the said Constitutional Law then provides that other conditions and modalities of the official use of minority languages and script in, among others, “representative and executive bodies”, “in first-instance procedures before government bodies”, in

“procedures conducted by ... legal persons with public powers, shall be regulated by a special law on the use of minority languages and script”. This law is the Act on the Use of the Languages and Scripts of National Minorities adopted in 2000.

125. The second periodical report (see p. 37) states that only after the adoption of the 2000 Law have the state authorities been under an obligation in this field, except in cases where bilateral international agreements applied. The report also refers, in general terms, to the use of regional or minority languages in proceedings before administrative bodies and legal persons vested with public authority (see pp. 35-36 of the first periodical report), in those cases where a regional or minority language is in equal and official use.

126. Even where a regional or minority language has been granted equal and official use, shortcomings seem to persist in some areas. A concrete example that was reported to the Committee of Experts concerns the tax offices and this was admitted by the authorities themselves during the “on-the-spot” visit. The latter problem actually seems to affect the Italian language as well. In the light of the information collected during the second monitoring round, the Committee of Experts must therefore revise its previous conclusion, according to which this undertaking was fulfilled regarding the Italian language.

127. While acknowledging the progress made with regard to the legal framework, the Committee of Experts considers that this undertaking is only partly fulfilled in respect of all the languages covered by Part III.

The Committee of Experts encourages the Croatian authorities to take the necessary measures to ensure that users of regional or minority languages may submit oral or written applications to the State authorities and receive a reply in these languages.

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

128. In its first evaluation report (see para. 76) the Committee of Experts noted that according to the information made available to it, certain forms were available in Italian in the Istarska County and some municipalities used the Serbian language and cyrillic script on seals and stamps. It also noted, however, that there was no information regarding the other languages in this respect and that the legal act that would guarantee the implementation of this undertaking had not been adopted. The Committee of Experts therefore considered that this obligation was only partly fulfilled and encouraged the Croatian authorities to take the necessary measures enabling the state administration to make available widely-used administrative texts and forms in accordance with sub-paragraph b.

129. The legal framework has in the meantime been developed as described above (see para. 23). The second periodical report (see p. 36) states in general terms that the bodies of state administration working in a municipality or town where two or more languages have been introduced issue bilingual printed forms for official purposes.

130. In this area too problems have been brought to the attention of the Committee of Experts even with regard to administrative units where the language has been granted equal and official use. An example is again provided by the tax offices, as conceded by the authorities themselves during the “on-the-spot” visit. This situation seems to affect all the languages.

131. The Committee of Experts therefore considers that this undertaking is only partly fulfilled, in respect of all the languages covered by Part III.

The Committee of Experts encourages the Croatian authorities to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions.

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

132. In its first evaluation report (see para. 77) the Committee of Experts considered that aside from the Italian language, this undertaking was not fulfilled by the Croatian authorities for the reasons that had been put forward with respect to the preceding sub-paragraphs of Article 10. It therefore encouraged the Croatian authorities to adopt legal acts allowing the use of regional or minority languages by administrative authorities at State level, in accordance with Article 10 paragraph 1, options a.iii, b and c.

133. According to Article 9 para. 2 of the 2002 Constitutional Law, “(m)embers of national minorities shall have the right to have their identity cards printed and completed also in the language and script of their use”. This indicates that the drafting of documents in regional or minority languages is allowed at least in the field of identity cards. However, the Committee of Experts has received very little information on the drafting of other types of documents.

134. The Committee of Experts must therefore adjust its former position in the sense that although this undertaking seems to be fulfilled in the important case of identity cards, the Committee of Experts would welcome further information and concrete examples on the drafting of documents in other areas. This concerns all the languages covered by Part III, including Italian.

Local and regional authorities

“Paragraph 2

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

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

135. In its first evaluation report, the Committee of Experts referred to the previous legal provisions and noted that the official use of regional or minority languages was introduced only in some counties (listed in para. 78 of the first evaluation report). The Committee of Experts noted in particular that in those local self-government units where a regional or minority language was in official use, there was a legal possibility to use the respective languages within the framework of the local authority and that this had been applied to the Czech, Serbian, Hungarian and Italian languages, although the local authorities appeared not to use the minority languages within the local authority in everyday practice (see para. 80 of the first evaluation report). However, no use was made of the Ukrainian, Ruthenian and Slovak languages, since no local authority had applied the possibility to make their use official (see para. 81 of the first evaluation report). Furthermore, no use of any of the regional or minority languages was provided for at regional level (see para. 82 of the first evaluation report), with the sole exception of the Italian language insofar as it was tolerated within the Istarska County administration (see para. 79 of the first evaluation report). The Committee of Experts therefore encouraged the Croatian authorities to create a legal basis for the use of regional or minority languages within regional authorities.

136. As has already been stated, the legal framework has in the meantime been considerably developed. In some cases, this has led to a clear progress. As an example, the situation of the Istarska County administration can be quoted, since the use of Italian has been made official at the county level too. This allows the county administration to process requests in Italian from bilingual municipalities, even though the city of Pazin, where the county has its seat, has not as such a bilingual status.

137. The use of the language (or script) within the framework of the regional or local authority seems to be effective in those self-government units where the language is in equal or official use according to the provisions referred to above (see paras. 23 and 55). Positive examples in this regard

are the use of the Serbian script in a number of municipalities in Eastern Slavonia and the use of Italian in the municipalities in the Istarska County concerned by the Osimo agreement.

138. However, no or little de facto use is made within local or regional self-governments units as far as the Slovak, the Ukrainian and the Ruthenian languages are concerned.

139. The Committee of Experts therefore considers that this undertaking is only partly fulfilled.

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

140. In its first evaluation report (see para. 83), the Committee of Experts observed that in local self-government units where a regional or minority language was in official use there was, according to the Croatian legislation, a legal possibility to submit oral or written applications in that language. The Committee of Experts thus considered that this had been applied to Hungarian, Czech, Serbian and Italian, but that it was not fulfilled for the other languages.

