

## Developments in the Field of the European Charter for Regional or Minority Languages in 2009

### I. INTRODUCTION

In 2009 the Committee of Experts of the European Charter for Regional or Minority Languages<sup>1</sup> (hereinafter “the Charter”) continued with its monitoring of state reports in accordance with Article 16 of the Charter. During that period the number of state parties increased by one, Poland, bringing the total to twenty-four.<sup>2</sup> The acceptance of the Charter by member states of the Council of Europe continues to be very slow, despite their declaratory commitment to protect minority languages.<sup>3</sup>

The Committee of Experts examines reports submitted by state parties and prepares its own reports on implementation of the Charter in the respective countries. It means that the whole process of monitoring depends on that initial step. However, a worrying trend can be observed recently that more and more state parties are late in submitting their periodical reports to the Secretary General in accordance with Article 15 of the Charter. This makes the work of the Committee of Experts difficult and causes delays. The Committee submits its evaluation reports to the Committee of

---

\* Vice-President and Member of the Committee of Experts in respect of Croatia of the European Charter for Regional or Minority Languages. The opinions expressed are solely those of the author.

1 European Charter for Regional or Minority Languages, adopted on 5 November 1992, entered into force on 1 March 1998, ETS No. 148 (hereinafter “the Charter”).

2 The states that have ratified the Charter to date are the following: Armenia, Austria, Croatia, Cyprus, Czech Republic, Denmark, Finland, Germany, Hungary, Liechtenstein, Luxembourg, Montenegro, the Netherlands, Norway, Poland, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and United Kingdom. Nine states have signed the Charter and fourteen member states of the Council of Europe have not signed it. The last signature was in 2005.

3 Compared to 39 states that ratified the Framework Convention for the Protection of National Minorities. As part of efforts to promote the Charter the Joint Programme was started by the Council of Europe and the European Commission, in cooperation with the Ministry of Regional Development of the Russian Federation. The programme aims at promoting Russia’s ethnic and national minorities and better recognition of their specific integrity as regards culture, education, languages, media and civil society.

Ministers with proposals for recommendations that the body may or may not accept. Although the Charter says that this report “may be made public by the Committee of Ministers” so far all the Committee of Experts’ reports have been made public and are available on the website of the Council of Europe.<sup>4</sup>

During this period another disturbing practice was evident in relation to state parties regarding legislation designed to protect state language. The most recent case concerns Slovakia and its latest amendments to the State Language Act.<sup>5</sup> Although the Committee of Experts has not yet had the chance to inspect the influence of that act on minority languages spoken in Slovakia, *prima facie* it seems to contradict the spirit and the letter of the Charter.<sup>6</sup> In any event it stirred emotions, especially among members of the Hungarian minority in Slovakia. The law sets out to encourage the use of Slovak in official business in minority areas and its opponents are afraid that it will be to the detriment of minority languages. The law, in effect since 1 September 2009, envisages fines of up to EUR 5,000 for people who use minority languages in public services. Proper evaluation of the Slovak law, however, will have to wait for the next reporting period.

In 2009 three reports on Serbia, Austria and Sweden, which had been adopted by the Committee of Experts in 2008, were made public. In addition, three second reports, on Armenia, Cyprus and Slovakia, adopted by the Committee of Experts in 2009, were also made public. The first report on the application of the Charter in the Czech Republic was released in December 2009, but the one on Ukraine remains restricted even though it was adopted by the Committee of Experts in November 2008.

## II. FIRST EVALUATION REPORTS

### *A. Serbia*

Serbia signed and ratified the Charter in 2005 when it was still a member of the State Union of Serbia and Montenegro. However, after the dissolution of the Union, Serbia became the successor to the State Union and the Charter came into force for Serbia on 1 June 2006.<sup>7</sup> The Committee of Experts adopted its report in September 2008 and it was adopted by the Committee of Ministers on 6 May 2009.<sup>8</sup>

In addition to the dissolution of the State Union another event affected the situation in Serbia and its initial report. Since 1999, based on UN Security Council

4 At <[http://www.coe.int/t/dg4/education/minlang/Default\\_en.asp](http://www.coe.int/t/dg4/education/minlang/Default_en.asp)>.

5 The controversy over the act involved also the OSCE High Commissioner for Minorities, at <<http://www.norway-osce.org/news/Latest-news/Statement-Vollebaek/>>.

6 The Committee of Experts only examined the second Slovak report in April 2009, before the law had been enacted. See below.

7 The two states agreed that Serbia would succeed to the membership of the Council of Europe while Montenegro had to reapply. Montenegro was admitted on 11 May 2007 but it is considered to have been a state party to the Charter since 6 June 2006.

8 Application of the Charter in Serbia, 1st monitoring cycle, EChRML(2009)2 (hereinafter, “1st Serbia Report”).

Resolution 1244,<sup>9</sup> Kosovo was placed under the international administration of the UN Mission in Kosovo (UNMIK) and Serbia had no *de facto* authority in the province. In its initial report Serbian authorities stated that “the Report on the Implementation of the European Charter for Regional or Minority Languages in the Republic of Serbia does not cover that part of the territory [of the] Republic of Serbia”.<sup>10</sup> On 17 February 2008 the Kosovo Assembly declared independence from Serbia. Although Serbia has not recognized its independence, many other states, including the United States, United Kingdom and Germany have. However, it has not yet become a member state of either the United Nations or the Council of Europe.<sup>11</sup>

With respect to a number of minority languages, Serbia constitutes a typical south-eastern European country with a large number of languages spoken on its territory. In Serbia, there are 15 languages spoken that correspond to the Charter's definition of regional or minority languages: Albanian, Bosnian, Bulgarian, Bunjevac,<sup>12</sup> Croatian, Czech, German, Hungarian, Macedonian, Romani, Romanian, Ruthenian, Slovak, Ukrainian and Vlach. The size of these communities varies significantly, from Hungarian which is spoken by more than 290,000 people, to Czech which is spoken by about 2,200. Some of these languages have co-official status in certain municipalities, while others like Vlach and Bunjevac do not have a clear status or a standardized form. The members of the Vlach national minority are divided over the question of whether Vlach is an independent language or a variety of Romanian and some regard Bunjevac as a variant of Croatian.<sup>13</sup>

In its ratification instrument Serbia declared that it would apply Part III of the Charter to the Albanian, Bosnian, Bulgarian, Hungarian, Romany, Romanian, Ruthenian, Slovakian, Ukrainian and Croatian languages. In typical ‘Eastern European style’, the same level of protection is granted to all 10 languages regardless of their size or needs. At the same time Serbia declared that “the term ‘territory in which the regional or minority languages are used’ will refer to areas in which regional and minority languages are in official use in line with the national legislation”. That declaration is consistent with Serbian national legislation which provides for equal and official use of minority languages when persons belonging to a particular minority account for 15% of the population of the municipality.<sup>14</sup> In Vojvodina, a minority lan-

9 Resolution 1244 (1999), adopted by the Security Council at its 4011th meeting, on 10 June 1999, at <<http://www.unmikonline.org/press/reports/N9917289.pdf>>.