141. In the light of the information collected during the second monitoring round the Committee of Experts must partly revise its previous conclusions. The Committee of Experts observes that this undertaking does not require only the legal possibility to submit oral or written applications but it also implies that the legal possibility is followed by some degree of practical implementation. This actually seems to be the case in many of the municipalities where the language is in equal or official use according to the legislation, particularly in a number of municipalities in the Vukovarsko-srijemska County for the Serbian script, in the Osječko-baranjska County with regard to the Serbian script and the Hungarian language (see also pp. 30-31 of the second periodical report), in the municipalities in the Istarska County covered by the Osimo agreement for the Italian language and in this case also at the level of the County administration.

142. However, according to the information received by the Committee of Experts, problems of implementation seem to exist even in some of the municipalities where the language is in equal and official use (the Slovak language being the only exception in this respect).

143. It was also reported, during the “on-the-spot” visit, that in several areas there is no policy of recruitment of staff with a knowledge of regional or minority languages. As the regional or minority language speakers have pointed out, several people belonging to the linguistic minorities concerned could meet this and the other necessary requirements, including among the youth and especially in those areas, such as the Osječko-baranjska County, which have been badly affected by the recent Serbo-Croatian war and where the unemployment rate is high.

144. The Committee of Experts considers that this undertaking is only partly fulfilled.

The Committee of Experts encourages the Croatian authorities to take the necessary measures to fully implement the undertakings relating to the use of regional or minority languages within the framework of the regional or local authorities and to the possibility to submit oral or written applications in the regional or minority languages to the latter.

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

145. In its first evaluation report (see para. 84), the Committee of Experts noted that the right to introduce a minority language in official use was an exclusive right of the local authorities but that no such right seemed to exist for regional authorities. It therefore considered that this obligation was not fulfilled.

146. Following the legislative developments referred to above (see paras. 23 and 55), this possibility now seems to exist also for the regional authorities and the Istarska County has actually made use of it, at least in part. However, the extent to which the official documents of the Istarska County are published also in the Italian language is not clear. Above all, none of the other counties

concerned seems to publish any of its official documents in the relevant regional or minority languages.

147. The Committee of Experts is therefore not in a position to consider this undertaking fulfilled and it encourages the Croatian authorities to clarify the situation in their next periodical report.

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

148. In its first evaluation report (see para. 85), the Committee of Experts considered that this undertaking was fulfilled in accordance with the legislation in force at the time.

149. However, in the light of the information gathered during the second monitoring round, and particularly during the “on-the-spot” visit, the Committee of Experts must revise its previous conclusions. In fact, the situation on the ground appears to be similar to that depicted with regard to the undertaking under Article 10 para. 2.b (see paras. 140-144 above): a fairly good level of fulfilment in many of the municipalities where the language is in equal and official use but problems of practical implementation in some of these municipalities.

150. The Committee of Experts therefore considers that this undertaking is only partly fulfilled.

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

151. In its first evaluation report (see para. 86), the Committee of Experts observed that although there was at the time no special regulation concerning this matter, in accordance with a long-standing tradition this was the practice in all municipalities and towns that had introduced the official use of a minority language. Where the users of the minority language were concentrated in a specific territory, public use of place names in that language seemed to be possible in that area. On this basis, the Committee of Experts considered that the obligation was fulfilled in practice.

152. The Committee of Experts observes in the first place that the obligation under the present provision has a special importance, since it is one of the most effective ways in which a regional or minority language can be given full visibility in the territory in which it is traditionally present. An ideal thread therefore links the fundamental definition of territorial regional or minority languages within the meaning of the Charter, embodied in Article 1.a and b, and the present undertaking. Furthermore, the full visibility granted to a regional or minority language in the territory in which it is traditionally spoken through the use or adoption of bilingual place-names is clearly a factor which helps to raise the public prestige of a regional or minority language, which in turn is a crucial factor for safeguarding and promotion. It must be noted, in this respect, that a very large majority of regional or minority language speakers, in Croatia as well, put a special emphasis on this undertaking.

153. Having said this, in the light of the information gathered during the “on-the-spot” visit, the Committee of Experts must revise its previous position. Indeed, problems seem to persist even in those municipalities where the language is in equal and official use. The situation of such municipalities in Eastern Slavonia was particularly brought to the attention of the Committee of Experts. As far as the Committee of Experts has been informed, none of the municipalities in Slavonia, and probably in Croatia as a whole, have place-names which also appear in the Serbian script.

154. The Committee of Experts therefore considers that this undertaking is only partly fulfilled and stresses that the fulfilment of this undertaking is one of the simplest, in practical terms, among those laid down in the Charter.

The Committee of Experts encourages the Croatian authorities to take immediate steps to promote the use of bilingual place-names.

Public services

“Paragraph 3

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

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

155. In its first evaluation report (see para. 87), the Committee of Experts noted that it had received no information from the Croatian authorities concerning the public services which were under the responsibility of the local authorities and those which were under the responsibility of the state or regional authorities (and consequently did not provide for the use of a regional or minority language). It noted nevertheless (see para. 88 of the first evaluation report) that according to the results of a study of the Structure and Operation of Local and Regional Democracy in Croatia, prepared in 1998 by the Council of Europe in collaboration with the Croatian authorities, the competences for all public services were distributed as follows:

- public services within the exclusive competence of the local authorities are, for example, fire protection, social security, housing, gas, district heating, water supply and electricity;
- the main public service within the exclusive competence of regional authorities is the running of hospitals;
- public services with shared competences of the local and regional authorities are family welfare services, welfare homes, water and sewage, refuse collection and disposal.

156. The Committee of Experts also noted that it had received no information concerning the existence of public services using Slovak, Ruthenian or Ukrainian (see para. 89 of the first evaluation report). The Committee of Experts therefore considered that the obligation seemed to be partly fulfilled regarding Italian, Serbian, Hungarian and Czech, but not for Slovak, Ruthenian and Ukrainian. It encouraged the Croatian authorities to ensure that public services used the relevant regional or minority languages.

157. The second periodical report contains very limited information in this respect (see especially pp. 35, 38 and 39). During the “on-the-spot” visit the Committee of Experts was informed that the Croatian Electric Power Supplier and the Croatian postal service systematically use monolingual Croatian forms. The Committee of Experts has received no information indicating that regional or minority languages are used in public services of this kind.

158. On the basis of the information received, the Committee of Experts must therefore conclude that this undertaking is not fulfilled.

The Committee of Experts encourages the Croatian authorities to take immediate steps to ensure that the regional or minority languages are used in the provision of public services and asks them to provide comprehensive information in the next periodical report.

Article 11 - Media

“Paragraph 1

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

a. iii. to the extent that radio and television carry out a public service mission: to make adequate provision so that broadcasters offer programmes in the regional or minority languages.”

159. In its first evaluation report (see para. 93) the Committee of Experts noted that Article 6 of the Law on Croatian Radio and Television contained a provision on the obligation of Croatian Radio and Television to produce and broadcast programmes that offered informative materials for users of regional or minority languages and that Croatian Radio/Television provided a weekly television news magazine called “Prizma” (an information programme for national minorities which is normally produced in a regional or minority language with subtitles in Croatian). At the time, this programme was broadcast in the early evening on a weekday. Concerning radio programmes the Committee of Experts observed that the authorities had presented very little information about existing radio programmes, although it was aware of the fact that various radio programmes were actually produced in most of the regional or minority languages concerned. The Committee of Experts considered that the undertaking was fulfilled for the Italian, Hungarian, Czech and Serbian languages but concluded that no information has been provided for the other languages (see para. 94 of the first evaluation report).

160. The situation has been clarified in the course of the present second monitoring round. To begin with, new legislation was passed since the first evaluation report, namely the Telecommunications Act and the new Croatian Radio and Television Act. Croatia also ratified the European Convention on Transfrontier Television and the Protocol amending the latter.

161. In its second periodical report, the Croatian Government has also reported on the obligations that the law imposes on private broadcasters concerning the presence of regional or minority languages and the promotion of understanding vis-à-vis national minorities within their programming (see in particular pp. 52-56 of the second periodical report). The Committee of Experts considers that this part of the legislation is a very commendable one but observes that in this respect the Croatian Government has reported on a different undertaking from the one it actually entered into and which is specifically concerned with the public television and radio.

162. As far as public television is concerned, the situation has not changed since the first monitoring round: “Prizma” is still the only television programme for minorities and it is broadcast once a week with the same format. According to the figures provided by the Government, in 2001 the languages covered by Part III of the Charter obtained the following amount of time in this context:

- Czech: 239 minutes for 68 items;
- Hungarian: 201 minutes for 61 items;
- Italian: 312 minutes for 81 items;
- Ruthenian: 30 minutes for 9 items;
- Serbian: 290 minutes for 70 items;
- Slovak: 65 minutes for 16 items;
- Ukrainian: 88 minutes for 24 items.

With regard to the same year, 48 discussions with members of minorities were also held. In total, 51 programmes of 55 minutes each were broadcast (see p. 59 of the second periodical report).

163. However, according to the information obtained during the “on-the-spot” visit, the presence in the media has worsened for some languages compared to the situation before the Serbo-Croatian war. Thus, Hungarian alone could previously rely on half an hour per week on public television (broadcast until 1991 by the Osijek regional office of the Croatian television). Furthermore, several speakers have complained that “Prizma” represents an inadequate format which conveys a folklore image of regional or minority languages in Croatia. Reference was made to current negotiations with the Radio and Television Council with a view to obtaining a distinct television programme for each minority.

164. The Committee of Experts underlines in the first place the great importance of television for the protection and the promotion of regional or minority languages in modern societies (see the second evaluation report of the Committee of Experts on the implementation of the Charter by Switzerland, ECRML (2004) 6, para. 118). It should also be observed that regional or minority language presence in the media also serves another crucial purpose, ie the raising of the awareness of the majority population (see also paras. 39-40 and 42 above). The format of “Prizma” may

therefore be seen as granting to regional or minority languages an almost symbolic visibility on the Croatian public television, in that it does not allow each language to develop an autonomous and significant presence. In addition, users of a given regional or minority language cannot be certain whether their language will appear in a specific “Prizma” programme, and if so, when. This reduces the attractiveness and hence the effectiveness of the broadcasting provided. An autonomous and significant presence would be a feasible objective, which seems to be confirmed by the fact that the Hungarian language in Croatia could previously rely on an autonomous half-hour weekly programme. In this context, the Committee of Experts has noted with interest the negotiations referred to above.

165. Taking account also of present-day conditions in the media field and of the ever-growing importance of the media in modern societies, the Committee of Experts must therefore revise its previous conclusion and considers that as far as television is concerned, the present undertaking is not fulfilled.

166. As far as radio is concerned, the Committee of Experts has now more information at its disposal. The first channel broadcasts a 60-minute weekly programme for national minorities (on Saturday from 16,03 until 16,58). The programme is multilingual but it is presented in Croatian. Its main purpose is to give information about the activities concerning the promotion of the minorities’ cultural life as well as about the activities of the minority organisations themselves (see also p. 60 of the second periodical report).

167. Furthermore, programmes for regional or minority language speakers are broadcast by some regional stations: the Italian language department of Radio Rijeka thus broadcasts every day short news bulletins at 10.00 and 12.00 and then the main information programme, which lasts up to 15 minutes, at 16.00; on Radio Pula, the Italian language department broadcasts a short news bulletin at 10.00 and at 14.05, a central programme from 16.30 until 17.00 and once a month a programme about amateur Italian minority choirs and musical groups; finally, on Radio Osijek a programme in Hungarian is broadcast daily from 18.30 until 19.00. The Committee of Experts was also informed that a weekly programme in Slovak is also broadcast on Radio Osijek and that a weekly programme is broadcast in Czech in Daruvar. No information was provided with regard to the other languages.

168. In the light of the above, the Committee of Experts considers that as far as public radio is concerned, this undertaking is fulfilled with regard to the Italian, Hungarian, Czech and Slovak languages. With regard to Serbian, Ruthenian and Ukrainian the Committee of Experts observes that the lack of information seems to indicate that this undertaking may not be fulfilled in the case of these languages, but it encourages the Croatian authorities to clarify the situation in their next periodical report.