10 1st Periodical Report, 27.

11 In the meantime, the General Assembly of the UN requested the International Court of Justice to give an advisory opinion on Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo, requested on 8 October 2008 (Resolution A/RES/63/3). It is unclear what the effects of the opinion would be on the future of Kosovo, since the Court's advisory opinions have no binding force, at <<http://www.icj-cij.org>>.

12 This language's local name is ‘*bunjevački*’.

13 The Committee of Ministers made its recommendation to “clarify the status of Bunjevac and Vlach” (Recommendation No. 2).

14 The Law on the Protection of the Rights and Freedoms of National Minorities (Art. 11(2)). Such official use covers oral and written communication with citizens, administra-

guage spoken by at least 25% of the population of a certain locality (local community, *mesna zajednica*) may be introduced into official use in that locality.<sup>15</sup> And finally, there is a third corrective criterion. If the speakers of a regional or minority language do not meet the aforementioned thresholds a municipality may, through a change of its statute, voluntarily introduce a minority language in official use. In fact, this option has been used by several municipalities.<sup>16</sup> In view of the Committee of Experts that fact was very important for correcting unfavourable results that could come from the strict 'percentage' approach used by the authorities.<sup>17</sup>

Despite its poor reputation of recent decades, Serbia, and especially its province Vojvodina, has a long tradition of protection and promotion of minorities and their languages. The Committee of Experts noted that the existing protection of some languages in Vojvodina was already higher than that granted through ratification of the Charter. In that respect, the authorities are reminded that a higher level of protection achieved previously should not be lowered because of ratification of the Charter.<sup>18</sup> However, in some other parts of Serbia the situation is not always exemplary due to varying levels of awareness regarding the value of multilingualism. The Committee of Experts found it necessary to invite the Serbian authorities to promote awareness and tolerance in Serbian society at large *vis-à-vis* the regional or minority languages and the cultures they represent.<sup>19</sup> This kind of activity is necessary in regard to many states parties.

This tradition of promoting minority languages is most evident in education. Teaching in or of minority languages is offered even for classes smaller than the size established by regulations.<sup>20</sup> However, it is affected by a lack of teachers teaching in regional or minority languages and a lack of teaching materials produced specifically for regional or minority language education. This is evident especially for Croatian, but also for Ukrainian and Romanian, while the situation for Hungarian or Ruthenian

---

tive procedures, record keeping, issuing of documents, ballots and voting material and public inscriptions.

15 Such official language use covers public inscriptions, names and the conduct of some administrative tasks by local administrative offices located in the given locality.

16 According to the report, for example, Slovak has been introduced in official use in Bačka Topola (0.5% of the population), Pančevo (1.2%) and Zrenjanin (1.8%), Ruthenian in Novi Sad (0.6%) and Romanian in Zrenjanin (1.9%).

17 The Committee of Experts has expressed its caution with respect to the use of percentage thresholds in several of its reports: its second report on Croatia (paras. 51-62), its first report on Spain (paras. 64-74), as well as in its first report on Slovakia (para. 42).

18 Art. 4(2) of the Charter.

19 Recommendation No. 1 by the Committee of Ministers.

20 There are three models of regional or minority language education in primary and secondary schools. Teaching may be carried out in the regional or minority language, bilingually (with Serbian), or in Serbian with the possibility of learning the regional or minority language "with elements of national culture" (about 2-4 hours per week). The latter teaching model is usually applied in areas where the regional or minority language concerned is used by a smaller proportion of the population. The size of the class is limited to 15 pupils.

is generally very good.<sup>21</sup> Nevertheless, education for languages that enjoy only Part II protection is practically non-existent and these languages are not taught in schools or kindergartens in Serbia.<sup>22</sup>

The situation of broadcast media for most languages is rather favourable, especially for Romani.<sup>23</sup> On the other hand, the use of minority languages before administrative and judicial authorities is hampered by many deficiencies, such as a shortage of staff who speak regional or minority languages and financial problems. Article 9 of the Charter relates to the judiciary and Article 10 to administrative authorities at different levels, from state to local level. The latter's paragraph 1(a)(iv)<sup>24</sup> was found not to have been fulfilled for Albanian, Bosnian, Bulgarian, Croatian, Romani, Romanian, Ruthenian, Slovak and Ukrainian; in fact, it was only formally fulfilled for Hungarian. The Committee of Ministers recommended to the Serbian authorities that they "secure the implementation of Articles 9 and 10 and ensure that the Part III languages can be used in relations with local branches of the State authorities".

The last recommendation made by the Committee of Ministers also referred to Article 10. The parties are obliged to allow the use of correct personal and place names in minority languages. However, the Committee of Experts received complaints from representatives of some languages that their personal names had not been accepted in their traditional forms or that they had been misspelled.<sup>25</sup> As for place names, it was established that there was a satisfactory legal framework in the Law on the Protection of the Rights and Freedoms of National Minorities. Place names are determined by the national minority councils concerned and then officially published. However, the use of the adopted place names in practice is not yet satisfactory. When installing new signposts, the authorities do not systematically consider official place and street names in regional or minority languages. Accordingly, the Committee of Ministers adopted its Recommendation No. 6 that the Serbian authorities "take the necessary legal and practical measures to ensure that personal names and place names in the regional or minority languages can be used officially in conformity with the tradition and orthography of the languages concerned".

---

21 Recommendation No. 4 by the Committee of Ministers addresses all languages.

22 Recommendation No. 3: "introduce teaching of/in Part II languages at primary and secondary levels".

23 There are five private television channels broadcasting programmes in Romani (30 minutes per week).

24 This article provides that: "Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible: a. iv: to ensure that users of regional or minority languages may submit oral or written applications in these languages".

25 Speakers of Bulgarian, Ruthenian and Slovak complained that the suffixes of female surnames in these languages were not being entered into personal documents, while names were misspelled in Albanian and Romanian.

*B. Czech Republic*

The Czech Republic signed the European Charter for Regional or Minority Languages on 9 November 2000 but it took six years for the Czech parliament to ratify it. The Charter entered into force with regard to the Czech Republic on 1 March 2007. According to the declaration made in the instrument of ratification, the Charter's Part II applies to the Slovak, Polish, German and Romani languages.<sup>26</sup> The Slovak language is protected under Part III of the Charter all over the territory of the Czech Republic, and Polish is covered by Part III in the Moravian-Silesian Region, in the territory of the districts of Frydek-Místek and Karviná.