The Committee of Experts encourages the Croatian authorities to take the necessary measures, in co-operation with the speakers, in order to:

- develop television programmes for each language;***
- introduce an offer of radio programmes in Serbian, Ruthenian and Ukrainian, following the models used for the other languages, if this is not the case at present.***

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

169. In its first evaluation report (see para. 95) the Committee of Experts found in particular that although funds for the financing of cultural activities of members of minorities could also be used for the production and distribution of audio and audiovisual works, it had received no information showing that such projects had received financial support or how such financial aid was announced. The Committee of Experts therefore concluded that this undertaking could not be considered fulfilled and encouraged the Croatian authorities to introduce measures to facilitate the funding of production of audio and audiovisual works.

170. The second periodical report does not contain any information in this respect. However, several concordant elements collected by the Committee of Experts during the “on-the-spot” visit point to the absence of any measures in this area. For example, the production of audiovisual

materials for the self-financed half-hour weekly programme in Hungarian on a commercial television station in Osijek does not receive any support from the Croatian State.

171. The Committee of Experts considers that this undertaking is not fulfilled.

The Committee of Experts urges the Croatian authorities to introduce measures to facilitate the funding of production of audio and audiovisual works.

“e. ii. to encourage and/or facilitate the publication of newspaper articles in the regional or minority languages on a regular basis.”

172. In its first evaluation report (see especially para. 98) the Committee of Experts noted that numerous publications (newspapers, magazines, etc.) were produced in minority languages and were supported within the framework of financial assistance for the cultural activity of members of minorities. However, the Committee of Experts could not ascertain the situation for all the languages covered by this obligation and could not identify the financial support schemes which were employed. It concluded that a transparent approach should have been taken by the Government Office for National Minorities with a view to making it evident that all relevant languages received funding for the publication of newspaper articles.

173. The second periodical report does not contain any information concerning the press.

174. The Committee of Experts is of the opinion that this undertaking is fulfilled with regard to the Hungarian language, given that several regular publications in Hungarian are subsidised by the Government. This undertaking also appears to be fulfilled, at present, in the case of the Italian language, although it has been reported to the Committee of Experts that the financial support granted to the publications printed in the Italian language, and in particular the daily newspaper “La voce del popolo”, has been substantially reduced in 2001. The Committee of Experts is therefore concerned by the fact that the financial difficulties that are affecting the printed media in the Italian language since 2001 could have negative repercussions on the fulfilment of this undertaking with regard to this language in the future.

175. As far as the other languages are concerned, the situation appears to be unsatisfactory. In the case of the Serbian language, it was reported that there is no support at all for publications in this language. It also appears that there is no support for the regular publication of newspaper articles in Slovak, Ruthenian or Ukrainian.

176. Finally, as far as the Czech language is concerned, the information made available to the Committee of Experts does not enable it to assess the situation.

177. The Committee of Experts therefore considers that this undertaking is not fulfilled in the case of the Serbian, Slovak, Ruthenian and Ukrainian languages and would welcome further information on the exact situation of the press with regard to the Czech language.

The Committee of Experts encourages the Croatian authorities to take the necessary measures to encourage and/or facilitate the publication, on a regular basis, of newspaper articles in regional or minority languages in the Serbian, Slovak, Ruthenian and Ukrainian languages.

“Paragraph 3

The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.”

178. In its first evaluation report (see para. 100) the Committee of Experts noted that it had not received any information from the Croatian authorities as to how this undertaking was fulfilled, either in legal terms or in practice, and considered that the Croatian authorities could have encouraged and made specific provisions for the active participation of the users of regional or minority languages in bodies that guarantee the freedom and pluralism of the media.

179. The Radio and Television Council is an independent body responsible for giving concessions for carrying out activities of radio and television and appears to be the body referred to in the present provision. Article 5 of the Radio and Television Act provides that in the implementation of the programming principles the Croatian Radio and Television shall produce and/or broadcast specific programmes aimed at informing members of national minorities. The Committee of Experts has received information which indicates that a member of the Council for National Minorities from one minority sits at present in the Radio and Television Council. However, it is not clear whether this member actually represents the interests of the users of regional or minority languages.

180. While the implementation of this article does not require that each individual Part III language should have its own representative on the bodies in question, it does require that adequate systems or processes exist to ensure that the interests of speakers of each Part III language are in fact represented or taken into account. The Committee of Experts would welcome information, in the next periodical report and in respect of each Part III language, of the extent to which this has in practice happened.

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:

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

181. In its first evaluation report (see para. 102), the Committee of Experts noted that if the Ministry of Culture encouraged direct participation of representatives of certain regional and minority languages in planning cultural activities by part-financing national reviews and folk art, the information received gave no indication of active participation in the distribution of financial support from the Ministry of Culture, the Office for National Minorities or in other bodies that provide facilities or plan cultural activities. The Committee of Experts thus concluded that the undertaking was only partly fulfilled and recommended that the Croatian authorities actively involved the representatives of regional or minority languages in the decision-making body responsible for organising and granting financial assistance to cultural activities.

182. The Committee of Experts has been informed of the establishment of the Council for National Minorities. This Council decides on the allocation of money for cultural projects with relevance to Part III languages on the basis of a tender and call for projects.

183. The Committee of Experts considers that this undertaking is fulfilled.

“g. to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages.”

184. In its first evaluation report (see para. 103), the Committee of Experts noted that all written publications, including those in minority languages, were kept in Croatian archives and that every publisher was required, in accordance with the Libraries Act, to provide copies of publications to the National Library. The Committee therefore concluded that this obligation was fulfilled with respect to written publications but underlined that it had received no information for audio or audiovisual works.

185. In addition to the information that was made available to the Committee of Experts in the first monitoring round, the second periodical report (see p. 65) mentions the role, in this area, of the existing large publishing houses of some national minorities, such as "Edit" in Rijeka, "Jednota" in Daruvar and "Prosvjeta" in Zagreb. However, no specific reference is made to audio or audiovisual works. Of course, this can be seen in relation to the above-mentioned shortcomings concerning the support for the production of such works (see paras. 169-171 above).