The initial periodical report on the application of the Charter in the Czech Republic was presented in April 2008. Several months later, an on-the-spot visit was carried out, and monitoring by the Committee of Experts was concluded in April 2009. However, the Committee of Ministers adopted its recommendations on 9 December 2009.<sup>27</sup>

Once again the Committee of Experts met with thresholds. According to the Czech legislation, the municipal assembly shall establish a minority committee "if at least 10% of citizens living in the geographical area of a municipality consider themselves to be of nationalities other than Czech". The threshold for the regional level is set at 5%.<sup>28</sup> The existence of such a committee, however, is a prerequisite for provision of education in minority languages or for erection of place names in languages other than Czech. As in other cases, the Committee of Experts expressed its concern that the application of percentages may in fact prevent the full application of the Charter, especially in cases of geographically dispersed languages. In the Czech Republic, that would apply to Slovak, German and Romani, but also Polish with respect to Article 10(2)(g)<sup>29</sup> of the Charter. The Committee of Ministers expressed its concerns by adopting the following recommendation:

- improve legislation concerning the composition and powers of committees for national minorities, so that these rules do not present barriers to the implementation of the Charter; including
- the creation of regional or minority language schools and

26 There are 12 recognized minorities in the Czech Republic: Bulgarian, Croatian, Hungarian, German, Polish, Roma, Ruthenian, Russian, Greek, Slovak, Serbian, and Ukrainian. Obviously, the authorities did not consider that other languages satisfied the definition of "regional or minority languages" in Art. 1 of the Charter, although there are some initiatives that Croatian should also be considered as such. However, according to the authorities, very few Croatians can speak the language.

27 Application of the Charter in the Czech Republic, 1st monitoring cycle, ECMRL (2009)7 (hereinafter, "1st Czech Republic Report").

28 Numbers of all minorities are aggregated. This may be favourable when smaller groups are combined together. However, if a single group does not reach the threshold and there are no other groups present on the same territory, it means that group will not be able to realize its rights regardless of its actual, rather than its proportional, size.

29 The Charter, Art. 10(2)(g)L: "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".



- the use of Polish place names in topographical signs

Among the minority languages spoken in the Czech Republic, Slovak is a special case for several reasons. It is spoken in the whole territory of the Czech Republic and concentrated mainly in urban areas due to employment reasons.<sup>30</sup> In the latest national census carried out in 2001, 193,190 persons, i.e. 1.9% of the total population, declared themselves to be Slovak. Both Slovak and Czech belong to the same group of West Slavic languages. Their mutual intelligibility is very high. This means that in practice Slovak speakers have no difficulty using their language in public life, and it is sometimes treated as a co-official language.<sup>31</sup>

On the other hand, their mutual intelligibility discourages parents from asking for education in Slovak so there are no pre-schools or schools offering teaching of/ in Slovak. For the same reason, the last Slovak primary and lower secondary school (*základní škola*) was closed down in Karviná in 2001. Plans now seem to exist to reintroduce the teaching of Slovak into regular curriculum as a “lesser-taught foreign language” which is not exactly in accordance with the Charter’s obligations assumed by the Czech Republic.<sup>32</sup> Consequently, the Committee of Ministers recommended to the authorities to “take measures to make available teaching in or of Slovak [...] in co-operation with the speakers”.<sup>33</sup>

Poles make up about 0.5% of the total population of the Czech Republic (around 53,000 persons). There is no area where Polish-speakers constitute an absolute majority, but there are areas where they are more concentrated which makes the application of the Charter much easier. The enthusiasm of the speakers is met with good will by the authorities and the Committee of Experts was able to conclude that “the situation of Polish is in general very good, especially in the field of education which appears

---

30 Slovak speakers are concentrated in the Moravian-Silesian Region (42,357, according to the last census of 2001), the Ústecký Region (21,172), the Southern Moravian Region (15,452) and the Central Bohemian Region (14,191), the Karlovarský Region (13,655) and in Prague (17,406).

31 This becomes obvious in case of Art. 9 and the right of the accused to use his/ her language in court. The Code of Criminal Procedure specifies the right to use Slovak in courts, however, only to a person who declares that he/she does not have command of the Czech language. Clearly, that provision is contrary to the Charter, which allows the use of one’s minority language regardless of command of the official language. However, in practice, there are no problems with this provision and the Slovak language is used in courts.

32 The Czech Republic opted for Art. 8(iv) that combines several options: to provide entire or a substantial part of education in the minority language or teaching of that language or “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;” that the Committee of Experts interpreted in the following way: “The Committee of Experts points out that the present undertaking does not necessarily require the establishment of Slovak-medium education. In a case of this sort, the undertaking can be fulfilled by providing Slovak language lessons to pupils as part of the normal school curriculum.” 1st Czech Republic Report, para. 249.

33 Recommendation No. 4.

to be exemplary". There are schools at all levels offering Polish medium or bilingual education, including technical and vocational education in Český Těšín and Karviná.

With respect to the use of Polish in courts the Committee of Experts established that the legislation in force makes the right to use that language dependent on knowledge of Czech. Regardless of the information received that there were no difficulties in practice, the Committee insisted that the right to use Polish in courts in criminal cases under Article 9(1)(a)(ii) be unconditional and that national legislation be changed.

In the 2001 national census, more than 52,000 people declared German as their mother tongue.<sup>34</sup> German-speakers use both standard German as well as traditional local dialects. Despite the official recognition of German as a minority language in the Czech Republic, it seems that feelings of resentment towards that language are still present. Combined with the territorial dispersion of its speakers, it resulted in a rather poor presence of German in public use or in education.<sup>35</sup> The Committee of Ministers recommended that the authorities adopt a structured policy for the protection and promotion of German, and create favourable conditions for its use in public life, and take measures to make available teaching in or of German.<sup>36</sup>

The autochthonous Czech Roma were almost exterminated by the Nazis, and the Czech variant of Romani has disappeared as a living language. According to the available information, the majority of the current Roma population are post-war immigrants, mostly from Slovakia, Hungary and Romania and they speak several varieties of Romani. In the field of education and in the print media a standardized written Romani based on Slovak/Hungarian Romani has been used.<sup>37</sup> According to its speakers, Romani suffers from low prestige and is not always considered a language in its own right. It is not even accepted by all members of the Roma minority. The language is virtually absent from public life, state education and the media.<sup>38</sup> Furthermore, there were occasional reports of teachers forbidding pupils from speaking Romani in

---

34 39,106 people declared German nationality, representing 0.38% of the total population. This was a dramatic drop from pre-war figures, when Germans represented 22.95% of the population (3,123,305). After the war more than 2.5 million Germans were expelled by the Czechoslovak authorities, supported by the conclusions of the 1945 Potsdam conference and by virtue of the Beneš decrees.

35 The regulations requesting the existence of a minority council and a sufficient number of pupils hamper efforts to establish German medium pre- or primary schools so German is taught mostly as a foreign language.

36 Recommendations Nos. 2 and 4.

37 In the 2001 national census, the number of persons who reported Romani as their mother tongue was 23,211, compared to only 11,746 (0.1% of the population) who declared Roma identity. As stated in the initial periodical report (at 8), there are estimates that range between 200,000 and 250,000 Roma.

38 In the information given in their comments to the evaluation report, the authorities stated that Romani was used on the national public radio station on a regular basis.



schools.<sup>39</sup> The Committee of Ministers found that practice to be so unacceptable that it dedicated a separate recommendation to the issue.<sup>40</sup>

On the more positive side, good initiatives have been taken to inform the public about Roma and the Romani language, notably through the museum for Roma Culture in Brno, the national minority festivals, and the House of National Minorities in Prague. Still, a lot remains to be done with respect to awareness raising and promoting tolerance, not only *vis-à-vis* Romani but with regard to all minority languages.<sup>41</sup> Furthermore, Romani should be more present in public and taught in schools,<sup>42</sup> in accordance with Part II of the Charter.<sup>43</sup>

### III. SECOND EVALUATION REPORTS

#### *A. Austria*

Austria submitted its second periodical report with a delay of almost two years, contravening Article 15 of the Charter that requires states parties to submit their reports every three years. The Committee of Experts found this very disturbing, as failure to submit regular and timely reports hampers the whole monitoring process of the Charter. While recognizing that some states may face difficulties in following the tight Charter schedule, it nevertheless constantly reminds state parties of their duty in that respect. In addition, Austria failed to submit complete information and that too hampered the ability of the Committee of Experts to make a complete assessment of the situation in Austria.

---

39 Until recently, in the Czech Republic there has been a practice of putting Roma children into 'special' schools for mentally and socially disadvantaged pupils far more often than the Czech children. The practice was condemned as discriminatory by the European Court of Human Rights in 2007. Case of *D.H. and Others v. the Czech Republic*, Application no. 57325/00.

40 Recommendation No. 5: "ensure that speaking Romani at school is not prohibited or discouraged".

41 Recommendation No. 1: "take practical steps to promote awareness and tolerance the regional or minority languages and the cultures they represent as an integral part of the cultural heritage of the Czech Republic, both in the general curriculum at all stages of education and in the media."

42 The Committee of Experts was informed about a project run by Charles University on the sociolinguistic situation of Romani in the Czech Republic. According to their results, the usual practice of teaching Roma children through the medium of Czech and introducing Romani elements at a later stage of education was flawed, as the children only confused Czech with Slovak and Romani. They suggested that the Romani language be introduced at an earlier stage of education. The project is entitled "Preparation and Pilot Testing of Methods for Sociolinguistic Research into the Situation regarding Romani in the Czech Republic", at <<http://www.romistika.eu/docs/SociolingVyzkumRimstiny2008.pdf>>.

43 Recommendations Nos. 2 and 4.

The Committee of Ministers adopted its recommendations on 12 March 2009.<sup>44</sup> The regional or minority languages covered under the Charter in Austria are Burgenland-Croatian, Slovenian and Hungarian, as Part II and Part III languages. Czech, Slovak and Romani are protected as Part II languages.<sup>45</sup> The representatives of their speakers were concerned that neither the federal legislation nor the application of the Charter in Austria responded to the new territorial reality of minority languages. In their view, the growing migration of regional or minority language speakers to urban areas, especially to Vienna, and the presence of the Romani language throughout Austria made the territorial approach of the government with respect to services offered in regional or minority languages inappropriate. Strictly speaking, the Charter refers to territories where the language is *traditionally* used and where the number of speakers justifies the application of the Charter. Nevertheless, the Committee of Experts has always encouraged the authorities to consider applying as far as possible a more flexible approach to the Charter and giving stronger protection to those regional or minority languages that are spoken outside the territory where they currently receive legal protection.<sup>46</sup> This confirms that the Committee of Experts has a tendency to use a more teleological approach when interpreting the Charter in order to achieve its wider application.

With respect to Part III languages, the Committee of Experts found that there was still a gap between a strong legislative framework<sup>47</sup> and its practical implementation. The use of these languages before judicial and administrative authorities remains problematic. While it is true that implementation depends partly on initiatives from the speakers, the authorities should also do their best to take measures to facilitate it and encourage the speakers to take full advantage of their rights. It is the experience of the Committee of Experts that if the environment is hostile to the use of minority languages, or even neutral, there will be little use of applying it in the context of official settings such as courts or state administration. On the other hand, even small measures of encouragement, such as a sign or a poster inviting the speakers to use their regional or minority language, could make a difference.<sup>48</sup>

44 Application of the Charter in Austria, 2nd monitoring cycle, ECMRL (2009)1 (hereinafter “2nd Austria Report”). Considering that the Charter entered into force for Austria in February 2001 it seems that Austria skipped an entire monitoring round.

45 Part II brings “policies and objectives” that the parties have to apply to all regional or minority languages. Part III of the Charter is based on the menu system and parties are allowed to choose particular obligations for particular languages spoken in their country.

46 See, for example, 3rd Report on the application of the Charter in Finland, paras. 206 and 207. The Committee of Experts established that half of the Sámi children live outside the Sámi Homeland, notably in the Helsinki area. It made the following recommendation: “The Committee of Experts encourages the authorities to take appropriate measures to develop the teaching of Sámi outside the Sámi Homeland.”

47 The Committee of Experts concluded that there is even an “overly complex legal regime” with respect to Slovenian. Speakers are therefore not aware of all their rights and which bodies can be addressed in Slovenian.

48 Recommendation No. 4: “ensure that the Burgenland Croatian, Slovenian and Hungarian languages can be used before the relevant judicial and administrative authorities in practice”.

The Committee of Ministers also addressed the issue of the use of Slovenian, Burgenland Croatian and Hungarian in media. In particular, with respect to Hungarian, Austria undertook “to encourage and/or facilitate the broadcasting of television programmes in the regional or minority languages on a regular basis” (Art. 11(b)(ii)). Information provided by the Austrian authorities suggested that there were insufficient Hungarian language programmes on offer. The regional television channel ORF broadcasts a 25-minute programme in Hungarian six times a year, and a multilingual 45-minute programme four times a year on the same channel. Thus, the Committee of Experts considered that the undertaking had not been fulfilled. In comparison to the previous monitoring round, the number of radio programmes in the Burgenland-Croatian and Hungarian languages has increased, while the situation with regard to newspapers in all three languages remained unsatisfactory.<sup>49</sup>

A particularly persistent problem remains the lack of implementation of the Constitutional Court ruling regarding the use of the Slovenian language in Carinthia,<sup>50</sup> which concerned making Slovenian an official language in some municipalities in Carinthia in addition to those defined in the relevant ordinance. The central authorities have not taken any measures to implement the ruling, but seem instead to have left it to the relevant district or local authorities to examine whether to apply the ruling in their case. This uncertainty created considerable tension in the region and left the field open for various political abuses. The Committee of Ministers addressed the issue with an appropriate recommendation.<sup>51</sup>

In Styria Slovenian enjoys only Part II protection. Despite some positive developments, the Committee of Experts found that a language strategy for Slovenian was still lacking. In particular, in the field of education there was said to be no continuity between school and class levels.