186. The Committee of Experts therefore considers that this undertaking is fulfilled in respect of written publications but not fulfilled as far as audio and audiovisual works are concerned.

Article 13 – Economic and social life

"Paragraph 1

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

"b. to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language"

187. In its first evaluation report (see para. 105), the Committee of Experts noted that the relevant legislation neither contained any elements which opposed the use of minority languages in internal regulations of companies and private documents, nor any prohibition of clauses which excluded or restricted such use of minority languages. The Committee of Experts observed that there had to be a specific prohibition of the insertion in internal regulations of companies and private documents of any clauses that would exclude or restrict the use of a regional or minority language and therefore concluded that the obligation was not fulfilled.

188. In its second periodical report (see p. 65), the Government maintains, in substance, that the provisions apparently required by the present undertaking do not exist because the clauses that should be prohibited do not exist. As a result, there would be no need for the codification of such prohibition.

189. The Committee of Experts notes that Article 14 of the Constitution of Croatia prohibits discrimination on grounds, inter alia, of language. Article 106 para. 1 of the criminal code provides that anyone who on the ground of difference in, inter alia, language refuses or restricts freedoms and rights of individuals and citizens guaranteed by Constitution, Law or any other provision shall be punished by a term of imprisonment of between 6 months and 5 years. Furthermore, paragraph 3 of Article 106 of the criminal code stipulates that anyone who, against the regulations on the use of language and script, refuses or restricts the right of citizens to use their own language and script, shall be fined or punished by a term of imprisonment up to 1 year.

190. The Committee of Experts considers that this undertaking is fulfilled.

"c. to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities."

191. In its first evaluation report (see para. 106), the Committee of Experts noted that there was no information on how practices designed to discourage the use of minority languages would be opposed. The Committee of Experts therefore encouraged the authorities to guarantee with specific measures that practices discouraging the use of regional or minority languages in connection with economic and social activities would be opposed.

192. The second periodical report does not contain any specific information in this respect, which means that neither in the first monitoring round nor in the present second monitoring round have the Croatian authorities commented on the fulfilment of this provision.

193. The Committee of Experts has not detected any practices of the type referred to in the present provision and no information has been made available to it concerning measures aimed at discouraging them. The Committee of Experts is therefore not in a position to conclude on this undertaking and encourages the Croatian authorities to comment on this undertaking in the next periodical report.

Chapter 3 Conclusions

3.1 Conclusions of the Committee of Experts on how the Croatian authorities have reacted to the recommendations of the Committee of Ministers

194. By its Recommendation RecChL(2001) 2 on the application of the European Charter for Regional or Minority Languages by Croatia (adopted on 19 September 2001 at its 765th meeting), the Committee of Ministers addressed a number of specific recommendations to the Croatian authorities on the basis of the Committee of Experts' first evaluation report. The Committee of Experts will now assess how the Croatian authorities have reacted to these recommendations. Each recommendation is reproduced below and is followed by the Committee of Experts' assessment of its implementation:

Recommendation no. 1:

“adopt and effectively apply the legal acts and regulations necessary to implement the existing constitutional provisions and basic statutory acts aimed at protecting and ensuring the use of regional or minority languages;”

195. Important new legislation has been passed since the first monitoring round (see in particular paras. 23 and 28 above). New legislation is a necessary first step in the implementation of the undertakings chosen. However, the results of its application, are in several cases not yet up to the undertakings that Croatia entered into under the Charter (see eg paras. 108-111, 140-144 and 155-158 above).

Recommendation no. 2:

“establish by legal means an adequate institutional infrastructure for the teaching in and of the regional or minority languages in accordance with the obligations of Croatia under Article 8 of the Charter, and in particular provide sufficient teaching materials and teacher training in regional or minority languages;”

196. A new Law on the Education in Minority Languages was adopted in 2000 and some progress has been made, particularly as regards the definition of competences (see eg para. 73 above in the field of pre-school education). However, several shortcomings still exist in this area. At some levels no infrastructure is provided at all for certain languages (see eg paras. 75 and 82 above). In other cases, minority language education is only given outside the regular teaching hours, creating a heavy additional burden on minority pupils (see paras. 30 and 78 above). Furthermore, serious problems persist as far as teaching materials and teacher training are concerned (see paras. 68-71 and 104-107 above).

Recommendation no. 3:

“create institutional mechanisms that encourage direct participation of the users of regional or minority languages in planning, funding and organising cultural activities and in the field of the mass media;”

197. The appropriate mechanism with regard to cultural activities now exists, especially thanks to the role assigned to the Council for National Minorities (see in particular paras. 21 and 180 above). The situation, however, remains unclear as far as the media are concerned (see especially paras. 178-180 above).

Recommendation no. 4:

“create the necessary legal basis for the official use of regional or minority languages by state and regional administration as well as in the courts of law and in particular avoid abdicating to local authorities the choice as to where Articles 9 and 10 of the Charter will be applied;”

198. The 2000 Law on the Equal and Official Use of Language and Script of National Minorities and the new 2002 Constitutional Law on the Rights of National Minorities have laid down a more comprehensive legal basis for the official use of regional or minority languages. The latter, in particular, has eased the conditions for granting equal and official use status to regional or minority

languages, namely by lowering the percentage of the population required to this effect (see para. 23 above). However, there are still cases, which do not fall under one of the automatic criteria provided for by the said legal framework, in which the application in particular of Articles 9 and 10 of the Charter will still be left to the arbitrary decision of the local authorities, even in those instances where the language has a significant and traditional presence (see para. 60 above). Furthermore, the combined effect of the existence of a threshold and the arbitrary power left to the local authorities leads to such cases being left out of Part III protection (see paras. 59-62 above).

Recommendation no. 5:

“re-examine the administrative divisions created since 1992 in order to overcome the obstacles to the promotion of the regional or minority languages created by these newly established administrative divisions;”

199. The Committee of Experts has received no information on any re-examinations that would have consequences for regional or minority languages. The absence of re-examination in relation to areas where the Hungarian language is spoken has resulted in preserving an unsatisfactory situation (see para. 19 above).

Recommendation no. 6:

“strengthen its mechanisms for monitoring the implementation of its undertakings, thus providing more comprehensive information;”

200. Significant progress has been made in this area and several bodies now play a prominent or a more active role than before in monitoring the implementation of the undertakings of the Charter (see para. 21 above).

Recommendation no. 7:

“make its periodical reports on the application of the Charter public, thus ensuring that the organisations and persons concerned are informed of the rights and duties established under the Charter and its implementation;”

201. The second periodical report was made public on the website of the Ministry of Justice and printed versions were sent to associations of regional or minority language users. However, the Committee of Experts received complaints from the representatives of some of the languages concerned, that the report had not been disseminated widely (see para. 12 above).

Recommendation no. 8:

“provide adequate financing for the measures intended to comply with the commitments undertaken under the Charter.”

202. The Committee of Experts has not received comprehensive information in this regard. However, information received indicates that the level of the financial commitment remains unsatisfactory, in particular in the field of the provision of teaching materials and of teacher training (see paras. 68-71 and 102-107 above).

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

A. The numerous and significant legislative measures adopted by Croatia since the first monitoring round certainly show a greater commitment to the protection and promotion of regional or minority languages. It must also be noted that a more favourable context for linguistic and cultural diversity seems to exist at present in Croatia. This contributed to the “on-the-spot” visit taking place in a much more positive atmosphere compared to the first monitoring process. Furthermore, the Committee of Experts benefited from a greater flow of information than in the past and from an improved communication with the Croatian authorities.

B. In spite of these improvements, the revised and enriched legislative framework has not solved the major problem that the instrument of ratification of the Charter by Croatia continues to raise. First of all, the Committee of Experts still lacks a complete picture of the territories on which, by virtue of the operation of one of the automatic criteria provided for by the law, the regional or minority languages concerned are granted an official status under Croatian law. Secondly, the application of the declaration appended to the instrument of ratification, when interpreted in a broad sense, combined with the relevant domestic legislative provisions, would have the effect that when one of the automatic criteria (one-third of the population or the operation of an international agreement) is not applicable, it would be for the local authorities to grant the equal and official use status. Consequently, in these cases the decision as to whether Part III applies would be left to the local authorities. This not only would entail a problematic uncertainty as to the exact territorial scope of Part III, but it would also, and does in fact, lead in practice to the exclusion from Part III protection, in particular with regard to Articles 9 and 10 of the Charter, of a number of areas where the language has a significant and traditional presence. The Committee of Experts is of the opinion, however, that if States choose to define the territories to which Part III applies in the instrument of ratification, this should be done in unambiguous terms. Accordingly, there is a need for the Croatian Government to review the declaration in the light of this.

C. As to the general situation of regional or minority languages in Croatia, the Committee of Experts has noted that all of them, without exception, are affected by a worrying decline as far as the number of speakers is concerned. The following findings should therefore be read against this context.

D. The Italian language enjoys on the whole a relatively good situation, thanks also to the support it receives from most of the local authorities concerned in the Istrian peninsula as well as to the financial assistance from the Italian authorities. However, the Committee of Experts has been obliged to revise some of its previous findings as it has become apparent, in the second monitoring round, that some undertakings are not fulfilled in the case of the Italian language either. Finally, the Committee of Experts has observed a particular concern among the speakers about the situation of the Italian language in Rijeka, owing to the slight recognition that this language has so far obtained in this city, despite that fact that the most important institutions for the Italian language are located there.

E. In the case of the Hungarian language, several of the undertakings entered into under the Charter are fulfilled thanks to the financial support coming from Hungary, within the framework of the related bilateral treaty. However, on some points the situation of this language has worsened compared to what existed at the time of the former Yugoslavia. The Hungarian language also suffers particularly from the socio-economic consequences of the recent Serbo-Croatian war, given that the region where this language is traditionally present is one of those that were most severely affected by the heavy fighting which took place especially in 1991. Furthermore, Hungarian enjoys no official recognition in Beli Manastir, ie the main administrative centre for the region where this language has a significant and traditional presence.

F. The Czech language benefits from a fair offer in education and from good support in the cultural field. However, this language suffers particularly from the lack of an official recognition in Daruvar, its main stronghold. In this city the local authorities even revoked the linguistic facilities that until a few years ago Czech enjoyed in particular as far as the dealings with the administrative authorities were concerned.

G. The less widely used regional or minority languages (Slovak, Ruthenian and Ukrainian) seem to be all in a rather precarious situation and the Committee of Experts has found serious problems concerning these languages, especially in the crucial field of education. Special mention must be made with regard to the Ruthenian language, given that unlike the others this language cannot even rely on support by a third-party State. There is therefore a need to develop close co-operation with the other States where Ruthenian is spoken (Hungary and Slovakia to begin with) with a view to strengthening the position of this language through co-ordinated initiatives at European level.

H. As regards Serbian, the linguistic profile can hardly be separated from the broader problem concerning the presence of Serbian speakers in Croatia. Although in some areas the inter-cultural dialogue has considerably improved, in other areas, because of the recent war events which have left deep scars in Croatian society, the Serbian language and culture continue to suffer from hostility, resentment and prejudices. Some recent developments are encouraging and seem to go in the right

direction, but more needs to be done with a view to presenting the Serbian culture and script in Croatia to the majority Croatian-speaking population as an integral part of the cultural and linguistic heritage of Croatia. The inclusion of elements of this culture and script in the curriculum of the Croatian-speaking pupils, on top of the necessary references to the other regional or minority languages and cultures traditionally present in Croatia, seems to be one of the priorities in this respect. Additional measures of awareness-raising with the majority population through the national media also seem to be urgently needed.

I. As far as Slovenian is concerned, the Croatian authorities expressed the view that Slovenian in Croatia should be considered as a non-territorial language, thus covered by the reservation that Croatia has made with regard to Article 7 para. 5 of the Charter. However, the Committee has also received information from the representatives of the speakers of Slovenian indicating the traditional presence of this language in Croatia as a territorial language, at least as far as some areas bordering Slovenia are concerned.