Other Part II languages are in a similar position. It is symptomatic that the annual budget of the Federal Chancellery allocated to ethnic groups has remained unchanged at EUR 3,768,000 since 1995 despite the changes that have since occurred. In the previous monitoring round the Committee of Ministers made a recommendation to the Austrian authorities to adopt a structural policy for the protection and promotion of all Part II languages and create conditions for their use in public life. Since there had been no substantial change,<sup>52</sup> the Committee of Ministers found it necessary to repeat the recommendation almost verbatim: “[...]adopt a structured policy for the

---

49 Recommendation No. 5: “increase television broadcasting in Hungarian and secure adequate funding for newspapers in Burgenland-Croatian, Slovenian and Hungarian”.

50 Ruling of October 2000, file number V 91/99-11.

51 Recommendation No. 2: “ensure that the ruling of the Constitutional Court relating to the use of the Slovenian language before administrative authorities in Carinthia is implemented without delay.”

52 The authorities referred to the programme of the Federal Government for the legislative period 2007-10 and a new government bill concerning a federal law amending the Ethnic Groups Act (*Volksgruppengesetz*). However, it appeared that no structured policy was adopted for the protection and promotion either of regional or minority languages spoken in Vienna, or for Slovenian in Styria and Romani in Burgenland.

protection and promotion of all Part II languages, especially in Vienna, and create favourable conditions for their use in public life.”

Vienna remains a peculiar example of a big city where a number of minority languages have found their home. The speakers are not just from autochthonous minorities, but from neighbouring Slovenia, Croatia or other countries. The consequence of these social movements is that the distinction between traditional regional or minority languages and varieties of the same languages as migrant languages is increasingly blurred. It may be advantageous both for reinforcing minority languages and better integrating migrants.<sup>53</sup> Among the positive changes noted by the Committee of Experts was the introduction of Hungarian at pre-school level at the Czech and Slovak Komenský School. However, in Vienna Burgenland-Croatian education was still lacking.

Another interesting development was observed by the Committee of Experts. Alongside linguistic assimilation there were also an increasing number of children and adult non-speakers requesting bilingual education with no previous knowledge of the regional or minority language. Although the authorities responded partly to this social request, the Committee of Experts warned about the need to take into account a varied language competence of children enrolled at bilingual schools in order not to deteriorate the quality of language teaching for children who are speakers of these languages.<sup>54</sup>

### *B. Armenia*

Armenia became bound by the Charter in 2002 and submitted its second periodical report in 2008. The same year the Committee of Experts carried out its on-the-spot visit to Armenia and submitted its report to the Committee of Ministers in April 2009, which adopted its recommendations on 23 September 2009.<sup>55</sup>

The regional or minority languages covered by Part III of the Charter are Assyrian, Greek, Kurdish, Russian and Yezidi.<sup>56</sup> As to Part II languages, there is still uncertainty as to what languages could potentially be covered by the Charter. The Armenian authorities provided information as to the number of members of national minorities other than those whose languages are covered by Part III. Accordingly, in Armenia there are people declaring themselves to be members of Polish, Jewish,

---

53 However, adequate consideration should be given to differences and peculiarities that these regional or minority languages have developed over centuries of being separated from their kin-languages.

54 Recommendation No. 3: “ensure that the increasing demand for regional or minority language education is met with an adequate offer for both speakers and non-speakers of the languages.”

55 Application of the Charter in Armenia, 2nd monitoring cycle, ECMRL(2009)6 (hereinafter, “2nd Armenia Report”).

56 There is disagreement between Yezidi and Kurdish about their language, which seems to be the same variety of Kurmanji but with Yezidi using Cyrillic and Kurdish using the Latin script.

German and Byelorussian minorities. However, their numbers are very low<sup>57</sup> and many of them do not seem to be speaking their minority languages.<sup>58</sup> In addition, the Committee of Experts received no information on the traditional presence of these languages in Armenia within the meaning of Article 1 of the Charter.<sup>59</sup>

As for Part III languages, the number of Greek-speakers is also very low. It makes the application of the chosen undertakings very difficult as many of them are based on condition of there being a “sufficient number of speakers”. Nevertheless, the Committee of Experts encouraged the authorities to find ways, together with the speakers and other members of the Greek minority who would like to revive and preserve this traditional language, to implement the Charter.

Russian remains the main language, not only of the members of the Russian minority, but of members of other ethnic groups including Armenians. This sometimes conflicts with the wish of the Armenian authorities to develop and strengthen the Armenian language as a common means of communication in Armenia. While recognizing the legitimacy of this effort, the Committee of Experts nevertheless encouraged the authorities to take measures to ensure that each of these Part III languages was used in accordance with the Charter.<sup>60</sup>

In between the two monitoring rounds Armenia made some substantial legislative and institutional changes for the benefit of minorities and minority languages. First of all, the amendment of its constitution included a more precise equality clause as well as a clearer definition of the language rights of national minorities.<sup>61</sup> Many other national laws dealing with minority language rights were also amended, thereby creating a more suitable legislative framework for their protection and promotion. However, implementation of some of these acts is still lagging behind, sometimes due to the fact that the country is facing difficult economic circumstances.<sup>62</sup> Nevertheless, the Committee of Experts commended the authorities for their efforts.

---

57 The biggest group are Byelorussians, with 257 members. Other groups have about 100 members. See paras. 16-20 of 2nd Armenia Report.

58 As in many other cases in the former USSR, members of minorities relinquished their language for Russian as a dominant language in the state.

59 The Committee of Ministers adopted Recommendation No. 4: “clarify whether there are regional or minority languages used in Armenia other than those mentioned in Armenia’s instrument of ratification.”

60 As stated in the Explanatory Report to the Charter (para. 11) it sets out to protect and promote regional or minority languages, not linguistic minorities. Furthermore, the Charter does not conceive the relationship between official languages and regional or minority languages in terms of competition or antagonism (para. 14).