J. In the field of education, the Committee of Experts finds that serious structural problems persist in the case of some of the less widely used regional or minority languages: pre-school education is thus still lacking for the speakers of the Ruthenian and Ukrainian languages and neither these languages nor Slovak are included in secondary education. In other cases, minority language education is only given outside the regular teaching hours, creating a heavy additional burden on minority pupils. Other problems detected by the Committee of Experts relate in particular to the serious question of the textbooks for minority education and the lack of structural measures for teacher training. In the latter regard, it finds that there is an urgent need for an accurate planning.

K. As far as the areas of justice and administration are concerned, apart from the fundamental problem, referred to above, of the impossibility to apply Articles 9 and 10 where a local authority has not granted the equal and official use status, the Committee of Experts finds that most of the undertakings entered into by Croatia under Article 9 are only formally fulfilled with regard to almost all the languages, since the formal domestic provisions are rarely followed by some degree of practical implementation. In the field of administration the Committee of Experts finds that the possibility for the speakers to use their regional or minority language in their dealings with the local branches of the State administration is still weak and not sufficiently supported. Urgent measures are needed to enable judicial authorities and State administration to comply with the chosen undertakings.

L. The Committee of Experts has also detected considerable shortcomings concerning the use of bilingual place-names and has observed, in particular, that to its knowledge there seems to be no occurrence in Croatia of place-names appearing also in the Serbian script. In this regard, the Committee of Experts stresses the importance of this undertaking to further the visibility of regional or minority languages.

M. The Committee of Experts underlines once again the considerable importance of the media, and in particular of the electronic media, for the protection and promotion of regional or minority languages in modern societies. In Croatia the presence of regional or minority languages on public television is still insufficient and not all the languages concerned seem to benefit from the operation of regional radio stations. The situation is particularly unsatisfactory for those speakers who have little or no other access to programmes in their language.

N. As regards the Italian language, mention must also be made of the Italian-speaking television and radio channels located in Slovenia: since Slovenia's and Croatia's accession to independence, these are no longer able to cover all the areas in Croatia where the Italian speakers live, as was previously the case. The Committee of Experts noted a strong wish on the part of the speakers to see the coverage by the said television and radio channels of the entire Croatian part of Istria and of the city-area of Rijeka re-established.

O. The Committee of Experts is aware of the fact that the Croatian authorities made a reservation with regard to Article 7 para. 5 of the Charter, with the consequence that the Charter does not apply to the Romany language. However, according to the information gathered by the Committee of Experts during its "on-the-spot" visit, several initiatives have been taken by the Croatian authorities to strengthen the Romany language (see para. 14 above). The Committee of Experts welcomes these

positive signals which might open up the possibility of a new approach to the promotion and protection of the Romany language in Croatia.

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

At its 936th meeting on 7 September 2005, the Committee of Ministers adopted its Recommendation addressed to Croatia, which is set out in Part B of this document.

Appendix I: Instrument of ratification by Croatia

Reservation contained in the instrument of ratification, deposited on 5 November 1997 - Or. Cro./Engl.

The Republic of Croatia declares, in pursuance of Article 21 of the European Charter for Regional of Minority Languages, that in respect of the Republic of Croatia the provisions of Article 7, paragraph 5, of the Charter shall not apply.

Period covered: 01/03/98 -

The preceding statement concerns Article(s): 7

Declaration contained in the instrument of ratification, deposited on 5 November 1997 - Or. Cro./Engl.

The Republic of Croatia declares that, in accordance with Article 2, paragraph 2, and Article 3, paragraph 1, of the European Charter for Regional of Minority Languages, it shall apply to Italian, Serbian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian languages the following paragraphs of the Charter:

- In Article 8:
paragraph 1, sub-paragraphs a (iii), b (iv), c (iv), d (iv), e (ii), f (ii), g, h;

- In Article 9:
paragraph 1, sub-paragraphs a (ii), a (iv), b (ii), b (iii), c (ii), c (iii), d;
paragraph 2, sub-paragraph a;

- In Article 10:
paragraph 1, sub-paragraphs a (iii), a (iv) b, c;
paragraph 2, sub-paragraphs a, b, c, d, g;
paragraph 3, sub-paragraphs a, b, c;
paragraph 5;

- In Article 11:
paragraph 1, sub-paragraphs a (iii), d, e (ii);
paragraph 2;
paragraph 3;

- In Article 12:
paragraph 1, sub-paragraphs a, f, g;

- In Article 13:
paragraph 1, sub-paragraphs a, b, c;

- Article 14.

Period covered: 01/03/98 -

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

Declaration contained in the instrument of ratification, deposited on 5 November 1997 - Or. Cro./Engl.

The Republic of Croatia declares, with regard to Article 1, paragraph b., of the Charter, that pursuant to Croatian legislature, the term "territory in which the regional or minority languages is used" shall refer to those areas in which the official use of minority language is introduced by the by-laws passed by the local self-government units, pursuant to Article 12 of the Constitution of the Republic of Croatia and Articles 7 and 8 of the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities on the Republic of Croatia.

Period covered: 01/03/98 -

The preceding statement concerns Article(s): 1

Appendix II: Comments by the Government of Croatia

RE: Observations on the opinion of the Expert Committee on the Second Report by the Republic of Croatia on the implementation of the European Charter for Regional or Minority Languages

In relation to the recommendations of the Expert Committee regarding the Second Report of the Republic of Croatia on the implementation of the European Charter on Regional or Minority Languages, the following is emphasized:

- In the second report on the European Charter for Regional or Minority Languages, data are given on the proportion of each minority in the population and also the number of those who speak each minority language. From the data given in 2001 it is clear that in relation to the census of there has been an overall reduction in the representation of national minorities, and as a result of this also a reduction in the number of those who speak each minority language.

There are many reasons for this. First of all it has to be emphasised that according to the census of 2001, the population of the Republic of Croatia had decreased by more than three hundred thousand inhabitants in comparison with the 1991 census. The reasons for this reduction in the population may be found on the one hand in the reduced birth rate, and on the other hand in migration of population.