61 Art. 41 of the Armenian Constitution states that: “Everyone shall have the right to preserve his or her national and ethnic identity. Persons belonging to national minorities shall have the right to preserve and develop their traditions, religion, language and culture.”

62 For example, in the previous monitoring round the Committee of Experts pointed to the problematic Radio and Television Act limiting broadcasting time in regional or minority languages. The act was amended in 2007, but there was no real effect on radio or TV broadcasting in most of the minority languages.

As for institutional changes, the most important was the creation of the Government Department of National Minorities and Religious Affairs with a direct responsibility for the preservation and promotion of the “traditions, languages and cultures of nationals belonging to national minorities”.

Despite such express political will on the part of the Armenian authorities, and the overall climate of tolerance with regard to regional or minority languages, the Committee of Experts detected many of the same problems in this monitoring round as before and the Committee of Ministers made similar, if not identical, recommendations in the fields of education, judicial authorities and media.

In this monitoring round the Committee of Ministers again addressed the problem of education in Assyrian, Yezidi and Kurdish. Although certain positive measures were recorded, the committee still found a lack of teachers and teaching materials. Furthermore, the Committee of Experts looks for structured rather than *ad hoc* approaches to these problems since education requires long-term planning and durable solutions.<sup>63</sup>

The use of minority languages before courts in criminal proceedings is guaranteed by law and should be interpreted as applying equally to people who can speak Armenian. As for civil proceedings, the national law does not ensure the use of regional or minority languages in accordance with Article 9 of the Charter, but the authorities claimed that the treaty took precedence over national law. As in other states parties, the Committee of Experts asked about practical measures and information campaign directed at courts and the public, and did not accept the passive position of the authorities. Nevertheless, in practice, the use of any minority language other than Russian seemed to be non-existent, so the Committee of Ministers adopted the following recommendation: “ensure the use of regional or minority languages before courts and inform courts and the public of the rights and duties related to Article 9 of the Charter”.

Finally, electronic media is another field where the Armenian authorities failed to implement fully the undertakings chosen under the Charter. There are no television programmes in any of the languages other than Russian, and no regular radio programmes in Greek, while there are some radio programmes broadcast in Assyrian, Yezidi and Kurdish. These poor results are due in part to inadequate ratification. In other words, the authorities undertook the same level of commitment for all minority languages without taking into account their distinct size and needs.<sup>64</sup> Surely, it is not the same to provide radio and television programmes for Russian and for such a small linguistic community as Greeks in Armenia. The Committee of Ministers, however, took that into account and recommended that radio programmes be made available in Greek, while television programmes should be produced in all other languages.<sup>65</sup>

---

63 Recommendation No. 1: “develop a structured policy to make available sufficient teacher training and up-dated teaching materials in Assyrian, Yezidi and Kurdish at all levels.”

64 This equalizing approach is also visible in the funding: Armenia provides the same amount of money for all 11 minorities represented in the Coordinating Council for National Minorities, regardless of their size.

65 Recommendation No. 3: “take measures to improve the presence of Assyrian and Greek on radio and of Assyrian, Yezidi and Kurdish on television.”



*C. Cyprus*

The Republic of Cyprus became a state party to the Charter in 2002. It subsequently changed its declaration twice clarifying the languages covered by the Charter. In 2005 Cyprus declared that Armenian would be covered by Part II of the Charter as a “non-territorial”<sup>66</sup> language and in 2008 Cyprus also extended the Charter to the Cypriot Maronite Arabic language,<sup>67</sup> thereby implementing one of the recommendations from the previous monitoring round.

The Committee of Experts adopted its report in April 2009 and the Committee of Ministers adopted its recommendations on 23 September 2009.<sup>68</sup>

In the first monitoring round the Committee of Experts raised the issue of the Turkish language. Legally, it is another official language in the country. Factually, however, the language seems to have lost its status, as only a very small number of Turkish speakers stayed in the government-controlled area. This situation has changed recently after travelling restrictions were lifted and many Turkish-speakers from the occupied territory began coming to that area for a variety of services.<sup>69</sup> The Committee of Experts invited the authorities to provide more information on the Turkish language.<sup>70</sup> However, in their comments to the evaluation report the Cypriot authorities argued that Turkish, as an official language of Cyprus, did not fall under the Charter.<sup>71</sup> Indeed, the definition of regional or minority languages under Article 1 of the Charter explicitly requires that these languages be “different from the official language(s) of the state”. However, it could also be argued that the Committee of Experts’ concern was the benefit of the Turkish language in Cyprus.

With respect to Cypriot Maronite Arabic, the authorities achieved significant success as the language was codified and orthography adopted since the first monitoring round. But however important, this can only be regarded as one of the first steps necessary towards full protection and promotion of that language, and more financial

66 According to Art. 1(c) of the Charter: “non-territorial languages are languages used by nationals of the State which differ from the language or languages used by the rest of the State’s population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof.”

67 As to the status of the latter language, the authorities emphasize that the “cradle” of Cypriot Maronite Arabic is in the village of Kormakitis, under military occupation since 1974. Presumably, the authorities wanted to suggest that the language has a traditional territorial presence in Cyprus regardless of the present illegal situation. Declarations are available at <<http://conventions.coe.int/>>.

68 Application of the Charter in Cyprus, 2nd monitoring cycle, ECMRL(2009)5 (hereinafter “2nd Cyprus Report”).

69 According to the second periodical report, more than 10,000 Turkish Cypriots commute daily to the government-controlled area for work, and thousands more travel there to receive medical treatment or to have their passports or other documents issued. (2nd Cyprus Report, para. 20).

70 In its first evaluation report on Cyprus the Committee of Experts was concerned that Turkish had not even received the protection of a minority language (1st Cyprus Report, ECRML (2006) 3, paras. 37-43).

71 2nd Cyprus Report, 23.

and human resources should be allocated to work in that context. In education, the Committee of Experts found that, notwithstanding the progress made, teaching in and of that language should be strengthened. The Committee of Experts established that although the language was included in the regular curriculum at primary school it should still be made available at other levels.<sup>72</sup> Education in both Maronite Arabic and Armenian language requires more teachers<sup>73</sup> while both minority languages need a structured policy for their protection and promotion, as well as more targeted and transparent financial support.<sup>74</sup>

In all, the Committee of Experts concluded that the attitude of the Cypriot authorities towards minority languages had been characterized by good will and openness.

#### *D. Slovakia*

The Slovak Republic has been a state party to the Charter since 2002. It submitted its second periodical report in July 2008 while the Committee of Experts adopted its evaluation report in April 2009. The Committee of Ministers, however, adopted the recommendations only in November 2009.<sup>75</sup> In the meantime, as mentioned above, the Committee of Experts has not yet been able to evaluate Slovakia's controversial amendments to the State Language Act, which came into force.<sup>76</sup> Under the Charter, the mandate of the Committee of Experts is limited to evaluation of state reports and implementation of the Charter. Occasionally, the committee may be required by the Committee of Ministers to provide opinions on other related matters. So far, however, the Committee of Ministers has not required an expert opinion on the Slovakian act.