All this is indicative of the certain process of the assimilation of members of minorities despite the fact that the Republic of Croatia is taking a large number of measures to encourage the preservation of cultural autonomy and linguistic identity. The regulations on the education of national minorities in their mother tongue and the new Act on Education in the Languages and Scripts of National Minorities adopted in 2001 open a very wide range of possibilities for the education of members of national minorities in minority languages, according to models adapted as much as they can be to meet their needs. The Act on the Use of the Languages and Scripts of National Minorities of 2001, as well as the regulations previously valid (the Ordinance on the Equal Official Use of the Language and Script of National Groups of 1981) offered broad freedom in the use of minority languages in proceedings before state bodies. All these measures however have not led to an increase in the number of those who speak minority languages, which is in line with the existing trends in other states, indicating the increasing assimilation of national minorities into the majority groups.

Despite the negative trends it is considered to be important to emphasize that all the measures aimed at preserving the cultural autonomy of individual minorities are being taken in cooperation with representatives of these minorities who are actively involved in the adoption of regulations regarding their status, such as for example the adoption of the Constitutional Act on the Rights of National Minorities in the Republic of Croatia, where agreements were reached with the representatives of national minorities in the Croatian Parliament. It is particularly pointed out that according to the provisions of the Constitution of the Republic of Croatia it is the exclusive right of the individual to declare or not to declare his or her nationality. All citizens of the Republic of Croatia were acquainted with this regulation during the conduct of the population census and some members of the population abstained from declaring their nationality and their mother tongue.

In the light of the above it may be concluded that the reduction in the number of those who speak minority languages was the result on the one hand of changes in the population following the war in the Republic of Croatia, and on the other hand of the overall negative demographic trends in Croatia.

- In relation to the Recommendation regarding the statement given about Part III of the European Charter, it is pointed out that the statement is in line with the provisions of Article 12, paragraph 2 of the Constitution of the Republic of Croatia, according to which it is possible to introduce a minority language into equal official use only in certain local units.

The Constitutional Act on the Rights of National Minorities in the Republic of Croatia prescribes the equal official use of minority languages in those local units where members of national minorities constitute at least one third of the population, whilst in other local units a minority language may be introduced into equal official use alongside Croatian by the statute of the municipality, or the town.

As has been expressed in conversations with representatives of the Expert Committee for monitoring the implementation of the European Charter for Regional or Minority Languages in the Republic of

Croatia there is an equal number of municipalities or towns where the equal official use of a minority language has been introduced by the statute, as municipalities or towns, where it has been introduced on the basis of the legal provisions. This indicates the fact that at a local level there is no resistance to the use of minority languages, especially not in areas where they are traditionally in use. It should also be pointed out that the languages, about the introduction of which a declaration was given by the Republic of Croatia on the occasion of the ratification of the European Charter for Regional or Minority Languages, are traditionally present and in equal official use in the Republic of Croatia, and there was no request made to extend the range of languages stated by the Republic of Croatia as being subject to the European Charter.

It is particularly pointed out that this statement mentioned on the range of languages subject to the European Charter is not in itself a hindrance to introducing the equal official use of other languages if a need for this existed. In this context it is emphasized that neither the Constitutional Act on the Rights of National Minorities in the Republic of Croatia, nor the Act on the Use of the Language and Script of National Minorities in the Republic of Croatia, in any way prevent the introduction of the equal official use of any language in relation to which this kind of need arises. We therefore believe that there is no need to amend the statement.

- In relation to the request in the Recommendations that it should be possible to submit written and oral petitions to state bodies in minority languages, it is pointed out that in the initial report and also in the Second Report on the Implementation of the European Charter for Regional or Minority Languages, it is clear that this possibility already exists and that it existed according to the regulations in force in the Republic of Croatia even before 1997 when the European Charter for Regional or Minority Languages was ratified. Moreover in the reports, numerical data are given on the number of such cases and we therefore believe that this Recommendation is entirely unnecessary.

All the above also relates to the Recommendation on the facilitation of communication at a local level in a minority language. In all local units where a minority language is in equal official use, citizens are able to communicate in that minority language not only with bodies of local units, but also with the territorial official bodies of state administration and the judiciary. There are data about all this in the Reports now submitted.

- In relation to the Recommendation on the need to encourage the use of bilingual notices with the names of places, it is pointed out that this obligation was established by the Act on the Use of Languages and Scripts of National Minorities in the Republic of Croatia and that this was already done traditionally on the basis of regulations in force before the Act on the Use of Languages and Scripts of National Minorities in the Republic of Croatia came into force.
- In relation to the Recommendation relating to the use of minority languages in services offered by public services, it is pointed out that this obligation does not arise from the legislation of the Republic of Croatia. However, individual public services in their contact with citizens, use minority languages and also employ clerks who have direct contact with clients under the condition that they speak the minority language (for example the Croatian Electricity Board in the Istarska County).

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

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

Recommendation RecChL(2005) 2 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by Croatia

*(Adopted by the Committee of Ministers on 7 September 2005
at the 936th 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 Croatia on 5 November 1997;

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

Having taken note of the comments made by the Croatian authorities on the contents of the second report of the Committee of Experts;

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

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

1. in the light of the situation in the field and of the observations made by the Committee of Experts in its report, specify, in the third State periodical report, the municipal territories which are concerned by the application of Part III of the Charter and review the declaration appended to the instrument of ratification;
2. promote awareness and tolerance vis-à-vis the regional or minority languages and the culture they represent as an integral part of the cultural heritage of Croatia, both in the general curriculum at all stages of education and in the media;
3. offer pre-school education in the Ruthenian and Ukrainian languages and, regarding primary and secondary education, at least the teaching of Ruthenian, Slovak and Ukrainian within regular school hours in the territories in which such languages are used;
4. develop a coherent strategy in the field of teacher training and provide adequate teaching materials for minority language education;
5. take the necessary measures to ensure that the legal possibility for the speakers to use their regional or minority languages in relations with the relevant branches of the State administration is fully implemented in practice ;
6. take immediate action to implement the use of bilingual place-names in all relevant cases;

7. grant the speakers a language-specific and more significant presence on public television and develop a presence on the regional radio stations also for those languages that do not yet benefit from it;
8. clarify the nature of the traditional presence of the Slovenian language in Croatia in co-operation with the speakers.