In the second monitoring round the Committee of Experts had to return to issues raised in the previous monitoring round, as the Slovak authorities had made no changes. Among others, the problem of the 20% threshold for the application of Article 10 was raised. According to the national law and the declaration made by Slovakia at the time of ratification, the Charter applies only to such territories where the threshold is reached. However, the Committee of Experts noted that this threshold made it impossible for the Slovak Republic to apply Article 10 to Bulgarian and Polish. The Committee reiterated that the Slovak authorities should consider flexible

---

72 Recommendation No. 3 by the Committee of Ministers.

73 Recommendation No. 4: "provide teacher training for Armenian and Cypriot Maronite Arabic".

74 Recommendations Nos. 1 and 2: "adopt a structured policy for the protection and promotion of the Armenian and Cypriot Maronite Arabic languages; make the policy for financial support to the Armenian and Cypriot Maronite Arabic languages more targeted and transparent."

75 Application of the Charter in Slovakia, 2nd monitoring cycle, ECMRL(2009)8 (hereinafter, "2nd Slovakia Report").

76 Nevertheless, in the previous monitoring round one of the recommendations made by the Committee of Ministers addressed the issue of the announced changes in the State Language Act: "1.(ii.) Review the restrictions on the use of regional or minority languages arising as a consequence of the State Language Act."

and specific measures “according to the situation of each language” with a view to ensuring consistent and constant implementation of Article 10 for all selected languages.<sup>77</sup> Only with such measures would it be possible to avoid ineffective ratification by states parties to the Charter.<sup>78</sup>

As for the concrete application of the Charter in Slovakia, the Committee of Experts established a number of shortcomings in practically all fields of public life covered by the Charter, affecting almost all languages with the partial exceptions of Hungarian and Czech. The former has a very strong position in education and in radio broadcasting. Of course, the special status of the Czech language is due to its mutual intelligibility with Slovak and there are few problems with the practical use of this language. However, the weak position of all other minority languages suggests that the Slovak authorities do not have their heart in the Charter. It is therefore no surprise that the Committee of Ministers adopted a set of five recommendations addressing all languages indistinctly and dealing with administration (20% threshold), teaching of minority languages, teacher training and monitoring of minority languages education, public and private broadcasting media<sup>79</sup> and newspapers.<sup>80</sup> Only the last recommendation relates specifically to Romani: “continue measures to abolish the practice of unjustified enrolment of Roma children in schools for children with special needs and start to introduce Romani-language education for Roma children on a large scale.”

In relation to Romani, the Committee of Experts recognized some positive steps taken by the authorities, in particular with an ambitious pilot project in the field of education. Teaching of Romani was introduced in a number of model schools,

---

77 In view of the Committee of Experts, the Slovak authorities should also determine what *absolute* “number of residents who are users of regional or minority languages” (Art. 10) they consider sufficient to apply the undertakings under Art. 10 to Bulgarian and Polish in at least one municipality respectively.

78 This will be especially the case with ratifications that opt for the same level of protection for all languages regardless of their size and needs.

79 In their comments to the evaluation report, the Slovak authorities claim that “the amendment made to Art. 5(1)(b) of the Slovak Act on State Language introduced another exemption from the requirement to broadcast in the state language (i.e. the obligation to translate radio programmes into Slovak was removed) with respect to: ‘radio programmes in regional or local broadcasting designed for members of a national minority, including live broadcasts’. We believe that the aforementioned undertaking has thus been fulfilled.”

80 Recommendations adopted by the Committee of Ministers.

1. review the requirement that minority language speakers should represent at least 20% of the municipal population for the undertakings in the field of administration to be operational;
2. provide for the teaching of all minority languages at all appropriate levels and inform parents about its availability;
3. improve teacher-training and set up a body in charge of monitoring the measures taken and progress achieved;
4. improve the provision of public sector television and radio in all minority languages and facilitate the broadcasting of private radio and television in minority languages by lifting the restrictive requirements of the respective legislation;
5. facilitate the creation of newspapers in minority languages.

a curriculum for Romani-language education was developed and standardization of Romani, as spoken in Slovakia, was achieved. On the other hand, the Committee of Experts established that schools were still systematically undermining the demand for provision of teaching in/of Romani. The Committee of Experts was also disturbed to find out that the unacceptable practice of enrolling Roma children in schools for children with special needs still persisted.<sup>81</sup>

The Slovak authorities used the opportunity offered by Article 16(3) and argued both with the evaluation of the Committee of Experts as well as with the proposals for recommendations. The Committee of Experts would have a chance to reply to some of those observations in the subsequent round of monitoring.

#### IV. THIRD EVALUATION REPORTS

##### *A. Third Evaluation Report Concerning Sweden*

Sweden has been a state party to the Charter since 2000 and it submitted its third periodical report in September 2007. The Committee of Experts carried out its on-the-spot visit to Sweden in May 2008 and adopted its evaluation report on 26 November 2008. The Committee of Experts adopted the report and the recommendations on 6 May 2009 when the report became public.<sup>82</sup>

Sweden declared at the time of ratification that Sámi,<sup>83</sup> Finnish and Meänkieli were regional or minority languages, protected under Part III of the Charter. It also identified Romani Chib and Yiddish as non-territorial languages spoken in Sweden. The lack of information concerning the relative numbers of speakers of those languages was one of the persistent problems identified by the Committee of Experts since Sweden, similar to some other states parties, did not collect data related to ethnicity. While respecting the position taken by the Swedish authorities, the Committee of Experts nevertheless required them to ensure some reliable estimates or approximate numbers, as well as figures relating to geographic distribution, in order to ensure the proper creation and implementation of adequate language policies.

Another problem identified in the previous monitoring round related to the territorial application of the Charter, in particular its articles 9 and 10 (judiciary and administration). Here again, as in the case of Slovakia, the Committee of Experts established that the authorities tried to limit application of the Charter to certain areas in Norrbotten County leaving portions of South Sámi and Finnish speakers outside its scope. The Committee of Experts interpreted the Charter's territorial application

---

81 In their comments made to the evaluation report, the Slovak authorities explained that "a draft amendment to the relevant provision of School Act No. 245/2008 Coll. has been prepared, under which a uniform school counselling system should be established to provide the necessary interdisciplinary assistance on a continuous basis (from early age up to the completion of vocational training) to all children through the provision of qualified diagnostic services in compliance with the principle of equal treatment."

82 Application of the Charter in Sweden, 3rd monitoring cycle, ECMRL(2009)3 (hereinafter, "3rd Sweden Report").

83 There are three Sámi variants spoken in Sweden: North, South and Lule Sámi.

“within a given territory” as meaning the territory of the state “where the respective regional or minority language has a traditional presence”.<sup>84</sup> In that respect, Sweden should implement the Charter across areas where Lule, North and South Sámi, Finnish and Meänkieli are traditionally spoken.<sup>85</sup> Furthermore, the implementation of the Charter in Sweden is largely dependent on municipal authorities which are either not aware or not concerned with the promotion and protection of minority languages. The Committee of Experts has always insisted that international responsibility, nevertheless, lies with central government authorities.

One of the consequences of the application of the Charter is also a growing interest among non-recognized linguistic groups that their language be protected.<sup>86</sup> During the third monitoring round the Committee of Experts received information about Ume Sámi and a revitalization movement in reaction to its precarious situation.<sup>87</sup> At the same time, the issue of Elfdalian<sup>88</sup>, raised by the Committee of Experts in the previous monitoring round, was not yet resolved, but at least a dialogue had been established between the authorities and the speakers.

According to the conclusion of the Committee of Experts, overall developments in regional or minority language policy in Sweden have been positive. However, since the languages protected by the Charter are so different, the Swedish authorities are expected to apply adequate measures to each of the languages. South Sámi is in a particularly precarious situation and, unless “flexible and innovative measures” to maintain it are not adopted as a matter of urgency, the language will perish.<sup>89</sup> Measures should also be taken encouraging the use of other Sámi variants in dealings with

---

84 *Ibid.*, para. 14.

85 The Committee of Experts does not spell it out, but the Charter requires a certain “sufficient” number of speakers in order to implement these articles. Recommendation No. 1 by the Committee of Ministers requests the Swedish authorities to “define, in co-operation with the speakers, the areas where Finnish and Sámi are covered by Part III of the Charter and apply the relevant provisions of the Charter in these areas.”

86 For example, Kven in Norway was not recognized as a separate language when Norway ratified the Charter. Today, it is a recognized minority language thanks to the speakers’ request made under the Charter.

87 Ume Sámi is a Sámi language spoken in Sweden and Norway. According to the information available it is a dying language with only about 20 native speakers left and is spoken mainly along the Ume River in the north of Arjeplog and Arvidsjaur in Norrbotten County. Apparently, Ume Sámi is one of the four Sámi languages that do not have an official written language, although it was the first Sámi language to be written extensively. The New Testament was published in Ume Sámi in 1755 and the first Bible in Sámi was also published in Ume Sámi, in 1811, at <<http://www.statemaster.com/encyclopedia/Ume-Sami>>.

88 Elfdalian is spoken in Älvdalen municipality (Dalarna County) by approximately 3,000 people. It is considered a dialect of Swedish. However, its speakers claim that from “historical, purely linguistic and sociolinguistic angles”, Elfdalian is unique among the Nordic varieties spoken in the territory of Sweden and it should be recognized as an independent language, separate from Swedish. See Yair Sapir, “Elfdalian, the Vernacular of Övdal”, at <<http://www.nordiska.uu.se/arkiv/konferenser/alvdalska/konferensbidrag/Sapir.pdf>>.

89 Recommendation No. 4.

judicial and administrative authorities, as the Committee of Experts established that those undertakings from Articles 9 and 10 had only been “formally fulfilled”. More specifically, there was a lack of personnel speaking Sámi, job advertisements for clerks or judges did not require knowledge of the language as such a qualification was considered to be of “marginal significance”, and there were no indications that Sámi-speakers were actively encouraged to use their language.<sup>90</sup> As a consequence, according to a survey carried out in 2008, only 4% of Sámi-speakers use Sámi in relations with courts and administrative authorities.<sup>91</sup> Based on the experience of the Committee of Experts, unless strong proactive measures are introduced in such cases, the speakers of such small minority languages,<sup>92</sup> with no tradition of using their language in official settings, would rarely avail themselves of the possibility offered by law.<sup>93</sup>

As other minority languages in Sweden face similar problems, the Committee of Ministers adopted the following recommendation: “establish a structured policy and take organisational measures to encourage the oral and written use of Sámi, Finnish and Meänkieli in dealings with judicial and administrative authorities in the defined administrative areas.”<sup>94</sup>

Education in minority languages should also be strengthened, especially with respect to the mother tongue model used in Sweden. As established in previous reports, that model does not correspond to Article 8 requirements. Although children with a minority language background have an individual right to request mother tongue instruction in primary school, in practice, this right is occasionally denied since competent teachers are not available. In addition, the time allotted for mother tongue instruction is regularly less than one hour per week. The offer for all regional or minority languages in secondary schools remains marginal and there is no sufficient teacher training. The Committee of Ministers adopted the following recommendation: “actively strengthen education in regional or minority languages both by adapting ‘mother-tongue’ education to the requirements of Article 8 of the Charter and, where appropriate, by establishing bilingual education as well as by developing appropriate basic and further training of teachers”.<sup>95</sup>

Finally, the Committee of Ministers repeated its recommendation for the creation of newspapers in Sámi and Meänkieli.<sup>96</sup> In both these cases, one of the main problems is the high number of subscriptions required for subsidies.<sup>97</sup> Under Article 11(e)(i),

---

90 The Public Employment Service in Norrbotten, however, requires, when advertising its own job vacancies, a good command of Sámi.

91 3rd Sweden Report, para. 95.

92 It is true that Finnish is different in that respect, but still faces similar problems.

93 According to the periodical report, no party has ever invoked any of the minority language acts before courts. 3rd Periodical Report, 77. Furthermore, the Act Concerning the Right to Use the Sámi Language in Dealings with Public Authorities and Courts remains the only statutory text that has been translated into (North) Sámi.

94 Recommendation No. 5.

95 Recommendation No. 2.

96 Recommendation No. 6: “facilitate the creation of newspapers in Sámi and Meänkieli.”

97 The required minimum number of subscriptions for press subsidies is 2,000, which is too high for minority press.



authorities are required “to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages”. Understanding the difficulties of that undertaking where smaller groups are concerned, the Committee of Experts interpreted it to mean that it was not necessary to publish a daily newspaper, and that it could also be weekly, as long as it carried news and was published regularly in the respective minority language.<sup>98</sup>

\* \* \*

The dialogue between all stakeholders involved in the protection and promotion of regional and minority languages continues with the same objective: to recognize these languages as part of the cultural heritage of states parties and to enable their speakers to use them in all spheres of public life. The results achieved thus far are sometimes remarkable and sometimes barely visible. In any event, the ratification of the Charter in most states has created conditions for improving the position of those languages.

---

98 Comp. para. 196 of the 3rd evaluation report on Croatia, ECRML (2008), 1.